

# Public Document Pack



To: Councillor Milne, Convener; and Councillors Jaffrey and Lawrence

Town House,  
ABERDEEN 11 March 2016

## **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL**

The Members of the **LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL** are requested to meet in Committee Room 2 - Town House on **MONDAY, 21 MARCH 2016 at 3.15 pm.**

FRASER BELL  
HEAD OF LEGAL AND DEMOCRATIC SERVICES

### **B U S I N E S S**

- 1 Procedure Notice (Pages 5 - 6)

**COPIES OF THE RELEVANT PLANS / DRAWINGS ARE AVAILABLE FOR INSPECTION IN ADVANCE OF THE MEETING AND WILL BE DISPLAYED AT THE MEETING**

**TO REVIEW THE DECISION OF THE APPOINTED OFFICER TO REFUSE THE FOLLOWING APPLICATIONS**

#### **PLANNING ADVISER - MATTHEW EASTON**

- 2.1 Flat 5, 5 Wallfield Crescent, Rosemount, Aberdeen - Proposed replacement of existing white PVC windows with new PVCU windows to third floor flat - P151730
- 2.2 Delegated report, plans and decision notice (Pages 7 - 16)  
Members, please access all relevant plans at the following link:  
<http://planning.aberdeencity.gov.uk/docs/planningdocuments.asp?appnumber=151730>
- 2.3 Planning policies referred to in documents submitted (Pages 17 - 184)

- 2.4 Notice of Review with supporting information submitted by applicant / agent (Pages 185 - 198)
- 2.5 Determination - Reasons for decision  
Members, please note that reasons should be based against Development Plan policies and any other material considerations.
- 2.6 Consideration of conditions to be attached to the application - if Members are minded to over-turn the decision of the case officer

**PLANNING ADVISER - MATTHEW EASTON**

- 3.1 Flat 6, 5 Wallfield Crescent, Rosemount, Aberdeen - Proposed replacement windows - P151849
- 3.2 Delegated report, plans and decision notice (Pages 199 - 208)  
Members, please access all relevant plans at the following link:  
<http://planning.aberdeencity.gov.uk/docs/planningdocuments.asp?appnumber=151849>
- 3.3 Planning policies referred to in documents submitted (Pages 209 - 380)
- 3.4 Notice of Review with supporting information submitted by applicant / agent (Pages 381 - 392)
- 3.5 Determination - Reasons for decision  
Members, please note that reasons should be based against Development Plan policies and any other material considerations.
- 3.6 Consideration of conditions to be attached to the application - if Members are minded to over-turn the decision of the case officer

**PLANNING ADVISER – LUCY GREENE**

- 4.1 24 Morgan Road, Aberdeen - Straighten existing hipped gable and erect dormer window to front and rear elevations - 151426
- 4.2 Delegated report, plans and decision notice (Pages 393 - 402)  
Members, please access all relevant plans at the following link:  
<http://planning.aberdeencity.gov.uk/docs/planningdocuments.asp?appnumber=151426>

- 4.3 Planning policies referred to in documents submitted (Pages 403 - 446)
- 4.4 Notice of Review with supporting information submitted by applicant / agent  
(Pages 447 - 474)
- 4.5 Determination - reasons for decision  
Members, please note that reasons should be based against Development Plan policies and any other material considerations.
- 4.6 Consideration of conditions to be attached to the application - if Members are minded to over-turn the decision of the case officer

Website Address: [www.aberdeencity.gov.uk](http://www.aberdeencity.gov.uk)

Should you require any further information about this agenda, please contact Allison Swanson on [aswanson@aberdeencity.gov.uk](mailto:aswanson@aberdeencity.gov.uk) / tel 01224 522822

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## LOCAL REVIEW BODY OF ABERDEEN CITY COUNCIL

### PROCEDURE NOTE

#### GENERAL

1. The Local Review Body of Aberdeen City Council (the LRB) must at all times comply with (one) the provisions of the Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2008 (the regulations), and (two) Aberdeen City Council's Standing Orders.
2. In dealing with a request for the review of a decision made by an appointed officer under the Scheme of Delegation adopted by the Council for the determination of "local" planning applications, the LRB acknowledge that the review process as set out in the regulations, shall be carried out in stages.
3. As the first stage and having considered the applicant's stated preference (if any) for the procedure to be followed, the LRB must decide how the case under review is to be determined.
4. Where the LRB consider that the review documents (as defined within the regulations) provide sufficient information to enable them to determine the review, they may (as the next stage in the process) proceed to do so without further procedure.
5. Should the LRB, however, consider that they are not in a position to determine the review without further procedure, they must then decide which one of (or combination of) the further procedures available to them in terms of the regulations should be pursued. The further procedures available are:-
  - (a) written submissions;
  - (b) the holding of one or more hearing sessions;
  - (c) an inspection of the site.
6. If the LRB do decide to seek further information or representations prior to the determination of the review, they will require, in addition to deciding the manner in which that further information/representations should be provided, to be specific about the nature of the information/representations sought and by whom it should be provided.
7. In adjourning a meeting to such date and time as it may then or later decide, the LRB shall take into account the procedures outlined within Part 4 of the regulations, which will require to be fully observed.

#### DETERMINATION OF REVIEW

8. Once in possession of all information and/or representations considered necessary to the case before them, the LRB will proceed to determine the review.

9. The starting point for the determination of the review by the LRB will be Section 25 of the Town and Country Planning (Scotland) Act 1997, which provides that:-

“where, in making any determination under the planning Acts, regard is to be had to the Development Plan, the determination shall be made in accordance with the Plan unless material considerations indicate otherwise.”
10. In coming to a decision on the review before them, the LRB will require:-
  - (a) to consider the Development Plan position relating to the application proposal and reach a view as to whether the proposal accords with the Development Plan;
  - (b) to identify all other material considerations arising (if any) which may be relevant to the proposal;
  - (c) to weigh the Development Plan position against the other material considerations arising before deciding whether the Development Plan should or should not prevail in the circumstances.
11. In determining the review, the LRB will:-
  - (a) uphold the appointed officers determination, with or without amendments or additions to the reason for refusal; or
  - (b) overturn the appointed officer's decision and approve the application with or without appropriate conditions.
12. The LRB will give clear reasons for its decision in recognition that these will require to be intimated and publicised in full accordance with the regulations.

# Agenda Item 2.2

Signed (authorised Officer(s)):

FLAT 5, 5 WALLFIELD CRESCENT,  
ROSEMOUNT

PROPOSED REPLACEMENT OF EXISTING  
WHITE PVC WINDOWS WITH NEW PVCU  
WINDOWS TO THIRD FLOOR FLAT.

For: Miss Lucy McCormick

Application Type : Detailed Planning  
Permission

Application Ref. : P151730

Application Date : 04/11/2015

Advert :

Advertised on :

Officer : Linda Speers

Creation Date : 21 January 2016

Ward: Midsocket/Rosemount (B Cormie/J  
Laing/A Nicoll)

Community Council: No comments

## **RECOMMENDATION:**

### **Refuse**

#### **DESCRIPTION**

The application site is positioned on a corner plot on the east-side of Wallfield Crescent and adjacent to the junction with Rosemount Place. The site lies within the Rosemount & Westburn Conservation Area. The applicant's property comprises of a 3<sup>rd</sup> floor flatted development with elevations overlooking both Wallfield Crescent and Rosemount Place; access is available by a door on wallfield Crescent. Rosemount place is a busy mixed-used hub where the ground floor units are occupied by a variety of local shops. The upper levels form residential flats and this particular block is a 4-storey traditional terrace development. The building is finished with ashlar coursed granite and consists of a uniformed and structured fenestration with symmetry in both the window arrangements and style. The windows are non-traditional casement-opening frames, formed in white PVC with a tilt and turn operation. The windows overlooking Rosemount place have a full central mullion and the transom height is the same throughout the building; circa 30/70 spilt.

The immediate area is characterised by similar terrace mixed-use buildings and though some of the properties have replaced or altered windows inappropriately over time, many retain the character and essence of this Conservation Area.

## **PROPOSAL**

Planning permission is sought to replace all 4 windows on the 3<sup>rd</sup> floor overlooking Wallfield Crescent and Rosemount Place. The proposed replacements would fit the existing openings with a different arrangement and design. The windows overlooking Rosemount Place would lose the central mullion and alternatively spilt into 3 sections. The transom height would sit circa middle position of all the windows. The proposed replacement windows are casement white double glazed PVC with tilt and turn operation.

Amended plans were received following comments from the Case Officer expressing concern for the arrangement of the mullion and transom.

## **Supporting Documents**

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at -

<http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref.=151730>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

## **CONSULTATIONS**

**Roads Development Management** – No observations

**Environmental Health** – No observations

**Flooding** – No observations

**Community Council** – No comments received

## **REPRESENTATIONS**

No letters of representation have been received.

## **PLANNING POLICY**

### **- National Policy and Guidance**

Scottish Planning Policy

### **- Aberdeen Local Development Plan 2012**

Policy D5 – Built Heritage

Policy H1 - Residential Areas

### **- Other Material Considerations**

Scottish Historic Environment Policy (SHEP)

TAN: The Repair and Replacement of Windows and Doors  
'Windows' guidance note from Historic Scotland's 'Managing Change in  
the Historic Environment' series  
Rosemount and Westburn Conservation Area Appraisal  
Proposed Aberdeen Local Development Plan

## **EVALUATION**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to preserve and enhance the character or appearance of conservation areas

Both the Council's Technical Advice Note and Historic Scotland's 'Windows' guidance note state that, where there is no alternative to replacement; new windows should be sensitively replaced in an environmentally sensitive way which is in keeping with the character of the original building and the quality of its design. On non-traditional, more modern, buildings in Conservation Areas a broader range of materials and designs may be permitted, depending on the individual building and surrounding area. The buildings in this particular area are finished with mostly simple casement style windows in a white PVC material; we must accept that this design reflects the current character of the building and local area context. It would be considered imprudent to expect a more traditional finish. Therefore, the proposed replacement casement PVC tilt and turn windows are considered acceptable in terms of the opening mechanism, colour and material.

The Council's Appraisal of this particular Conservation Area states that, it is acknowledged that one of the major contributing factors to the character of any area is the uniform treatment of fenestration. Many of Rosemount's tenements have already lost this uniformity by inappropriate window replacements. The applicant's building is a very good example where the uniform treatment of the fenestration has been preserved and impacts positively on the character of the building and further more the character of the area. Any such replacement windows should therefore respect this uniformity and carefully match new windows to the most prevalent and appropriate existing appearance, this will assist in creating a degree of uniformity in terraces thereby preserving and enhancing the character of the area. In this situation the arrangement of the proposed windows do not match the current style of windows throughout the block; both the mullion and transom are inappropriately positioned and compromise the architectural integrity of the building. Amended plans were

received on request following an explanation by the case officer but again failed to relate well to or complement the current window.

The approval of this application would create an undesirable precedent for similar proposals resulting in further erosion of the traditional character of other properties and the wider conservation area. The proposal does not accord the supplementary guidance: TAN – The Repair and Replacement of Windows and Doors or with Policy D5 and H1 of the Aberdeen Local Development Plan 2012.

The property lies within the Rosemount & Westburn Conservation Area and Historic Scotland 'Scottish Historic Environment Policy' (SHEP) must be referred to in determination of the application. SHEP states that the planning authority must pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area when determining applications. It is therefore considered that the work would have an adverse effect on the character of the Conservation area and ultimately the loss of special architectural interest. Approval of this application would create an undesirable precedent for similar proposals resulting in further erosion of the character, therefore the application is recommended for refusal as it does not comply with this policy and policy D5 and with Historic Scotland's guidance - Managing Change in the Historic Environment.

#### Proposed Aberdeen Local Development Plan

The Proposed ALDP was approved for submission for Examination by Scottish Ministers at the meeting of the Communities, Housing and Infrastructure Committee of 27 October 2015. It constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material consideration in the determination of planning applications, along with the adopted ALDP. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to representation and are regarded as unresolved issues to be determined at the Examination; and
- the relevance of these matters to the application under consideration.

Policies and proposals which have not been subject to objection will not be considered at Examination. In such instances, they are likely to be carried forward for adoption. Such cases can be regarded as having greater material weight than those issues subject to Examination. The foregoing can only be assessed on a case by case basis.

#### **RECOMMENDATION**

##### **Refuse**

## **REASONS FOR RECOMMENDATION**

1. The proposal is contrary to Scottish Planning Policy, Scottish Historic Environment Policy and Policy D5 of the Aberdeen Local Development Plan 2012 as the replacement windows do not enhance the character of the Rosemount Conservation Area. The proposed window arrangement impacts significantly on the current uniform fenestration and contrary to the guidance contained in Technical Advice Note – The Repair and Replacement of Windows and Doors and Historic Scotland’s guidance - Managing Change in the Historic Environment.
2. The proposal is contrary to Policy H1 of the Aberdeen Local Development Plan 2012 as the proposal would have an adverse impact on the character of the area.
3. Approval of this application would create an undesirable precedent for similar proposals resulting in further erosion of the character of the conservation area.

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**PLANNING & SUSTAINABLE DEVELOPMENT**  
Communities, Housing and Infrastructure  
Business Hub 4, Marischal College, Broad Street,  
ABERDEEN. AB10 1AB

## THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

### Refusal of Planning Permission

CR Smith  
27 Gardeners Street  
Dunfermline  
KY12 0RN

on behalf of **Miss Lucy McCormick**

With reference to your application validly received on 4 November 2015 for Planning Permission under the above mentioned Act for the following development, viz:-

**PROPOSED REPLACEMENT OF EXISTING WHITE PVC WINDOWS WITH NEW PVCU WINDOWS TO THIRD FLOOR FLAT.**  
at **Flat 5, 5 Wallfield Crescent, Rosemount**

the Council in exercise of their powers under the above mentioned Act hereby REFUSE Planning Permission for the said development as specified in the application form and the plan(s) and documents docketed as relative thereto and numbered as follows:-

Document No: 164966;  
Detail: Proposed Window A Elevation, Section and Details;  
<http://planning.aberdeencity.gov.uk/docs/showimage.aspx=151730&index=164966>

Document No: 164969;  
Detail: Proposed Window B Elevation, Section and Details;  
<http://planning.aberdeencity.gov.uk/docs/showimage.aspx=151730&index=164969>

Document No: 170807;  
Detail: Proposed Front and Side Elevations, Location Plan; Drawing No: 002A;  
<http://planning.aberdeencity.gov.uk/docs/showimage.aspx=151730&index=170807>

The reasons on which the Council has based this decision are as follows:-

PETE LEONARD  
DIRECTOR

**Continuation**

1. The proposal is contrary to Scottish Planning Policy, Scottish Historic Environment Policy and Policy D5 of the Aberdeen Local Development Plan 2012 as the replacement windows do not enhance the character of the Rosemount Conservation Area. The proposed window arrangement impacts significantly on the current uniform fenestration and contrary to the guidance contained in Technical Advice Note – The Repair and Replacement of Windows and Doors and Historic Scotland's guidance - Managing Change in the Historic Environment.
2. The proposal is contrary to Policy H1 of the Aberdeen Local Development Plan 2012 as the proposal would have an adverse impact on the character of the area.
3. Approval of this application would create an undesirable precedent for similar proposals resulting in further erosion of the character of the conservation area.

The plans, drawings and documents that are the subject of this decision notice are numbered as follows:-

Document No: 164966;

Detail: Proposed Window A Elevation, Section and Details;

<http://planning.aberdeencity.gov.uk/docs/showimage.asp?j=151730&index=164966>

Document No: 164969;

Detail: Proposed Window B Elevation, Section and Details;

<http://planning.aberdeencity.gov.uk/docs/showimage.aspj=151730&index=164969>

Document No: 170807;

Detail: Proposed Front and Side Elevations, Location Plan; Drawing No: 002A;

<http://planning.aberdeencity.gov.uk/docs/showimage.aspj=151730&index=170807>

**Date of Signing 28 January 2016**



**Daniel Lewis**

Development Management Manager

Enc.

PETE LEONARD  
DIRECTOR

**NB. EXTREMELY IMPORTANT INFORMATION RELATED TO THIS REFUSAL OF PLANNING APPROVAL**

The applicant has the right to have the decision to refuse the application reviewed by the planning authority and further details are given in Form attached below.

Regulation 28(4)(a)

Form 1

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

*Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions*

1. If the applicant is aggrieved by the decision of the planning authority to –
  - a. refuse planning permission for the proposed development;
  - b. to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
  - c. to grant planning permission or approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at <http://eplanning.scotland.gov.uk/>.

Notices of review submitted by post should be sent to –

Planning and Sustainable Development  
Communities, Housing and Infrastructure  
Aberdeen City Council  
Business Hub 4  
Ground Floor North  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

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 it's 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, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner

PETE LEONARD  
DIRECTOR

**Continuation**

of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

PETE LEONARD  
DIRECTOR

## **Policy D5 – Built Heritage**

Proposals affecting Conservation Areas or Listed Buildings will only be permitted if they comply with Scottish Planning Policy. In relation to development affecting archaeological resources further details are set out in Supplementary Guidance on Archaeology and Planning.

Planning permission for development that would have an adverse effect on the character or setting of a site listed in the inventory of gardens and design landscapes in Scotland or in any additional to the inventory will be refused unless:

1. The objectives of designation and the overall integrity and character of the designated areas will not be compromised; or
2. Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, economic and strategic benefit of national importance.

In both cases mitigation and appropriate measures shall be taken to conserve and enhance the essential characteristics, aesthetics, archaeological and historical value and setting of the site.

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## **Policy H1 – Residential Areas**

Within existing residential areas (H1 on the Proposals Map) and within new residential developments, proposals for new residential development and householder development will be approved in principle if it:

1. Does not constitute overdevelopment
2. Does not have an unacceptable impact on the character or amenity of the surrounding area
3. Does not result in the loss of valuable and valued areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010
4. Complies with Supplementary Guidance on Curtilage Splits; and
5. Complies with Supplementary Guidance on House Extensions

Within existing residential areas, proposals for non-residential uses will be refused unless:

1. They are considered complementary to residential use
2. It can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity

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## Technical Advice Note (TAN)

Title: The Repair and Replacement of  
Windows and Doors

Date: 19 March 2013

# Technical Advice Note

## The Repair and Replacement of Windows and Doors



Planning and Sustainable Development  
Enterprise, Planning and Infrastructure  
Aberdeen City Council  
Business Hub 4, Ground Floor North  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB  
Telephone: 01224 523470  
Fax: 01224 523180  
Email: [pi@aberdeencity.gov.uk](mailto:pi@aberdeencity.gov.uk)



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## 1. Introduction

This is one in a series of **Technical Advice Notes** (TANs) produced by Aberdeen City Council to help explain the Council's policies on various aspect of development in the City and who to contact for further information and advice.

This TAN addresses the **Repair and Replacement of Windows and Doors** and applies to all properties in the City. It:

- provides advice and guidance to residents and developers who are considering the repair or replacement of windows or doors;
- provides advice on whether any approvals are required before undertaking works (e.g. Planning Permission, Listed Building Consent, Building Warrant), and how to apply for these approvals;
- is a 'material consideration' and will assist Officers within Aberdeen City Council in determining applications;
- explains why windows, doors and doorways are important features of traditional buildings;
- outlines the Council's expectations for properties which are Listed Buildings and / or within a Conservation Area;
- provides 'best practice' guidance on suitable replacement windows and doors where repair is not an option; and,
- advises on measures to enhance the efficiency and security of older windows and doors without having to replace them.

A Further Reading list is provided at the rear of the guide (Section 11), along with a Glossary (Section 10) to explain terms which may not be familiar. The TAN does not include guidance on new dormer windows or rooflights, as these are covered separately within the Householder Development Guide Supplementary Guidance, available at: [www.aberdeencity.gov.uk/localdevelopmentplan](http://www.aberdeencity.gov.uk/localdevelopmentplan).



*Windows, doors and doorways can be important features of a building which are important to protect*

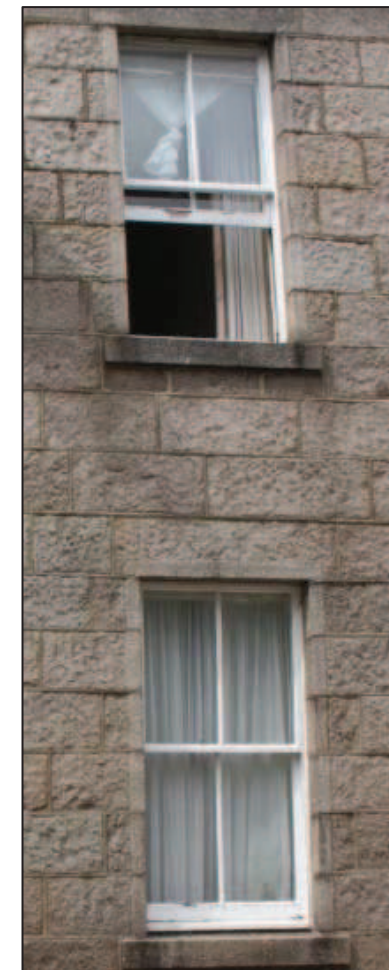
## 2. Thinking About Change

There are a number of reasons why owners might consider replacing their windows or doors, however the most common reasons are generally to do with concerns over heat loss, sound proofing, security and maintenance.

The general assumption is that these types of issues can only be resolved by completely replacing original windows and doors with something new – such as new ‘double glazing’. This is however often unnecessary, and can be extremely costly and unsustainable.

Below are a number of questions to consider before deciding whether replacing your windows or doors is right for you:

- Do my windows or doors actually need replacing or would it be more cost effective and sustainable to repair them?
- How old are my existing windows or doors? Are they of local or historic value or interest? Do they add value to my house?
- Are there upgrades which can be made to my existing windows to address heat loss, sound proofing and security?
- Can any parts of my existing windows or doors be recycled or reused if they cannot be repaired?
- Will new windows or doors really result in less maintenance?
- How long will it take for any savings in my heating costs to pay for the cost of new units, and how long will the new units last?



*Repair of sash & case windows can often be much cheaper than replacement*



### 3. Why Do We Need to Manage Change?

Windows, doors and doorways are distinctive features of a building which can often tell us a lot about local history and social change. In areas of Aberdeen where buildings have little decoration, traditional windows can make an important contribution to a building's architectural interest.

Changes to windows and doors which are well managed can make a positive contribution to the design and appearance of a building and to the quality and character of the surrounding area. Inappropriate changes can however have a significant negative impact on the character or appearance of a building which, when repeated over time, can dilute the appeal of wider areas.

For Listed Buildings and Conservation Areas inappropriate change can be particularly damaging, and may result in drops in property values. Unauthorised change may also lead to legal enforcement action.

Unauthorised windows and other works can also be identified by conveyancing solicitors and can affect property sales.



*Inappropriate change can negatively affect streets and wider areas as well as individual buildings*

To check if your property is a Listed Building, visit: [www.historic-scotland.gov.uk/historicandlistedbuildings](http://www.historic-scotland.gov.uk/historicandlistedbuildings).

To check if you live within a Conservation Area, visit: [www.aberdeencity.gov.uk/masterplanning](http://www.aberdeencity.gov.uk/masterplanning).

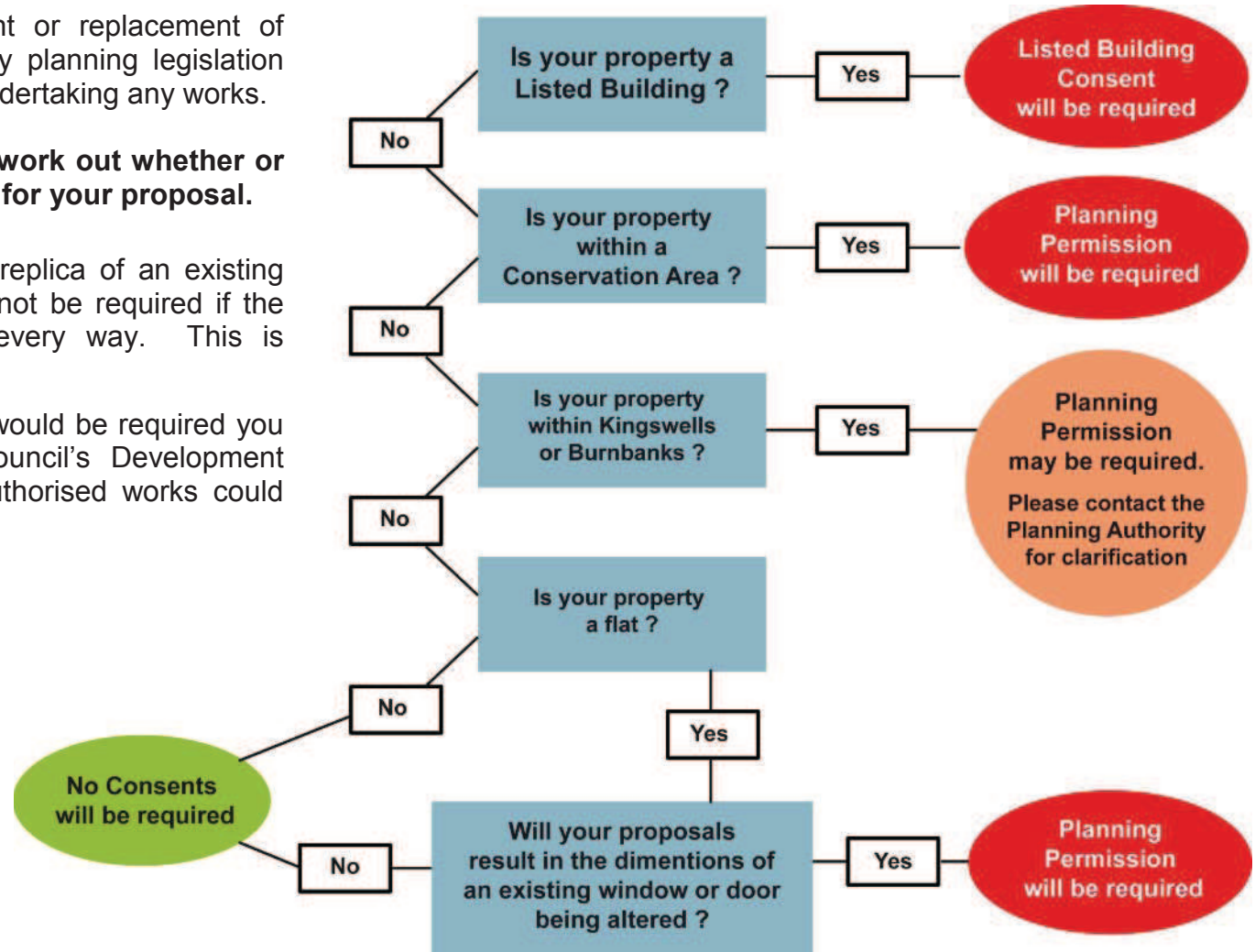
#### 4. Do I Need Consent?

In some instances the amendment or replacement of windows and doors is controlled by planning legislation and permission is required before undertaking any works.

**This diagram should help you to work out whether or not permission would be required for your proposal.**

If your proposals are for an exact replica of an existing window or door then consent may not be required if the proposals match the existing in every way. This is discussed further in Section 5.

If you are unsure whether consent would be required you should always check with the Council’s Development Management Section first, as unauthorised works could lead to costly enforcement action.



## 4.1 Building Regulations

Building Regulations exist to protect the public and for replacement windows and doors cover aspects such as ventilation, safety from collision, safe cleaning, prevention of falls, thermal performance and means of escape.

There is no need to obtain Building Warrant approval for replacing your windows or doors, but the work you undertake should meet the requirements of the Building Regulations, and the responsibility for compliance rests with the owner.

This guidance applies whether or not the new window or door is to be the same style and material as the existing.

Repairs to an existing window are slightly different and can be completed to return the window to the original standard without the need for the repaired window meeting current standards e.g. replacing the cill.

It is recognised that compliance with all Building Regulations may be difficult in buildings that have existing historical features or are Listed. Further advice on relaxations can be sought from the Building Standards Team at 01224 523470 or [pi@aberdeencity.gov.uk](mailto:pi@aberdeencity.gov.uk). Further guidance on Building Regulations can be found in Appendix 2.

## 4.2 Bats

If you are considering repairing or replacing any windows or doors you should also consider the possibility of bats being present. Bats and bat roosts can be found in many kinds of building, old or new, and can sometimes be found roosting in window frames, window sills, doorways, lintels and porches.

Bats are European Protected Species (EPS) and are protected by European, UK and Scottish Law. The main piece of the legislation in the UK for the protection of bats is the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). If you do not require planning permission for the amendment or replacement of your windows or doors, however suspect that you may have roosting bats, a bat survey will confirm this and whether a licence from Scottish Natural Heritage is likely to be required.

Further information about bats, surveys and surveyors can be found in our Bats and Development Supplementary Guidance.



## 5. Listed Buildings, Conservation Areas and Other Areas of Special Control

### 5.1 Listed Buildings

In Aberdeen, Listed Buildings range from grand villas on Queens Road, to tenement blocks on Rosemount Viaduct and fishermen's cottages at Footdee. Each Listed Building has its own character and style, be it individually, or as part of a wider group of buildings.

All Listed Buildings are protected, not just those in Conservation Areas, and all elevations of a Listed Building are protected, regardless of the Category of Listing.

Listed Building Consent will almost always be required for the alteration or replacement of windows or doors in Listed Buildings. In some instances repairs to traditional windows and doors using the original materials ("like for like") may not require Listed Building Consent. For proposals not to require consent they must include exact replication of the opening method and materials. For windows they must also include exact details of astragal dimensions and profiles, fixing of glass and the reuse of historic glass where this contributes to a building's character.

In considering applications for Listed Building Consent, the Council is required by law 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" (Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997). If the Listed Building is situated in a Conservation Area, or is part of a flatted property, Planning Permission may also be required.

It is recommended that you check with the Council's Development Management section prior to undertaking any works to receive confirmation as to whether any consents would be required.



*Building may exhibit a variety of window sizes and glazing patterns. This can provide important evidence of the history of the building and contribute to its character and interest*

Original or historic windows, doors and doorways in Listed Buildings must be repaired and restored rather than replaced. Only in exceptional circumstances will replacement windows and doors be permitted, and these replacements must match the originals in terms of appearance and material as far as is reasonably possible. Consent to replace original windows or doors on Listed Buildings will only be given when it can be demonstrated to the satisfaction of the Council that they are beyond economic repair, and evidence of this will be required as part of any application. This evidence should take the form of a Professional Survey, further details on which are provided in Appendix 1.

## 5.2 Conservation Areas

Conservation Areas are areas of the City which have been designated by the Council for their special architectural or historic interest. Aberdeen has 11 Conservation Areas within the City Boundary, which include areas such as Old Aberdeen, Ferryhill and Rosemount / Westburn. Appraisals of Conservation Areas in Aberdeen are available at [www.aberdeencity.gov.uk/masterplanning](http://www.aberdeencity.gov.uk/masterplanning).

If your property is not a Listed Building but is located within a Conservation Area then you will require Planning Permission to alter or replace windows or doors other than on a “like for like” basis (as described in Section 5.1). If you property is both a Listed Building and located in a Conservation Area then you will need to apply for both Listed Building Consent and Planning Permission. These requirements apply to both modern and older, traditional, properties.

In considering applications for Planning Permission in Conservation Areas, the Council is required by law to pay special attention “*to the desirability of preserving or enhancing the character or appearance of that area*”. (Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997). For Listed Buildings within



*Details of the Conservation Areas in Aberdeen can be found on the Council's website, [www.aberdeencity.gov.uk](http://www.aberdeencity.gov.uk).*

Conservation Areas, Planning Permission will be required in addition to Listed Building Consent. For buildings which are located within Conservation Areas (but are not Listed Buildings), the Council's preference is for original windows and doors to be repaired and restored wherever possible.

### **5.3 Other Areas of Special Control**

For properties which are not Listed Buildings or within Conservation Areas, permitted development rights can exist so that small alterations to properties, such as replacing windows or doors, can be undertaken without the need for some permissions. These are not however applicable in the following circumstances:

#### Burnbanks and Kingswells

In both Burnbanks Village and Kingswells the City Council has taken the decision to remove some or all Permitted Development Rights via an Article 4 Direction, and so planning permission for replacing or amending windows / doors in these areas will be required.

The general preference will be for original or historic windows and doors in areas covered by an Article 4 Direction to be repaired and restored wherever possible. Where there is no original or historic fabric to be retained then any assessment of replacement proposals will principally be based on styling/type, materials and colouring.

#### Flats

If you live in a flatted property, planning permission will be required if you intend to alter the dimensions of an existing window or door opening.

## 6. Repair, Upgrade and Replacement

### 6.1 Retain and Repair

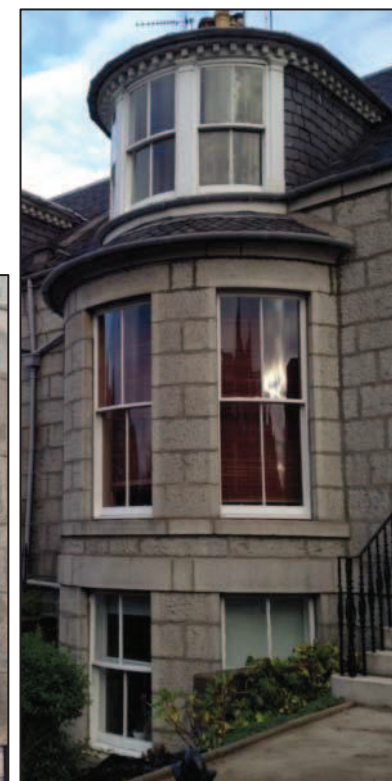
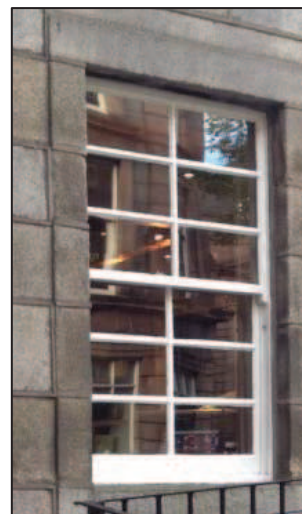
If you are considering new windows or doors, it is first worth checking whether replacing your existing windows/doors would be appropriate, or indeed necessary. Windows and doors can almost always be improved by being repaired, even if they are in very poor condition. Repair is also preferred in terms of sustainability as it reduces the requirement for new raw materials and energy.

#### Traditional Windows and Doors

The repair of original windows and doors is the best means of safeguarding the historic character of a traditional building, and in maintaining the visual character of wider areas. Repair will always be promoted over replacement, as new, modern, units will very rarely be capable of matching the character and visual interest of the units to be replaced.

Traditional windows are nearly always timber sash and case and are found in a variety of forms that reflect changing glass technology and architectural fashion. Timber sash and case windows are a recognised feature of Aberdeen's traditional buildings, and are generally of a straightforward design and construction, meaning that they can usually be easily repaired.

Curved corner windows and rectangular "lying" panes of glass are features which are particularly special to Aberdeen must always be retained.



*Examples of rectangular panes and curved glass*

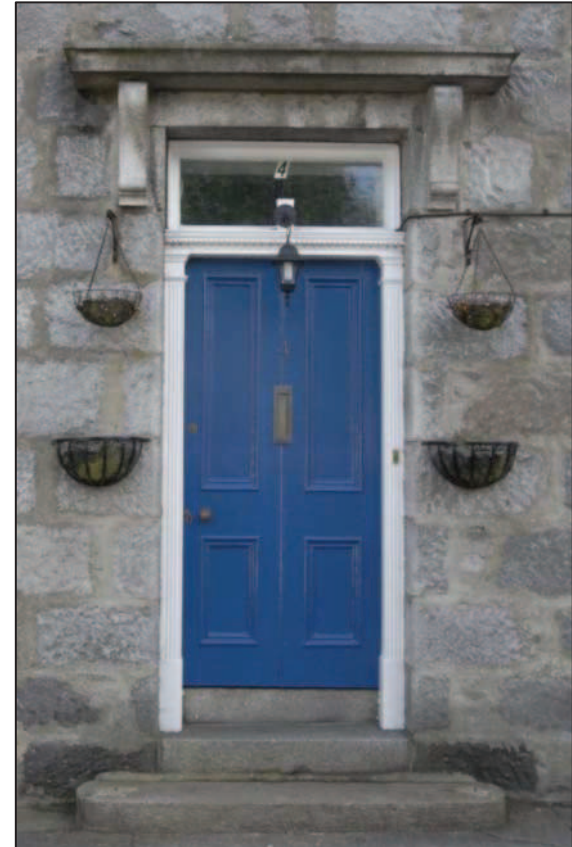


Traditional external doors and doorways are usually of solid timber frame construction with inset panelling retained by mouldings. Throughout the 18<sup>th</sup> and 19<sup>th</sup> centuries panelled doors became standard for the main entrance of most types of building. In Aberdeen this was typically reflected in 4, 5 and 6 panel varieties in a number of different configurations. A good joiner should be able to treat most faults with traditional doors, and again repair should be less expensive than replacement.

Traditional windows and doors are extremely durable and when properly maintained can last for centuries - many in Aberdeen are already well over 100 years old. In contrast, some modern windows can need replacing after just 20 years. Traditional windows and doors are generally made from good quality, durable, timber from mature trees which is of a much better quality than timber which is generally economically available today from sustainable sources. It therefore makes sense to retain and repair original windows, doors and doorways rather than to replace them with new timber which may not last as long and may be more susceptible to decay.

Original or historic windows, doors and doorways in Listed Buildings must be repaired and restored rather than replaced. Only in exceptional circumstances will replacement windows and doors be permitted, and these replacements must match the originals in terms of appearance and material as far as is reasonably possible. For buildings which are located within Conservation Areas, the Council's preference is also for original windows and doors to be repaired and restored wherever possible.

Original door ironmongery such as letterboxes, door knockers and handles should be retained and reused wherever possible, as should original window fittings such as cord clamps, sash lifts, sash fasteners and hooks.



*4 panelled door with associated door ironmongery / furniture*

## 6.2 Upgrading Traditional Windows and Doors

Replacing existing 'single glazed' timber windows and original timber doors with new 'double glazed' windows and uPVC / composite doors is often promoted as a means of fighting heat loss, draughts, dust ingress and providing improvements to sound insulation and security. Traditional windows and doors can however be upgraded at a lower cost to bring these same benefits, whilst still retaining the original features and style which gives character to your building.

### Energy Efficiency

By the nature of their construction many older buildings are prone to heat loss through cracks and gaps which develop as building elements move and settle over time. Although this natural settlement helps to properly ventilate the building, often these draughts result in heat loss which can be uncomfortable for occupiers.

Draughts around older windows and doors (including key holes and letter boxes) can be a source of air leakage, and **draught-proofing** is one of the best ways to improve comfort and reduce energy use, with little or no change to a building's appearance.

Draught-proofing simply means blocking up any unwanted gaps which let cold air in and warm air out. Keeping warm air in the building means less energy spent heating it, therefore saving you money. A number of draught-proofing measures are widely available from DIY stores and can be fitted relatively cheaply.

Draught-proofing can also improve noise insulation, reduce dust ingress and make sash and case windows easier to slide up and down. Curtains lined with a layer of heavy material can also help reduce heat loss from a room and cut draughts.

Traditional timber doors are generally very effective in retaining warm air within a building, however additional insulation material can be added to the panels on the indoor side of the door to enhance the effect and fight additional heat loss whilst still maintaining the character of the door from the outside.



*Draught-proofing strips can be easily applied to interior side of external door*

Where installing draught-proofing to traditional windows is difficult, **secondary glazing** systems can be a good alternative. Secondary glazing consists of an additional pane of glass fitted on the inside of the existing window frame which can be removed during summer months and for cleaning. Providing similar insulation values to double glazing, it can also reduce dust ingress, provide good noise insulation, and be an extra security measure.

Secondary glazing design should seek to be as discreet as possible, particularly in Listed Buildings, with small frames concealed from view. Meeting rails and frames should be as small in section as possible to allow them to be disguised behind existing rails. If secondary glazing is installed, the original windows should not be draught-proofed to help avoid condensation.

For more information about improving energy efficiency in traditional properties a number of Historic Scotland's publications are included in the Further Reading List at the end of this document (Section 11).

### Security

To improve the security of traditional sash and case windows additional sash locks can easily be fitted to the meeting rails to improve the security of the window when closed. Timber blocks and / or sash stops can also be fitted to restrict the size of openings.

Additional security measures on doors can also be easily incorporated without affecting the character of a door, for example extra mortice locks, rimlocks or bolts.



*Secondary glazing should seek to be as discreet as possible*

### 6.3 Replacing Windows and Doors

The principles in this Section are especially relevant where Planning Permission or Listed Building Consent is required, but should also be considered as 'best practice' for all properties throughout the City, even when consent is not required.

The most appropriate windows and doors for a property are likely to be those which were originally designed for it. Instances will however exist where original features will have deteriorated to such a state that replacement is the only viable option. Complete replacement of traditional windows and doors should however only be contemplated where the features to be replaced have deteriorated beyond economic repair, i.e. it would be unviable to repair and replacement is the only option remaining.

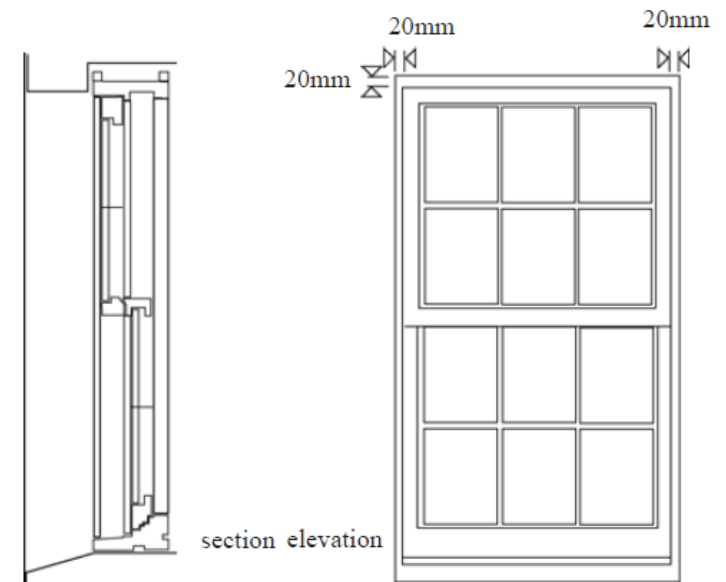
The reinstatement of the original types and arrangements of windows and doors will be encouraged. Modern windows and doors which are badly proportioned, the wrong type or incorrectly glazed should be restored to the original proportions wherever possible. If there is no indication what the original windows or doors were like, then authentic historic precedents can often be found on neighbouring properties.

#### Windows

Where there is no alternative to replacement, new windows should be sensitively replaced in an environmentally sensitive way which is in keeping with the character of the original building and the quality of its design.

The original proportions of window openings should be retained to ensure the architectural integrity of the building is not compromised. Where any original glazing survives, every effort should be made to retain or to salvage as much as possible for re-use.

The relative proportions of the upper and lower sashes of new windows in Listed Buildings must be the same as in the original windows, as should the size of timber sections. Replacement windows should be fitted in the same plane, be made up from timber sections of the same profile and dimensions, and have the



*Sash & case window illustration*



meeting rails in the same position. Generally, when the window is fully closed, the visible part of the sash stiles, top rail and meeting rails should be of a similar width/ depth. Where there is no existing original model on which to base a replica, bottom rails should be at least 75mm deep and 25mm deeper than the meeting rails, on elevation. No more than 20-25mm of the sash box should be visible in the window opening, the remainder being concealed behind the masonry window check.

Factory made standard windows, whether in timber, aluminium, galvanised steel, plastic (uPVC) or a composite are almost always damaging to the character and appearance of historic buildings and will not be appropriate for Listed Buildings. In Listed Buildings joiner-made timber replacements will generally be the only type of replacement window which will be accepted.

Ventilators cut through the glass or visible on the window frames will not be considered acceptable on Listed Buildings or on public elevations in Conservation Areas. Ventilators, where required, should be located unobtrusively in the meeting rail. Where trickle ventilation is required other more discreet means of achieving this should always be considered. Historic Scotland's publication "Sash & Case Windows: A Guide for Homeowners" provides further guidance on ventilation.

Consent for replacement windows on Listed Buildings or public elevations in a Conservation Area which reproduce the astragal pattern but open in a different manner will always be refused, as will consent for those where the astragals are merely applied to the surface of, or are sandwiched between, the panes of double glazing. Where astragals are required, they must be kept slender to match the thickness of the original astragals, particularly in multiple pane sashes.



*Discreet means of achieving ventilation will be required for Listed Buildings and on public elevations in Conservation Areas*

Where glazing beads are required they should be wedge shaped to match a putty fillet, and taper from 10mm at the glass to less than 2mm at the outside. The edge of the bead must be flush with, or kept slightly back from, the face of the sash. It must never project out from the face of the sash, or an unacceptable shadow line will be created around each pane of glass.

The dimensions of replacement window astragals should use original sash windows as the model. Typically astragals may only be 17-19mm wide. In Listed Buildings, where the interior of the building can often be as important as the exterior, the internal profile of the astragals must not be over-simplified, but should reproduce traditional moulding appropriate to the period and detail of the building. Astragals must carry through the sash to completely separate each pane of glass.

Glazing in sash windows on Listed Buildings should preferably be retained in position with traditional putty or modern butyl based putty, which is always preferred to timber beads.

In both Listed Buildings and Conservation Areas there will be a strong presumption in favour of retaining stained or decorative leaded glass and etched glass in replacement proposals. Proposals to use wired glass, obscured glass, louvered glass or extract fans in windows on Listed Buildings or on public elevations in Conservation Areas will not generally be considered acceptable.

On traditional buildings in Conservation Areas, modern window designs will generally be inappropriate on elevations of the building which are visible from public areas.

Sash and case “lookalike” windows, which closely match the detailing and appearance of a traditional sash and case window, but may employ a different opening mechanism, may be acceptable in Conservation Areas.

“Lookalike” windows will normally be formed in timber and will have upper and lower sashes of the same size as those in the window they are to replace. It is of vital importance that the upper sash is stepped out in front of the lower sash in profile, with the meeting rails fully overlapping as seen in elevation, such that the window when closed, is virtually indistinguishable from a traditional sash and



*Acceptable type of 'lookalike'  
in a Conservation Area*



*Not acceptable as a 'lookalike'  
in a Conservation Area*

case window. White uPVC vertical sliding windows may be acceptable as 'lookalike' replacements for windows in Conservation Areas provided that proposals with through / embedded astragals comply with original dimensions. No planted astragals will be accepted on elevations in Conservation Areas which are visible from public areas.

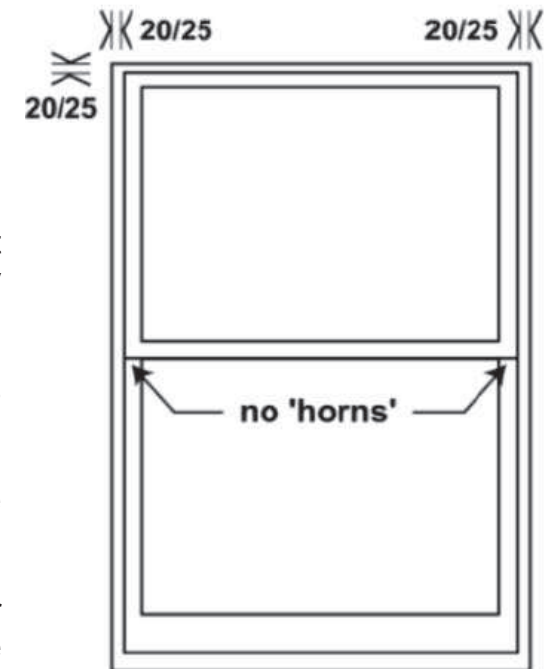
Where uPVC "lookalike" windows are to be used they should fully replicate the significant features of timber sash and case windows. Such features would include:

- no more than 25mm of the outer window frame should be visible at the top and sides, once the window has been fitted into the masonry opening.
- the meeting rails must fully overlap.
- the bottom rail of the lower sash must be at least 75mm high.
- the glass must be recessed from the front face of the sash by at least 10mm..

The Council may choose to be more flexible when considering applications for replacement windows and doors in Conservation Areas which are not visible from the street or are only visible from a private court.

On non-traditional, more modern, buildings in Conservation Areas a broader range of materials and designs may be permitted, depending on the individual building and surrounding area.

Elsewhere in the country most mid/late Victorian windows have 'horns' however this is not the case in Aberdeen. Along with original Georgian and early Victorian windows, most nineteenth century windows in Aberdeen do not have horns, and neither should the windows which replace them. The use of horns should only be contemplated only where there is clear evidence that they existed on the original windows, and in such instances the design of the horns should match the original.



*Elevation of sash & case  
'lookalike' windows with no 'horns'*

## Doors

Where there is no alternative to the replacement of an original door, new elements must match the original as far as possible when the property is a Listed Building or is visible from a public area within a Conservation Area. The new door should match the original in terms of proportion, profile and material, and reuse historic glass where this contributes to a building's character. If the property forms part of a group of uniform design, then any replacement should make reference to those of the neighbouring properties in style, design and size. Joiner-made replicas will be strongly encouraged in Conservation Areas and will be a requirement for Listed Buildings.

Composite door solutions may be appropriate on public elevations in Conservation Areas depending on the specified design proposed. Composite, aluminium and uPVC solutions will never be acceptable on Listed Buildings. Only on non-public elevations in Conservation Areas will uPVC, aluminium or doors from DIY chain stores be acceptable. Doors from DIY chain stores and flush plywood doors with mouldings applied to resemble panelling will not be acceptable substitutes on Listed Buildings or on public elevations in Conservation Areas. Replacement doors with a stained or varnished finish, and those which introduce asymmetrical elements, integral fanlights, inappropriate glazing or panelled patterns, will also be rejected.

The original proportions of doorways and door openings on street frontages must always be retained, and proposals to recess a door either less or more deeply within the door opening will not be supported. Original door ironmongery such as letterboxes, door knockers and handles should be retained and reused if the timber door is being replaced. Where this does not survive, the replacement of modern fittings with items appropriate to the period of the building will be encouraged.

Where the opportunity exists, modern doors which are badly proportioned, or of the wrong type or material, should be replaced with a more appropriate solution.



*Historic glass should be reused where this contributes to the character of a building*



## Colour Palette

As white is the colour of most existing sash and case windows in Aberdeen, this is the colour which new windows will generally require to be in order to encourage uniformity.

This will be particularly important in tenements where the use of a uniform window colour helps give the building an architectural cohesion it may otherwise lack.

Other colours will only be agreed to in exceptional circumstances.

Doors should be painted in an appropriate dark and muted colour, and bright glosses and white paint avoided.

Stained or varnished wood finishes will generally be unacceptable, except on non-public elevations in Conservation Areas.



*Replacement windows will generally require to be white*

## 7 Inserting New and Blocking Up Old

Applications to insert additional windows in Listed Buildings or in Conservation Areas may be permitted where this does not detract from the character of the building or area.

Location and design are the key considerations for new window openings which should be assessed in the context of the rest of the building and surrounding properties. The blocking up, in whole or in part, of original openings should only occur where the window makes little contribution to the building or area.

In principle the blocking up should be done in materials that relate to the surrounding building and evidence of the opening, such as window surrounds, be retained.

Proposals to increase the glazing area by removing stone or timber mullions which form the divisions in bipartite or tripartite windows will not be supported on Listed Buildings or in Conservation Areas.

The re-opening of blocked windows will be encouraged only where this will reinstate the intended elevational treatment of the building. It will not be permitted in cases where blocking up has taken place during later alterations to the structure and where the earlier window openings consequently no longer relate to present elevational form.

Doors in street frontages, even though no longer used, should always be retained



*Example of blocked up windows in Ferryhill*

## 8. Summary Charts - What Could Be Acceptable Where?

The following charts have been produced for general guidance purposes only. Proposals will still require to demonstrate satisfactory detailed designs and implementation methods. The charts should only be read in the context of the advice provided within the rest of this TAN. Any queries should be directed to the Council's Development Management Section.

### Windows

	Listed Buildings	Conservation Areas: Public Elevations	Conservation Areas: Non-Public Elevations
Joiner made timber sash and case	✓	✓	✓
Retaining historic or original stained / decorative leaded glass and etched glass	✓	✓	✓
Through astragals	✓	✓	✓
uPVC sash and case 'lookalikes'	X	✓	✓
Planted astragals	X	X	✓

### Doors and Doorways

	Listed Buildings	Conservation Areas: Public Elevations	Conservation Areas: Non-Public Elevations
Joiner made timber panelled door	✓	✓	✓
Composite Door	X	✓	✓
uPVC / aluminium / DIY chain store door	X	X	✓
Flush (e.g. plywood) doors with mouldings applied	X	X	✓

**Examples of windows and doors to avoid on Listed Buildings and on public elevations in Conservation Areas**

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## 9. What To Do Next

Applications for Planning Permission and / or Listed Building Consent can be made online via the Scottish Government's e-planning website: [www.eplanning.scotland.gov.uk](http://www.eplanning.scotland.gov.uk)

Or direct to Aberdeen City Council using the application forms available at: [www.aberdeencity.gov.uk/planning\\_environment](http://www.aberdeencity.gov.uk/planning_environment)

For applications for Planning Permission an application fee will be required. There is no charge for applications for Listed Building Consent, however a fee may be requested to advertise the application in the local press.

Failure to obtain appropriate consents and permissions could result in enforcement action being taken to have unauthorised windows or doors replaced, which may entail considerable costs for the building owner. Unauthorised windows and other works are often identified by conveyancing solicitors and can affect property sales.

In the case of a Listed Building unauthorised work falls under criminal law, and so the person who executes the works, or causes them to be executed, is liable to prosecution or imprisonment in addition to standard enforcement proceedings.

### Submission Requirements

Two (2.no) copies of the following scaled drawings will be required for applications for Planning Permission and three (3.no) for Listed Building Consent in addition to the relevant application forms:



#### For further information please contact:

Planning and Sustainable Development  
Aberdeen City Council  
Business Hub 4, Ground Floor North  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

Telephone: 01224 523470

Fax: 01224 523180

Email: [pi@aberdeencity.gov.uk](mailto:pi@aberdeencity.gov.uk)

1. An OS Plan which clearly identifies the location of the site
2. Plans and detailed elevations of both existing and proposed works.
3. Horizontal and sectional drawings with details at a larger appropriate scale.
4. Details of proposed materials and style of opening.
5. Any other relevant technical information and photographs

In addition, for applications for the replacement of windows/doors on a Listed Building or within a Conservation Area, the following will also be required:

6. A clear statement which sets out a justification for the proposals, including why the works are desirable or necessary.
7. Detailed justification (e.g. a professional survey – for more information refer Appendix 1) to demonstrate to the satisfaction of the Council that the windows/doors to be replaced are beyond economic repair. Within Conservation Areas this will only be required for proposals affecting front elevations or elevations which are visible from public areas.
8. Drawings will normally be required at a scale of 1:1 or 1:2 and should include sections through window head, meeting rails, bottom rail and cill, window jambs and astragals. In addition, an elevation of the window should be provided showing the position of the meeting rails and the arrangement of any astragals.

### **Sources of Assistance**

If your property is a Listed Building or situated within a Conservation Area then you may wish to investigate whether any sources of funding assistance exist:

- The Aberdeen City Heritage Trust is a limited company and charity that operates within Aberdeen City. The Trust has its own criteria for determining in what circumstances it may be prepared to offer assistance. Further details can be found on its website [www.aberdeenheritage.org.uk](http://www.aberdeenheritage.org.uk) or by calling 01224 522755
- Historic Scotland also administers a programme of building repair grants throughout Scotland for Listed Buildings of outstanding architectural or historic importance, or key buildings within Conservation Areas. More information is available at [www.historic-scotland.gov.uk/grants](http://www.historic-scotland.gov.uk/grants)

## 10. Glossary

**Article 4 Direction:** Some types of development do not need planning permission by virtue of permitted development rights. An Article 4 Direction is an order made by Scottish Ministers which suspends (for specified types of development) the general permission granted under the Town and Country (General Permitted Development) (Scotland) Order 1992 (as amended), thereby removing permitted development rights. Article 4 Directions are currently in place in Burnbanks and parts of Kingswells.

**Astragal:** A glazing bar separating panes of glass within a window.

**Conservation Area:** Conservation Areas are areas of special architectural or historical interest, the character or appearance of which it is desirable to preserve or enhance. Such areas are designated by the local planning authority. Details of the Conservation Areas in Aberdeen can be found via [www.aberdeencity.gov.uk/masterplanning](http://www.aberdeencity.gov.uk/masterplanning).

**Dwellinghouse:** For the purposes of this guidance, the term “dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building

**Fenestration:** The arrangement / pattern of the windows in a building.

**Flat:** A separate and self contained residence, which is one of several within a larger building.

**Lintel:** A structural beam above an opening, such as a window or door,

**Listed Building:** Working on behalf of Scottish Ministers, Historic Scotland inspectors identify buildings which are worthy of statutory protection. These are ‘Listed Buildings’. The criteria by which the Scottish Ministers define the necessary quality and character under the relevant legislation are broadly; Age and Rarity; Architectural Interest; and Close Historical Association A list of listed building is available from Historic Scotland [www.historic-scotland.gov.uk/historicandlistedbuildings](http://www.historic-scotland.gov.uk/historicandlistedbuildings).

**Listed Building Consent:** Although the listing of a building should not be seen as a bar to all future change, strict controls do exist to ensure that works undertaken to Listed Buildings are appropriate. Listed Building Consent is obtained through an application process which is separate from, but runs parallel to, applications for planning permission. This separate regulatory mechanism allows planning authorities to ensure that changes to listed buildings are appropriate and sympathetic to the character of the building.

**Material Consideration:** Any issue which relates to the use and development of land and is relevant to the planning process.

**Mullion:** A vertical piece of stone or timber dividing a window into sections.

**Permitted Development:** A term used for certain types of development which, by satisfying specified conditions, is automatically granted planning permission without the submission of an application to the planning authority. These Permitted Development Rights are removed for Listed Buildings, Conservation Areas, Article 4 areas, and flats.

**Planning Authority:** The term given to the Council in its role exercising statutory functions under Planning legislation. Authorities have three main planning duties: Development Management (assessing and determining planning applications); Development Planning (preparing, updating and monitoring the authority's Local Plan/Local Development Plan); and Enforcement (seeking to investigate and resolve breaches of planning control)

**Sash and Case Window:** A window that slides vertically on a system of cords and balanced weights.

**Terrace House:** A dwellinghouse situated in a row of three or more buildings

**Transom:** A horizontal glazing bar in a window.

## 11. Further Reading

- **Aberdeen Local Development Plan**  
[www.aberdeencity.gov.uk/localdevelopmentplan](http://www.aberdeencity.gov.uk/localdevelopmentplan)
- **Bats and Development Supplementary Guidance**  
<http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=47678&sID=14394>
- **Householder Development Supplementary Guidance**  
<http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=45460&sID=14394>
- **Conservation Area Appraisals**  
[www.aberdeencity.gov.uk/masterplanning](http://www.aberdeencity.gov.uk/masterplanning)
- **Historic Scotland - Energy Efficiency Advice**  
<http://www.historic-scotland.gov.uk/index/heritage/technicalconservation/energyefficiencyadvice.htm>
- **Historic Scotland - Managing Change in the Historic Environment: Doorways**  
<http://www.historic-scotland.gov.uk/index/heritage/policy/managingchange.htm>
- **Historic Scotland - Managing Change in the Historic Environment: Windows**  
<http://www.historic-scotland.gov.uk/index/heritage/policy/managingchange.htm>
- **Historic Scotland – Sash & Case Windows: A Short Guide for Homeowners**  
<http://www.historic-scotland.gov.uk/maintaining-your-home.pdf>
- **Scottish Historic Environment Policy**  
[www.historic-scotland.gov.uk/index/heritage/policy/shep.htm](http://www.historic-scotland.gov.uk/index/heritage/policy/shep.htm)

## Appendix 1: Professional Survey

National planning policy only allows windows in Listed Buildings to be replaced where there is evidence that they cannot be repaired. It also requires that applications for Listed Building Consent are supported by sufficient information to enable the local planning authority to determine them. This is why we ask for a survey to demonstrate that existing window(s) are beyond repair and need to be replaced. This is in addition to the elevational drawings and sections required. Please note that comprehensive window replacement is unlikely to be justified in all but exceptional circumstances.

### What should be in a survey?

The survey should be carried out by a joiner or similar and include each individual window. It should include an image of the whole elevation with the windows numbered and an accompanying proportionate amount of information about the type, age and condition of each window. For a straightforward residential property this could be an annotated photo with the windows numbered and a short description of the window condition. Additional information may be required for a more complex building or where significant historic windows are involved

## **Appendix 2: Building Standards Information**

### **Ventilation**

Every apartment must have a window(s) or door(s) with an opening area of at least 1/30th of the floor area of that room. Where the opening area of the existing window is already less than 1/30th of the floor, the opening area of the replacement window must not be less than the original size. If the existing window had an integral trickle ventilator the replacement window must also have an integral trickle ventilator of at least the same size as the original.

### **Safety from Collision**

Windows must not open over footpaths or any place to which the public has access, where they could form a hazard or obstruction.

### **Safety Glass**

Glazing which is less than 800 mm above the floor must be toughened or laminated. Alternatively, a protective barrier could be installed to prevent collision.

### **Thermal Insulation**

Windows must have a U-value (thermal insulation rating) of not more than 1.8 W/m<sup>2</sup>K. There are many types of window construction which meet the required degree of thermal insulation and this should be confirmed with the window installer.

### **Protective Barriers**

Openable windows to a storey with a floor level of at least 600 mm above the outside ground level, and with a cill height less than 800 mm above floor level, must be provided with a protective barrier to minimise the risk of falling from the window. On the ground and first storeys, the barrier must be not less than 800 mm above the floor level. There must not be any gaps in the barrier which would allow a 100 mm ball to pass through. Alternatively, permanently fixed safety glass may be used instead of a barrier.

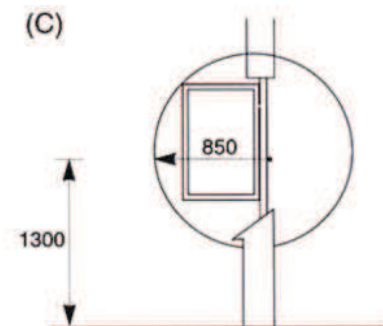
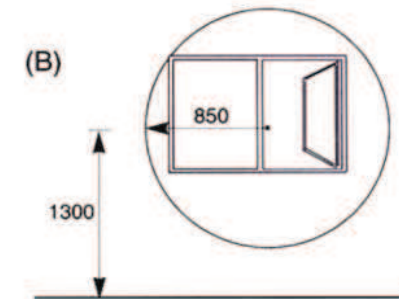
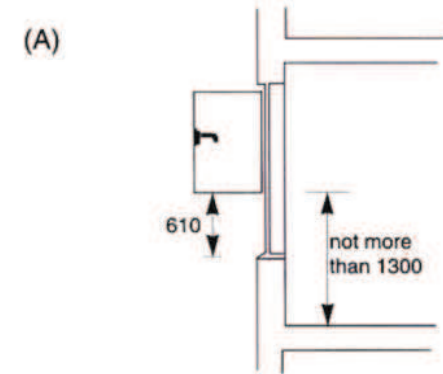
### Emergency Escape Windows

An escape window must be provided in every apartment on the first floor of a dwelling. Escape windows must also be provided in rooms on the ground storey where the escape is through another room. Escape windows must have an unobstructed openable area that is at least 0.33 m<sup>2</sup> and at least 450 mm high and 450 mm wide. The bottom of the openable area must not be more than 1100 mm above the floor except in cases where the existing cill height is greater than 1100 mm.

### Safe Cleaning

All windows must be safely cleanable. Windows, all or part of which are more than 4 m above the adjacent ground level must be designed so that any external and internal glazed surfaces can be cleaned safely from inside the building. These windows must be cleanable whilst standing on the floor and without over-reaching. The maximum reach must not exceed that shown in the diagrams over, and the maximum upwards reach is 2150 mm. If parts of the existing window are out with the maximum reach, the replacement window should be of a type which allows those parts to be brought within the safe reach in order to allow safe cleaning.

All dimensions are in mm.



- (A) downwards reach through an opening light
- (B) side reach through an opening light
- (C) reach for cleaning an open window with easy-clean hinges



**For Further Information Please Contact:**

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# 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 townscapes; 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 townscape 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 disapplied (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 Munn 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:

Historic Scotland  
Longmore House  
Salisbury Place  
Edinburgh  
EH9 1SH

Switchboard Tel: 0131 668 8600

## 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 disapplied.

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/adldata/arch-352-1/dissemination/pdf/vol\\_125/125\\_001\\_008.pdf](http://ads.ahds.ac.uk/catalogue/adldata/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 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 duntakings 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.



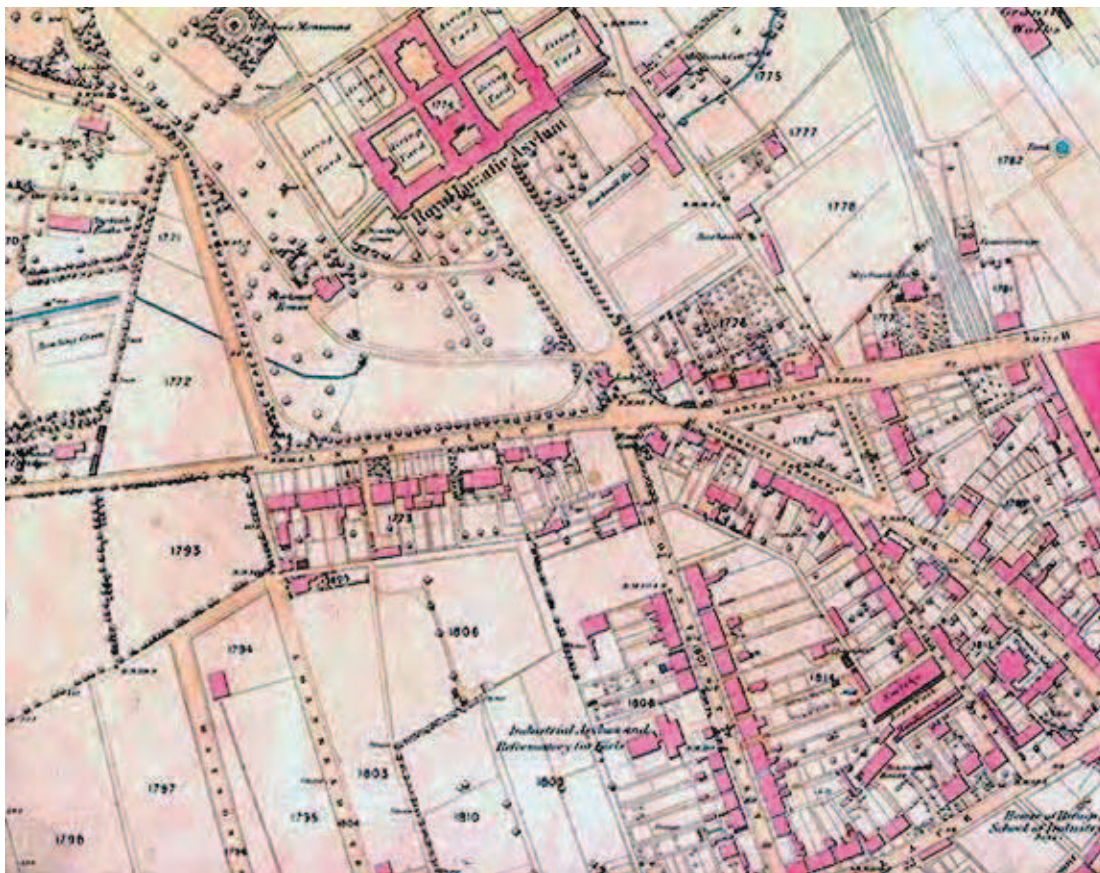






**ABERDEEN**  
CITY COUNCIL

Extract from the Ordnance Survey map of 1869.



# Rosemount and Westburn

CONSERVATION AREA 11 APPRAISAL

March 2004

## 1.0 Introduction

1.1 Conservation areas contribute significantly to our heritage. The historic environment helps to define a sense of place and provides a context for everyday life. Its appreciation and conservation fosters distinctiveness and contributes to creating an identity at local, regional and, in some cases, national level.

1.2 The planning authority designates conservation areas in order that their character can be protected. They are defined as “areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance”.

1.3 Individual buildings, groups of buildings, open spaces and their relationships with one another, create the character or historic interest of an area. The legislation covering conservation areas seeks to preserve this character and historic interest.

## 2.0 Background

2.1 Each local authority is required to determine which parts of its area are of special architectural or historic interest and designate these areas as conservation areas.

2.2 Government Policy is detailed in National Planning Policy Guideline 18, Planning and the Historic Environment, 1999. This recommends that

*“conservation area character appraisals can assist planning authorities in carrying out their development planning and development control functions in relation to the historic environment. (NPPG 18 Para28)*

*“Conservation area appraisals focus upon the areas likely to be included within the boundaries of a conservation area and seek to define the special interest of the area and key elements that contribute to its character and appearance. (NPPG18 Para31)*

Rosemount Viaduct



*“The preparation of an appraisal will assist in defining the boundaries of conservation areas. By appraising the character and appearance of each particular area it also becomes easier to assess development proposals in terms of their impact upon character and appearance. When the main findings of the appraisal are integrated into local plans they can be used as a benchmark against which development control proposals affecting the designated area can be assessed, thus leading to a more consistent and better informed decision making process. An authority’s justification for designation, as reflected in its assessment of an area’s special interest and its character and appearance, is also a factor which the Secretary of State [now First Minister] will take into account when considering appeals against refusals of planning permission and conservation area consent. (NPPG 18 Para32)*

*“Appraisals can serve as an important tool by identifying opportunities for further action by planning authorities and others in preparing enhancement schemes. Appraisals can also play a role in identifying and promoting development opportunities. They also provide an opportunity for widespread public consultation on the various land-use issues affecting conservation areas and their preparation can assist planning authorities in the formulation, monitoring and evaluation of local plan policies. An appraisal will also be helpful in securing partnership funding through, for example, the current Townscape Heritage Initiative, for projects within conservation areas.” (NPPG 18 Para33)*

2.3 Section 61 (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that: *“Every planning authority shall from time to time determine which parts of*

*their district are areas of special or architectural interest, the character or appearance of which it is desirable to preserve or enhance, and shall designate such areas as conservation areas”.*

2.4 The Aberdeen City District-Wide Local Plan adopted in 1991 identifies Rosemount and Westburn as proposed conservation areas. Under the terms of the District-Wide Local Plan, the majority of the Rosemount and Westburn Conservation Area is designated Residential (R1). Rosemount Place is further zoned as a Fringe/Linear Shopping Centre. Both Victoria and Westburn Parks are zoned as Recreation (OR1) spaces. Royal Cornhill Hospital to the north of Westburn Road extending through to Elmhill House and Ashgrove Road is zoned for existing Hospital (H1) use.

2.5 The District Wide Local Plan is to be replaced by a new Aberdeen City Local Plan which is currently in preparation and is expected to be published within the next few months. It is the intention that the new Local Plan continue to designate Rosemount and Westburn as a conservation area through the following draft Policy and Proposal:

*“The City Council will ensure that all areas of special architectural or historic interest are designated as conservation areas. To reinforce the effectiveness of its conservation areas, the City Council will seek to obtain Article 4 Directions in order to control alterations to non-listed buildings which would otherwise constitute permitted development. It is to be expected that the protection of the built environment should be a major factor for consideration in planning the City’s future”.*

2.6 The new Local Plan will maintain the current mix of policy designations with various parts of the Study area retained within residential, and recreation policy designations. It expected that the Conservation Appraisal will be incorporated within the new Local Plan, which is targeted to be placed on deposit in the first quarter of 2004.



### 3.0 Topography

3.1 The conservation area has a general easterly/south-easterly sloping trend of between 1 in 20 and 1 in 25, from the 50 metre contour in the north-west down to the 20 metre contour in the south-east, although there are local variations. Residents will be very familiar with these variations, in particular from having to negotiate the inclines of Craigie Loanings and Argyll Place and some of the lesser streets in the area.

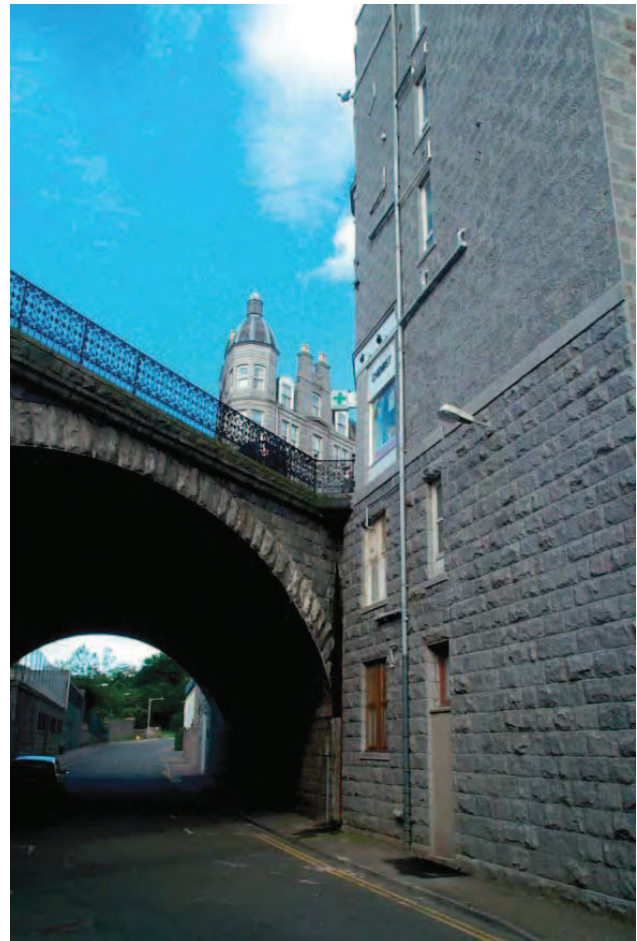
3.2 These rises and falls are due to two topographical features. Firstly, the southerly half of the conservation area is characterised by a west to east ridgeline along which Rosemount Place runs, and secondly, towards the north by a shallow linear depression in which Westburn Road is located.

3.3 The ridgeline features a small hillock at 50 metres ASL located roughly in the area around the junction of Westfield Road / Craigie Loanings with Rosemount Place, Beechgrove Terrace, Argyll Place and Mid Stocket Road. The ridgeline continues westwards where it gradually rises through the suburbs of Mid Stocket, Summerhill, Mastrick and Sheddocksley until it reaches the easterly side of the village of Kingswells where it terminates in another hillock ("Gillahill") around 185 metres ASL.

3.4 The linear depression referred to above, appears to be a former glacial meltwater channel or valley, which flowed eastwards from a point within the larger valley of the Den Burn, situated to the west in the vicinity of Maiden Craig. To complete the picture, although it is beyond the area of study, another depression or meltwater channel occurs to the south which coincides with the Skene Street, Carden Place, Queen's Road transport corridor. Both of these meltwater channels have helped to contribute towards the formation of the Rosemount ridge.

3.5 Geologically, the area is comprised in the main of locally affected, metamorphosed, igneous rock from which much of the granite used for local buildings was derived. Only two small parts, towards the south-east around the Denburn Health Centre, and east of Caroline Place and Skene Square, comprise sedimentary rocks. All of the area is overlain by glacial meltwater deposits and till, the latter consisting of rocky debris of clays, sandy clay, or sand, the former of water-sorted sand and fine coarse gravel.

*Rosemount Viaduct*



## 4.0 Townscape evolution

4.1 The Ordnance Survey maps for the middle of the 19th century show that during that period more than fifty percent of the land area of the conservation area was undeveloped, especially between Westburn Road and Mid Stocket Road where there were a number of open fields. North of the Westburn Road in the area now referred to as the Cornhill Hospital, practically all of the land was used for the purposes of healthcare – in those days referred to as “The Royal Lunatic Asylum” with “airing yards” for exercise, Elmhill House Lunatic Asylum, and an “Hydropathic Establishment” at Loch-head next to Westburn House. Much of the land around these rather grand style hospital buildings was laid out as parkland with open lawns, tree planting, and fields in which residents of the establishments could be occupied.

4.2 To the east of the area, between Westburn Road and Mid Stocket Road, were some houses, but a large area of the built up land consisted of an “Industrial Asylum and Reformatory for Girls”. Much of the south-east and eastern areas beyond the conservation area boundary was devoted to industry – with a Tannery and Dye Works close to the Den Burn for a supply of water, some ‘Handloom’ factories, the Rosemount Works and Winery, and the Gilcomston Brewery.

4.3 Rosemount first came into existence in 1829 and was named after a house already in the neighbourhood. In the south-west of the area, between Mid Stocket Road and what is now Whitehall Place, were some single large houses – for example, Belvidere House, Craigiepark House, and Westfield – and some groups of cottages and smaller detached houses. The south west of the area was laid out as a market garden and nursery.

4.4 In 1871, the Aberdeen Municipality Extension Act allowed the city boundary to be extended to include the whole of the Rosemount district and North Broadford. This boundary was extended again in 1883. Since the great improvement Act of 1800, which gave rise to Union Street and King Street, the Town Council had not embarked on any great measure of city improvement till the Act promoted by Provost Esslemont in 1883.

4.5 The routes connecting the centre with the north-west of the city were, prior to 1883, narrow steep and tortuous, and it was felt that before any development could take place in that quarter, a new and improved access should be made.

4.6 In 1882, the Town Council laid out Esslemont Avenue, but it was too far west to serve as a suitable direct access to the Rosemount district. The older accesses by Gilcomston Steps and Skene Square or by the Incurable Brae and South Mount Street could never have met the traffic demanded by Rosemount and the new district of the Stockets beyond.

4.7 A new thoroughfare, Rosemount Viaduct, was therefore projected, starting from the end of Union Terrace, crossing Skene Terrace, Skene Street, and by a viaduct of skew arches, the valley of the Denburn, till it joined the higher ground at South Mount Street. This work was the first undertaken under the powers of the 1883 Act. The cost of the work was very heavy, amounting, between property and works, to almost £81,000.

4.8 James Emslie opened Loanhead Quarry in 1830 (Rubislaw opened in 1741). The Wrights and Coopers Incorporation in the 1870s laid out Loanhead Terrace and although the name is taken from the quarry, the actual quarry was nearer to Mile End and Craigie Loanings.

4.9 The Incorporated Trades laid out Thomson Street in 1879, and like many of the neighbouring streets, the builder was John Morgan. He had a house built for him and his family overlooking Victoria Park, until they moved in 1886 to 50 Queen's Road. The street was named after James Thomson who was involved in managing the widows' fund for the Incorporated Trades.

4.10 At the turn of the 20th century, whilst the area to the north was still devoted to hospital uses, the need for housing had led to the majority of the land between Westburn Road and Whitehall Place being developed for terraced style housing. To the south-west there remained some gaps between housing areas, but a pattern of streets had already been developed and it is clear that they would soon be similarly developed. The exceptions were the open fields referred to above, which had been taken over to create the five-hectare Victoria Park which was opened to the public in 1871.

4.11 Whilst some poorer housing had encroached towards it, the industrial areas to the south-east had become consolidated and associated with a far larger area, including the Broadford Works and Granite Works, associated with Hutcheon Street, Maberley Street and John Street east of Skene Square.

4.12 Towards the middle of the 20th century, practically all of the current housing had been built. The areas north of Cornhill road were still used for hospital purposes, but the grounds around Westburn House had been formed into a public park with its formal walled garden turned into bowling greens and tennis courts.

4.13 Some strips of land along the southern side of Whitehall Road, and beside Whitehall Terrace, and Craigie Park, remained undeveloped until relatively recently. During the 1960s some of the former industrial land and poorer housing areas to the east were developed for more modern housing by the local authority.

## 5.0 Parks

5.1 In the mid-nineteenth Century there were no public parks in the City except the Links. By 1900 there were six: Union Terrace Gardens, Duthie Park (which were gifted to the Town), Stewart and Walker Parks (which were purchased) and Westburn and Victoria Parks in the conservation area.

5.2 Westburn, the mansion house, for many years the residence of the Chalmers family, the well-known printers, was acquired by the Town Council and opened to the public in 1901. The original estate of Westburn extended to 22 acres and was purchased for the sum of £14,000 with subsequent works bringing costs to a total of £18,717. The old house of Westburn was converted into refreshment rooms, and a bowling green laid out in the *Westburn Park*



former kitchen garden. The public park now includes a children's cycle track and play area, and has become known for an excellent grass bowls facility. An open section of the Denburn (a local stream) runs through the park and modelled water features have been added to it. There is a more 'open' feel to the grounds, which are readily visible to traffic on the adjoining roads, and this contrasts significantly to the contained intimacy of the Victoria Park opposite it.



5.3 The five-hectare Victoria Park was opened to the public in 1871. In addition to an informal layout of flowers, shrubs and trees, there is a conservatory to be used during inclement weather, and a small glasshouse feature. In the centre of the park is a Category A listed fountain made of fourteen different granites, presented to the public by the granite polishers and master builders of Aberdeen.

*Victoria Park Fountain*



## 6.0 19th Century urban housing

6.1 The first element which has been instrumental in guiding housing development at Rosemount, and subsequently having an effect upon character, is landform. It will be clear to anyone who walks around the area that the ridge and hollow topography described earlier has given a distinct character and sense of place. Streets often have kinks or turns in them to follow the ground contours such as at Belvidere Crescent, Wallfield Place and Wallfield Crescent, and more subtly at Whitehall Place. These bends invite the eye to follow and increase anticipation as to what is beyond. Where roads are aligned down the side slopes of the Rosemount ridge, such as at Skene Square, Grosvenor Place, Craigie Loanings, and the streets north of Rosemount Place leading down to Victoria Park, the tiered arrangement of buildings create visual diversity to an otherwise linear form, and offer an invitation to follow the eye downwards.

6.2 In addition to landform, there are three other basic elements that have an influence upon character. The ways they relate to each other have been initially examined in order to aid definition:

- a) the architectural style and density of buildings;
- b) the way the external spaces are arranged around them, and
- c) the presence or absence of trees and other vegetation.

6.3 Initial appraisal has shown that the areas immediately to the west of the conservation area around Mid Stocket Road, whilst comprising some attractive late 19th and early 20th Century housing layouts, do not adequately match up to the quality and diversity of those described in the following sections. At present nearly all of this area consists of private housing and is unlikely to be subjected to pressure to change. This does not, however, preclude the Mid Stocket area from being the subject of a detailed appraisal for conservation area status in its own right in the future.

## 7.0 Townscape, architecture and history

7.1 Rosemount Viaduct and South Mount Street demonstrate the transition from a truly significant urban scale in the City Centre through to a more domestic suburban scale evident in much of Rosemount. The rapid emergence of Rosemount as a suburb of Aberdeen in the latter half of the 19th Century has meant that the vast majority of the surviving buildings are of a similar age.

*Wallfield Place*



7.2 57-85 and 46-80 Rosemount Viaduct flank either side of the gateway from the City Centre to Rosemount. 4 storey and attic with ground floor shopfronts finished in granite ashlar with finely dressed string courses and pilasters. 96-120 Rosemount Viaduct (James Souttar, 1887) on the north east side comprises three imposing 4 storey and attic tenements grouped together. Constructed of rusticated granite block with smooth ashlar details such as stringcourses, mullions and even turrets flanking the central of the three gables, this tenement has ground floor shops to the street. The two churches opposite each other, the former UF Church at 82 Rosemount Viaduct and the Bon Accord Church with its impressive square tower form fitting bookends to the larger scale tenements.

7.3 Rosemount Square (Leo Durnin, 1938) is based upon the Karl Marx Hof in Vienna and represents a dignity of scale not often attained in local authority housing. A refined exterior of unbroken fenestration achieves the art deco style meriting a category A listing. Vertical stair windows contrast with the horizontal windows of the flats themselves. Finished in granite Rosemount Square includes relief sculptures by TB Huxley-Jones above the entrance arches depicting the Spirits of Wind and Rain. Tenements at 9-13 and 19-21 Short Loanings reflect the scale and design of Rosemount Square, with the addition of entrance doors to the street. These tenements demonstrate how the appearance of such a building can be detrimentally altered with the introduction of inappropriate window styles.



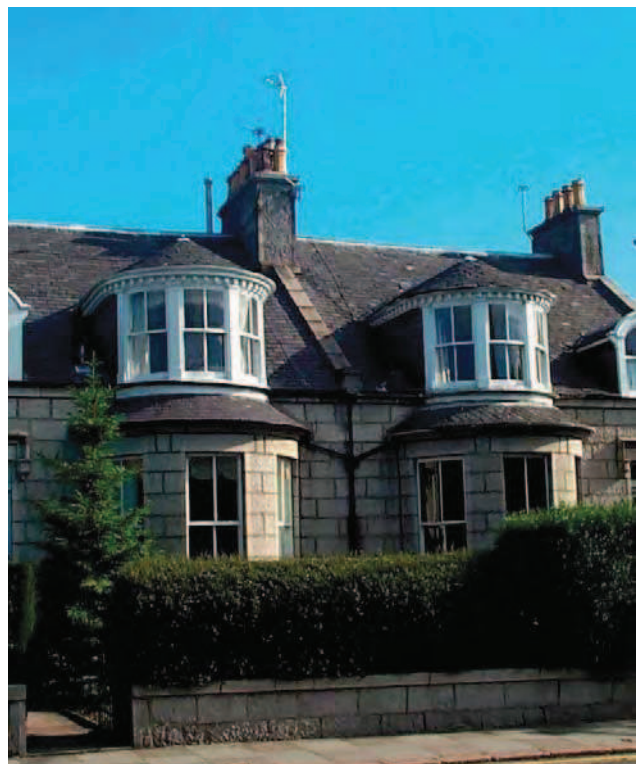
*Rosemount Square*



7.4 Mount Street, Rosemount Terrace and Caroline Place all appear on the first edition Ordnance Survey map together with Rosemount House. The low scale housing towards the north in Mount Street and Mount Cottage are amongst the first buildings in Rosemount. The houses of Caroline Place and the cottages in Rosemount Terrace date from the 1830s. These added to the tenements on Westburn Road to the north, form a triangular island on which stands the former Rosemount Church (William Smith 1875-7). C listed, the Gothic style church has been converted to a cancer support centre, Clan House.

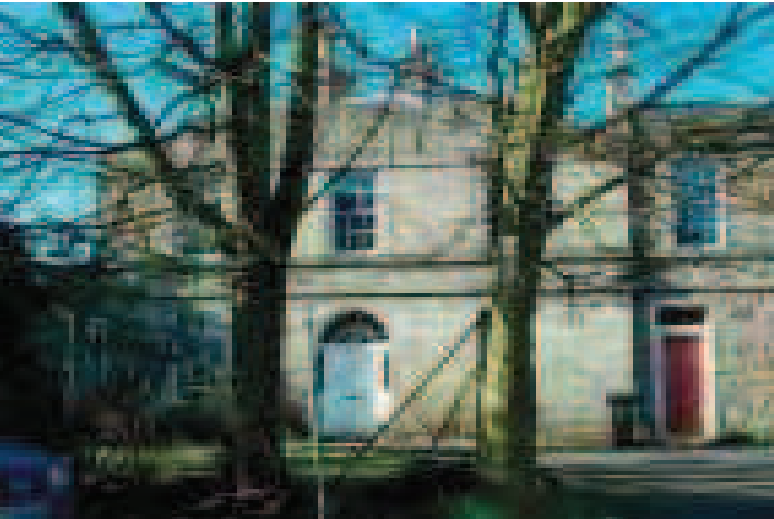
7.5 Rosemount Place forms the spine of the Rosemount neighbourhood. Its character is typified by a selection of building styles of differing heights, ranging from single to four storeys. Serving as the centre of the neighbourhood with many local shops at ground floor. Rosemount Place also provides the main link to the suburbs to the west. Notable buildings include Category C(S) listed Rutherford Church, B listed Rosemount School (James Souttar 1883-84) and 250-252 Rosemount Place, C(S) listed. The imposing former Rosemount School is prominently situated at the corner of Esslemont Avenue, Belgrave Terrace and Rosemount Place, contributing to the legibility of the area. The juxtaposition of the diverse range of buildings on Rosemount Place is in direct contrast to those streets in the conservation area that are accessed from it.

*250-252 Rosemount Place*



7.6 Rosemount House at 28 Rosemount Place is set behind the main thoroughfare. This very early 19th Century 'B' listed former mansion has been extended to form a short terrace. Constructed in finely picked granite ashlar with an impressive semicircular doorway, the neighbourhood is believed to be named after Rosemount House.

*Rosemount House*



7.7 Most notable of the streets running off the spine of Rosemount Place is Argyll Place, nos 31, 37-49, 55-93 of which are listed category B (Pirie & Clyne, 1884-85). This single storey and attic terrace, built for the local builder and contractor John Morgan, is constructed in grey and pink granite, with contrasting rusticated and dressed finishes. Interestingly, no two doors are the same with a variety of single, paired recessed or near flush arrangements.

7.8 To the north, 1-13 Argyll Crescent (1887, Pirie & Clyne) is a single storey and attic terraced crescent with 26 bays constructed in grey and pink granite. The smooth convex nature of the B listed terrace is unusual, with private drive and gardens in front and enclosed radial gardens to the rear, and a segmented drying green at the apex. This forms a unique and complete design.

7.9 Parallel with Argyll Place are Belvidere Street and Thomson Street terminating at Victoria Park. Belvidere Street comprises late 19th century single storey and attic terraced townhouses set behind modest front gardens, each with a bay window and bay dormer above. Entrance doors are generally grouped together in pairs and modestly embellished with a small projecting entablature. The west side of Thomson Street has single storey and attic terraced houses similar to those in Belvidere Street, whilst the east side increases in scale to 3 storeys, the top floor of which is formed by a mansard roof and gable to the front of each tenement.

7.10 Watson Street encloses Victoria Park on the east side with the most notable building the late 19th Century Victoria Park Lodge. The single storey and attic cottage sits in a landscaped oasis setting it apart from the urban setting of the rest of the street. Loanhead Terrace is a mixture of terraced and semi-detached single storey and attic dwellinghouses.

*Victoria Park Lodge*





Unusually, only the east side of the street is developed, the west having a tree lined border with Watson Lane, creating an open and pleasant environment with a suburban feel. 2-12 Loanhead Terrace have shallow-arched windows and doors to the ground floor with decorative facings around the dormers.

7.11 View Terrace includes the B listed no 2A (originally Viewplace House), now converted to a nursery. The single storey and attic terraced housing on the west side are typical of the Victorian house type of the area but differ slightly- the bays all have a painted finish in pastel colours.

*Raeburn Place*



7.12 Raeburn Place has impressive and colourful 4 storey tenements constructed in pink rusticated granite with grey granite details. Constructed on the site of the former Gilcomston Brewery, each tenement has a traditional mansard with a gable centred over the entrance door. Similar to Raeburn Place are 15-27 Baker Street with the same scale, materials and colour.

7.13 Belgrave Terrace includes several recently listed buildings. 21,23, 25-3, 33-39 are single storey and attic semi-detached houses with bays, again having bay dormers above. Designed by the City Architect (John Rust, 1904), these terraced houses have green slate fish-scale mansard roofs. 42 Belgrave Terrace (John Rust 1896) is a substantial townhouse on an elevated setting along with others on the north west side of the street. 44 Belgrave Terrace (William Kelly, 1887) and 46 Belgrave Terrace (Ellis & Wilson, 1886) complete the impressive range of villas.

7.14 Esslemont Avenue has plain tenements with no front garden forming a canyon of a curved street leading up to Rosemount Place. Rather more ostentatious are those tenements facing the Grammar School on Whitehall Place. To the south west of the conservation area is Westfield Terrace. Nos 6-16 (James Henderson, 1874) are C(S) listed, although B for the group. Three double villas with Scots Baronial and Dutch inspired detailing form this curious terrace.

7.15 To the north of the conservation area lie Westburn Park and Royal Cornhill Hospital. The character of this area is typified by a collection of Victorian Asylum buildings of granite construction sitting proud in a parkland setting. A number of additional buildings have appeared, especially with the expansion of the Royal Cornhill Hospital in 1989, but still the overriding impression is that of a parkland with open lawns and tree planting.

7.16 Westburn House (1839, Archibald Simpson) was designed for David Chalmers of the Aberdeen Journal. Brick built and stuccoed, the single storey building is centred in Westburn Park with a two-storey centre gable to the north and slim Doric portico with pediment to the west. The cast iron veranda on the south is a later addition to this A listed building. Farther north, B listed Elmhill House (1862, William Ramage) is an imposing E-plan Italianate former mental hospital, designed

*Westburn House*



as an extension to the original hospital facilities for the mentally ill. A striking granite building of three storeys with twin towers in a spacious parkland setting, including now overgrown ornamental gardens to the west.

7.17 The original asylum building of The Royal Cornhill Hospital (designed by Archibald Simpson in the early 19th Century) has since been engulfed by many later additions. The main hospital building, a substantial 2-storey granite structure around central courtyards dates from 1819. To the north the separate 2-storey and attic hospital extension was added in 1890 along with 2-storey pavilions in the 1920s. A number of single storey wards complete Royal Cornhill. To the south of the original building, a new hospital complex was constructed in 1989 with a series of low pavilions. Royal Cornhill, together with the Asylum Lodge and Elmhill House, is the last remaining example of the original healthcare facilities that were so prevalent in the north and west of Aberdeen in the 19th century. The relationship of the pavilions, villas, wards and courtyards and spaces between may have altered over time with the introduction of car parking, however the localised sense of enclosure still exists within the hospital complex. The site includes the Forbes of Newe Obelisk (1830, John Smith) in memory of John Forbes who bequeathed £10,000 for building the hospital. The Obelisk originally sat in St Nicholas churchyard and is now listed category C(S).

*Royal Cornhill Hospital*





## 8.0 External spaces

8.1 The individual components that can contribute to character comprise the varying widths and alignments of roads; the arrangements of public and private spaces; the surface materials of carriageway and pavements and any associated street furniture. Where there are front or side gardens abutting the street boundary enclosures the impact of associated planting can be important. Also relevant is how car parking is accommodated and whether it is visually intrusive.

8.2 There is considerable diversity in the manner in which the streets and external spaces have been laid out. The distance between buildings on either side of a street, for example, varies from around 60 metres in the case of Westfield Terrace, to those where there is less than 14 metres as at View Terrace. The intervening space accommodates a road with pavements, usually on both sides and with or without street trees, on street car parking and, in the widest ones front gardens. In the narrowest streets the buildings front directly onto the pavement. Carriageway widths can vary from one such as at Esslemont Avenue of almost 10 metres wide, to those like Craigie Loanings and Thomson Street, which are only around 7 metres wide.

8.3 In general, the streets north of Rosemount Place are distinguished from those south of it since they not only have larger front gardens but also rear lanes with garaging facilities. There is overall within the residential areas a very clear arrangement of public and private spaces. The one anomaly occurs at Loanhead Terrace where, as previously mentioned, the fronts of the houses on the eastern side face directly towards the rear lane and back gardens of the houses on Watson Street to the west.

8.4 A relatively recent introduction into the public zone, and which have had a significant effect upon the character and attractiveness of some streets, are on-street refuse arrangements. These comprise permanent stanchions and large 'wheelie' bins for use by local residents. Where there has been adequate width they have been

incorporated on pavement edges. However, these bins disrupt the visual flow and rhythm of the street pattern especially where tree planting, other vegetation or structures do not mask them. A better and far more unobtrusive solution is achieved where there is less width on the footpath resulting in bins being inserted between car spaces on the carriageway. Thus the physical and visual obstacle is removed.

*Northfield Place*





## 9.0 Vegetation

9.1 When the majority of the houses within the area were built, the Victorians included a number of components that were designed to give areas a pleasant outlook. In all but the area to the south-east and generally bounded by Mount Street, West Mount Street, View Terrace, Rosemount Place, and Wallfield Place, the streets were planted with trees. These were mainly within the pavement although in the case of Belgrave Terrace, Grosvenor Place, Richmond Terrace, and Watson Street they were located within the carriageway itself. Where there were small front gardens they were generally enclosed by railings and the street itself would have been laid with granite setts and stone pavements.

9.2 The position has change significantly in the intervening years. Most railings were removed during the war years, and concrete slabs and blacktop have gradually replaced the granite used for pavements and roads. Only Westfield Terrace seems to have retained its stone flags. Street trees have needed to have their crowns raised above high sided vehicles and, where their roots have either raised the pavement, or their stems interfered with residents parking, they have been progressively removed. In some cases they have not been replaced, or have been substituted by smaller species. In others, routine tree pruning has been severe so that they have been left with small crowns with callused nodules at cut points that are very visible in winter.

9.3 Where trees have been retained there can be little doubt that they contribute significantly to character – they tend to be more in scale with building heights, and help to soften the otherwise hard and linear arrangements of buildings. They can also, along with garden planting, provide some refuge for wildlife that would otherwise be largely displaced from urban areas. In that regard, where front gardens have incorporated privet or other types of hedging, they have helped to substitute for the lack of frontage railings.

## 10.0 Development matters affecting the conservation area

10.1 The redevelopment of Elmhill House and associated parkland is currently under consideration. A planning brief was published in May 2001 stipulating the requirements for the preservation of the listed building and to give guidance on suitable development in the surrounding area.

10.2 An outline planning application threatening demolition and subsequent replacement of Royal Cornhill Hospital is also under consideration. The appraisal identifies Royal Cornhill as an important series of granite buildings contributing to the history and character of the area. It is recommended that a planning brief be prepared for the Hospital site in order to give clear guidance as to how this site may be reasonably developed within the context of the historic environment.

*Elmhill House*



## 11.0 Enhancement of the conservation area

11.1 The preservation and enhancement of the conservation area will primarily be achieved through the development control process. The main implication of conservation area designation is that consent will be required for demolition works. Consent for specific types of development that would not otherwise require it is also required. In addition, permission is required from the City Council for any work involving felling, lopping or pruning of any tree within a conservation area.

11.2 Article 4 Directions have a particular role to play in helping protect important unifying features (e.g. doors, windows) and in arresting the incremental erosion of the character and appearance of the area. However it is acknowledged that many of the tenements in the conservation area have few of their original windows remaining, with those in Esslemont Avenue, Wallfield Crescent and Gilcomston Park being notable examples. In 1992, the Government introduced stricter control over development within conservation areas. Such control is considered sufficient for the Rosemount and Westburn conservation area.

## 12.0 New Development in the Conservation Area

12.1 To safeguard conservation areas for the enjoyment and benefit of future generations any new development must respect and enhance the character of the conservation area. The designation of a conservation area not only has the overall objective of protecting what is of value in the existing built environment, it is also a means to ensure that any new development adds to that value.

12.2 However it is important that the conservation area is not viewed as a barrier to creativity. The genuine heritage of the conservation area must not be diluted and debased by the introduction of designs that merely mimic their surroundings in an unconvincing and ill-considered fashion. Designs should, however be compatible with local area context.

12.3 Design quality should be encouraged and not inhibited by the development control process. Promotion of design quality should be strengthened through the planning process. With this in mind it is recommended that planning briefs be prepared to give guidance for potential development sites such as the Cornhill Estate.

12.4 It is acknowledged that one of the major contributing factors to the character of any area is the uniform treatment of fenestration. This uniformity has been lost in Rosemount; in most tenements no two windows are alike. It is impractical to expect conservation area designation to be a means of reinstating original timber sash and case windows.

12.5 Control of fenestration is covered more rigorously in the other conservation areas in the City by the inclusion of Article 4 Directions, effectively removing permitted development rights for replacing windows. Since the designation of Aberdeen's existing conservation areas, the Town and Country Planning (General Permitted Development) (Scotland) Order has been revised (1992), introducing stricter controls

for development in conservation areas. It is not considered necessary to introduce an Article 4 Direction to the conservation area to further restrict development.

12.6 The Rosemount and Westburn conservation area consists mainly of flatted properties that require planning consent in any case to replace windows. Rather than restricting the material or opening method of new windows in Rosemount, it is recommended that all new windows in tenements should be kept simple in style and have white frames. In addition, carefully matching new windows to the most prevalent and appropriate existing appearance, possibly including a dummy transom for example, will enhance a tenement. This will assist in creating a degree of uniformity in terraces thereby preserving and enhancing the character of the area.

### 13.0 Conclusion: Justification for Designation

13.1 The conservation area retains, almost intact, the later 19th century expansion of Aberdeen north-west from the city. Unlike the substantial villas constructed in the West End around the same time, the housing forms in Rosemount are the tenements and the terraces of modest houses.

Following the grand intervention of Rosemount Viaduct, the resulting pattern of development responded to the topography of the area. The tenements that front onto Rosemount Viaduct are up to 5 storeys high with 7 storeys to the rear. Parallel terraces curve around a slope as at Belvidere Crescent, Wallfield Place and Crescent, or straight down the slope towards Victoria Park as at Belvidere, Thomson and Watson Streets.

The two public parks, Victoria and Westburn provide open space to compensate for the compact street pattern and smaller size, or absence, of private gardens.

13.2 Designation of the Rosemount and Westburn Conservation area has been proposed for two main reasons:

**1) preservation of street pattern and granite buildings that make an important, positive and lasting contribution to the City's character and building stock; and**

**2) preservation of the parkland setting of both Westburn and Victoria Parks, and the Cornhill Estate for the benefit of future generations.**

Designation of the Rosemount and Westburn Conservation area enables the protection of the whole area rather than simply individual buildings. Demolition can be prevented and changes controlled so that the distinct character of the area is preserved.



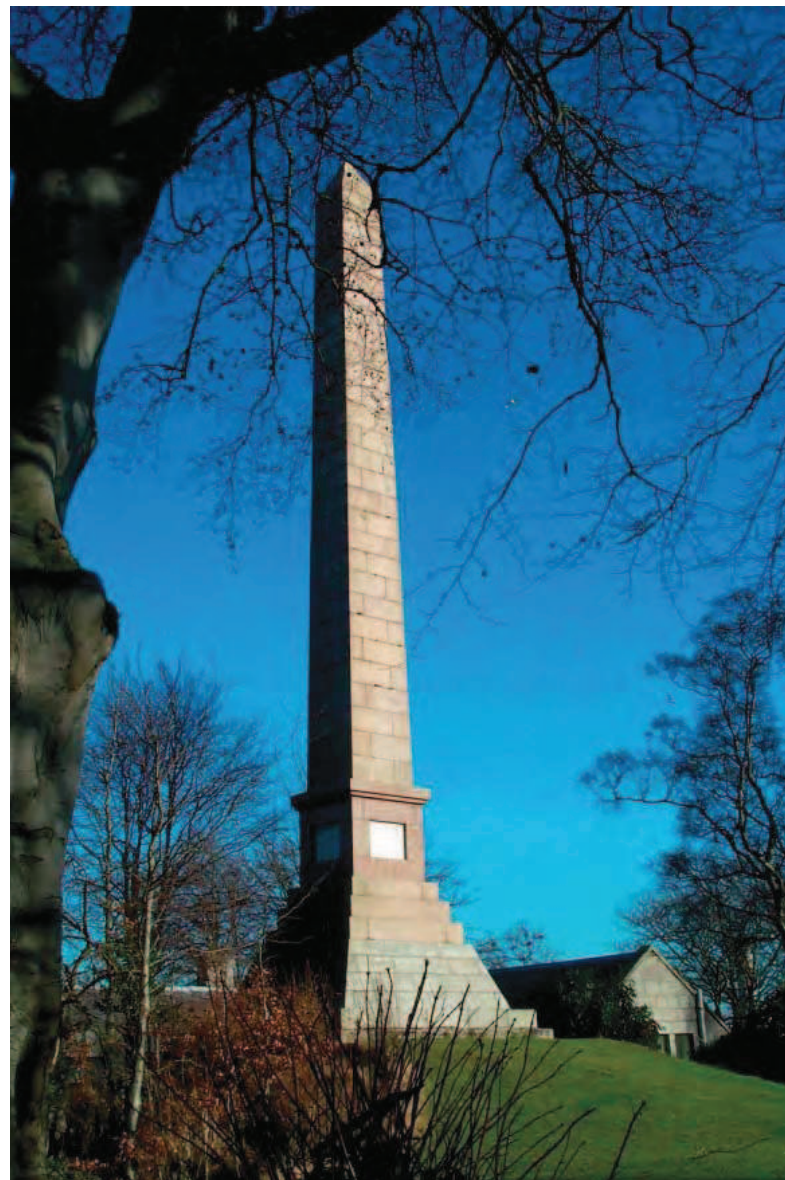
13.3 The boundaries of the Rosemount and Westburn Conservation Area are shown on the attached plan and can be broadly described as follows:

Ashgrove Road, west of Woodgrove and Barkmill Road, south of the rear boundaries of 1-25 Chestnut Row, south along Berryden Road to Hutcheon Street, rear boundaries of 1-6 Caroline Place, Skene Square, Rosemount Place, rear boundaries of 2-30 South Mount Street, rear boundaries of 56 and 58 Baker Street, Baker Street, Gilcomston Steps, Spa Street, South side of Denburn Health Centre, Upper Denburn, up steps to Skene Street, Skene Street to the west boundary of Skene Street School, Jack's Brae, rear boundaries of 8-30 Northfield Place, rear boundaries of 2-10 Esslemont Avenue, Esslemont Avenue, Whitehall Place, Albert Place, Albert Lane, rear boundaries of 53-105 Whitehall Place, rear boundaries of 10-64 Whitehall Road, rear boundaries of 6-52 Craigie Park, Westfield Road, rear boundary of 2 and 4 Westfield Road, rear boundary of 1-3 Beechgrove Terrace, rear boundary of Argyll Place, rear boundary of Argyll Crescent, rear boundary of 1-31 Westburn Drive, rear boundary of 2-6 Westburn Crescent, Westburn Drive to Ashgrove Road.

13.4 Streets or small areas that may not normally be considered suitable for conservation area status in their own right have been included to link to the existing Union Street and Albyn Place/Rubislaw conservation area boundaries. This avoids unnecessarily complicated boundaries that would otherwise be created. Although examples of modern development are included in the area, these should not be interpreted as suitable models for future development. Rather their inclusion offers the opportunity for improvement in the future to enhance the quality of building and urban spaces in the area.

13.5 The conservation area includes the following addresses:

*Forbes of Newe Obelisk*



Rosemount and Westburn Conservation Area Appraisal

Street	Nos		
Albert Den	All nos	Richmond Terrace	All nos
Albert Lane	1	Richmond Walk	All nos
Albert Place	All nos		Rosemount
Albert Street	37-53 odd nos, 44-54 even nos	House	
Argyll Crescent	All nos	Rosemount Place	51-295 odd nos, 2-292 even nos
Argyll Place	All nos	Rosemount Square	All nos
Baker Street	1-59 odd nos, 56-62 even nos	Rosemount Terrace	All nos
Barkmill Road	All nos	Rosemount Viaduct	57-85 odd nos, 46-122 even nos, Bon Accord Church
Beechgrove Terrace	1,3	Short Loanings	All nos
Belgrave Terrace	All nos	Skene Square	47, 61, 82, 83, 84, 89, Skene Square Primary School
Belvidere Crescent	All nos		
Belvidere Street	All nos	Skene Street	Gilcomston Primary School
Berryden Road	1-49 odd nos, Royal Cornhill Hospital	South Mount Street	All nos
Caroline Place	All nos	Spa Street	21-41 odd nos
Cornhill Road	1-36 all nos, Pavilion, Tennis Centre, Westburn House, Westburn Park Lounge, Lodge, Royal Cornhill Hospital	Stevenson Court	All nos
Craigie Loanings	All nos	Thomson Street	All nos
Craigie Park	All nos	Thomson Street Lane	All nos
Craigie Park Place	All nos	Upper Denburn	60-82 even nos
Denburn Court	All nos Denburn Health Centre	Victoria Park	
Donald Place	All nos	View Terrace	All nos
Eden Place	All nos	Wallfield Crescent	All nos
Esslemont Avenue	29-63 odd nos, 2-74 even nos	Wallfield Place	All nos
Forbes Street	All nos	Watson Lane	All nos
Gilcomston Park	All nos	Watson Street	All nos
Gilcomston Steps	1-5 odd nos	West Mount Street	All nos
Grosvenor Place	All nos	Westburn Court	All nos
Grosvenor Terrace	All nos	Westburn Crescent	All nos
Hamilton Place	2	Westburn Drive	1-31 odd nos Westburn Park Westburn House, Westburn Park Lounge
Kintore Place	19-21 odd nos, 20-46 even nos	Westburn Road	1-99 odd nos, 2-120 even nos, Westburn Occupational Therapy Centre, Park House Centre
Leaside Road	All nos	Westfield Road	2,4 and 5
Loanhead Place	All nos	Westfield Terrace	All nos
Loanhead Terrace	All nos	Whitehall Place	All nos
Loanhead Walk	All nos	Whitehall Terrace	All nos
May Baird Avenue	All nos, Elmhill House, Ross Clinic		
Mid Stocket Road	2-12 even nos		
Mount Street	All nos		
Mountview Gardens	All nos		
Northfield Place	All nos		
Raeburn Place	All nos		
Richmond Court	All nos		
Richmond Street	All nos		





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# Windows



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# Key Issues

- 1. The windows of a historic building form 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 contribution of the windows in a historic building to its character must be understood before considering alteration.**
- 3. The size, shape and proportion of a window, the reflective sparkle and irregularities of old glass, the pattern of design, the materials and details of construction, the method of opening, the finish, and associated fixtures typically contribute to the character of a historic window.**
- 4. Maintenance and appropriate repair is the best means of safeguarding the historic character of a window.**
- 5. Where a window is beyond repair, replacements must match the original window design as closely as possible.**
- 6. Significant improvements in energy efficiency can be achieved by discreet draught-stripping, internal secondary glazing and use of shutters/curtains at night.**
- 7. Double-glazing may be acceptable either where the existing windows are beyond repair and the new windows will match the original joinery, or where it can be incorporated within the original joinery.**
- 8. 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 windows 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 In this guidance note the term “historic window” is used for both original and significant historic windows.
- 1.4 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).



*Fixed small-pane windows in the cupola of Robert Gordon's Hospital, Aberdeen, designed by William Adam in 1731–32. Thick astragals (glazing bars) and small panes of glass are typical of this period of design.*  
© N. Haynes.

## 2. WHY ARE HISTORIC WINDOWS IMPORTANT?

- 2.1 Windows make a substantial contribution to the character and physical integrity of most historic buildings and also to the character and interest of historic streets and places. They are an important element of a building’s design and weatherproofing. The size, shape and position of the openings are significant, as are the form and design of the framing and glazing. Their style, detailing and materials help us to understand when a building was constructed or altered, its function and advances in related technology. In simple vernacular buildings a considerable amount of the character comes from the windows.

## 3. IDENTIFYING THE INTEREST OF HISTORIC WINDOWS

- 3.1 The significance of a historic window is derived from a number of factors including its form or shape, the characteristics of historic glass, the pattern of design, the materials and details of construction, the method of opening, associated fixtures, and sometimes even the paint colour.



*Banff Castle, Aberdeenshire. Here the size of the windows at the first floor indicate that this was the principal storey where the public rooms were located. The symmetrical arrangement and careful proportioning of the windows is the main architectural feature of the building.* © N. Haynes.



*Signet Library, Parliament Square, Edinburgh, circa 1810. A round-headed cylinder glass sash and case window with slim 'astragals', or glazing bars. Irregularities in the glass provide the variety and individuality of the reflective pattern.*  
© N. Haynes.



*Detail of a timber sash and case window of circa 1890 showing the profile of the astragals, the irregularities of the glass, and a decorative sash fastener.*  
© N. Haynes.

## Form

- 3.2 There are many shapes and sizes of historic window, from simple rectangular openings to arched or elaborately traceried windows. Sometimes window openings are sized and located for purely functional purposes. However in most cases windows are carefully sized and located as part of a broader design for a building or group of buildings. Window proportions and spacing frequently relate to other elements of the building, such as the overall dimensions of an elevation or other features (e.g. doorways). Windows are important components of an architectural design, perhaps expressing different parts of a building through differences in size, positioning and design.

## Glazing materials and patterns: general

- 3.3 The different production methods of various types of historic glass resulted in a wide range of thicknesses, colours, and refractive and reflective qualities. The irregularities resulting from the historic glass-making processes can provide an attractive reflective sparkle, refractive variety and individual character to each window. By contrast, modern float-glass is flat and blemish-free to a high degree of standardisation. The way in which a window is divided up into panes by glazing bars or 'astragals' can also form a key part of its character.

## Glazing materials and patterns: crown and cylinder glass

- 3.4 Before the 17th century, glass was very expensive to produce, and could only be obtained in small panes which were set in lead. Decorative stained glass was used in this way in churches. By the end of the 17th century, larger pane sizes could be produced and timber sash and case windows were being used in prestigious domestic buildings. Timber glazing bars or 'astragals' allowed a number of panes of glass to be used in a single sash.
- 3.5 These types of window became predominant in all sorts of buildings throughout the 18th and 19th centuries. Much of the glass of this period was produced by spinning the molten glass to form thin sheets (crown glass), or by forming cylinders that were later flattened (cylinder or broad glass). The results of the spinning action or flattening of the cylinder often created irregularities in the glass that gave each type its own distinctive appearance.
- 3.6 The general trend was for decreasing thicknesses of glass and astragals, and increasing sizes of window opening. The standard arrangement was for two sashes containing six 'portrait' format panes each. Frequently the profile of the astragal related to local joinery traditions. A larger variety of glazing patterns became more widespread in the early 19th century with 'lying-pane' (landscape format) sashes becoming popular. Leaded diamond-pane windows and other forms of metal glazing bar were particularly associated with the 'cottage orné' style.



### Glazing materials and patterns: patent plate glass

- 3.7 Patent plate glass was invented in 1839, enabling much larger sizes. Ripples, bubbles, and other imperfections still characterise this type of glass. Although expensive, the new glass became very fashionable. Often owners re-glazed only the front windows of their properties, reusing the old sashes by removing the astragals and installing single panes of glass. This demonstrates 19th-century technological advances in glass production and the accompanying shifts in style and taste. 'Horns' were used to strengthen the lower joints of the top sashes. Decorative stained and painted glass began a revival that was to see its use in ecclesiastical, domestic, civic and commercial buildings.

### Glazing materials and patterns: modern glass

- 3.8 The development of structural iron and steel and reinforced concrete in the late 19th century allowed increasing quantities and sizes of glazing in outer walls, eventually leading to fully glazed curtain walls in the early 20th century. The drawn flat sheet process increased the mechanised production of glass. Modern float glass, characterised by its uniform appearance and availability in very large sizes, was first developed in 1959.

### Framing materials

- 3.9 Timber, usually seasoned pine, continued to predominate as a framing material until the Second World War. Metal frames, allowing thin profiles and curved designs, were also used particularly from the 1920s to the 1950s.

### Method of opening

- 3.10 The way in which a window opens can contribute significantly to the authenticity and appearance of a historic building. All traditional sash and case windows open by sliding the sashes up or down in the same plane: in the open position they never project outwards from the building. Other common forms of opening method are casements, which are hinged at the side and open outwards (or more rarely inwards), and hoppers, which are hinged at the bottom and usually open outwards on a track or a restrictor. Some early 20th-century metal-framed windows pivot.

### Finish

- 3.11 Most window frames were traditionally painted. It is sometimes possible to sample underlying layers to establish the original colour. Whilst light colours were widespread in the 18th century and are now ubiquitous, many mid-to-late 19th-century timber windows were painted in dark colours including red, green, blue, brown, black and grey.

### Associated fixtures

- 3.12 A wide range of fixtures are often associated with historic windows, including sash boxes, cords, weights, sash lifts, catches, shutters, blinds, curtains and rails/pelmets, window guards, and balconies. Such fixtures can be purely functional or



*Former Niddrie Marischal School, Edinburgh. Designed in Art Deco style in 1935 by architects Reid & Forbes. The strips of blue-painted steel windows have two opening methods: horizontal pivots and small hoppers. The ground-floor windows are protected from vandalism by discreet metal mesh screens painted in the same colour. © N. Haynes.*



*St Vincent Street Church by Alexander 'Greek' Thomson, St Vincent Street, Glasgow. Thomson's Graeco-Egyptian designs emphasised the solid monumentality of the masonry against the void of the window openings. He used large sheets of plate glass and minimal frames to achieve this effect. © S. Dibdin.*



Associated fixtures such as traditional timber shutters contribute to the interest and character of a window.



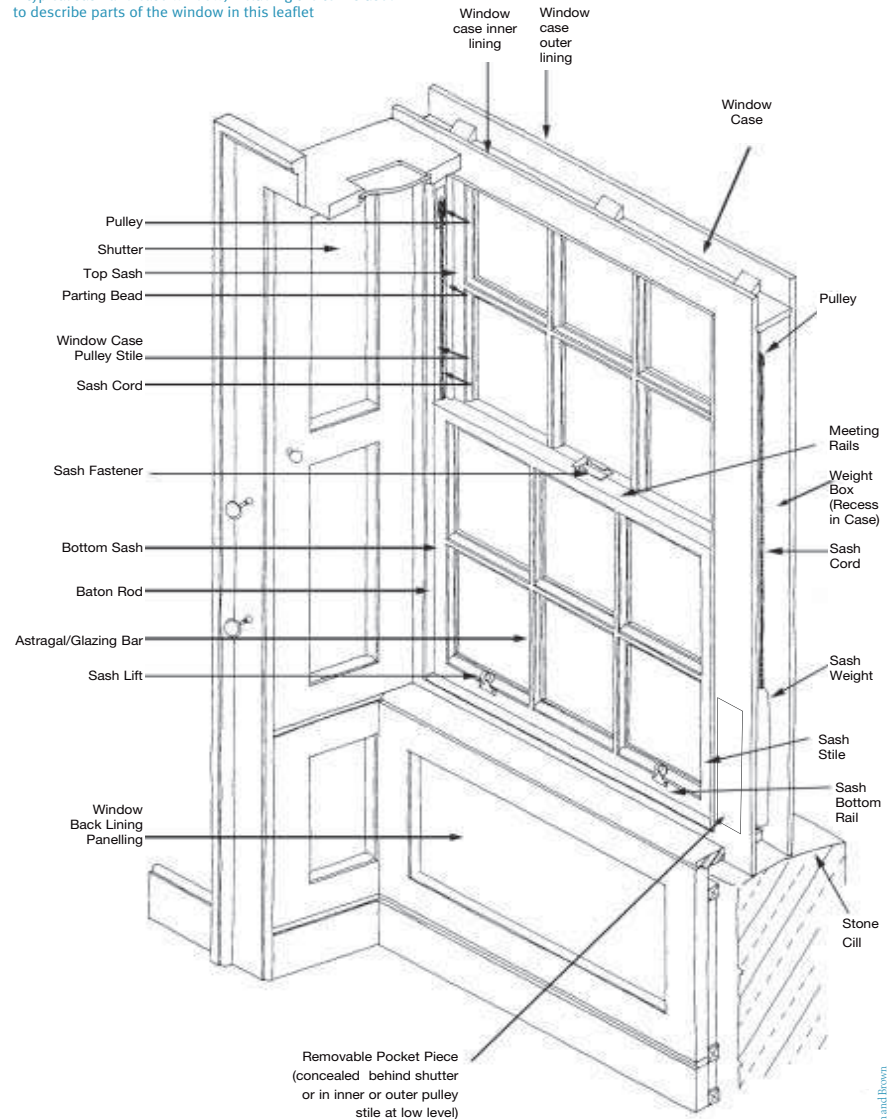
A new single-glazed window detailed to match the previous window, except that horns have been added to the top sash, not necessary where the astragals give rigidity, and a 'permavent' has been added. See page 7 for an alternative ventilation method.

also decorative, contributing to the interest and character of a window.

### Illustration of a typical sash and case window

3.13 The illustration below shows a typical sash and case window, including terms used to describe parts of the window in this leaflet.

A typical sash and case window, including the terms used to describe parts of the window in this leaflet



Simpson and Brown

## 4. PRINCIPLES FOR REPAIR AND ALTERATIONS

### Character and interest of the building

4.1 Repairs and alterations to a historic building must protect its character. The contribution of the windows to that character must therefore be understood before considering how to alter the building. This includes whether the windows are original, of historic significance or modern replacements. This will inform any subsequent strategy for repair or replacement.



- 4.2 The form, glazing materials and pattern, framing materials, method of opening, finish and associated fixtures of the window are important considerations.

### Repair

- 4.3 In almost all cases, repair of components on a like-for-like basis is preferable to replacement of a whole unit, as this will best maintain the character and historic fabric of the window. More detailed advice on the repair of timber windows can be found in our Inform Guides (details at the end of this leaflet).

### Replacement

- 4.4 Where there is no alternative to the replacement of historic windows or elements of their joinery or glazing, the new elements should match the original. This should include replication of the proportion, opening method, astragal dimensions and profiles, and fixing of the glass (e.g. putty). Historic glass should be reused where this contributes to a building's character.
- 4.5 Changes in framing materials or types of glazing (e.g. from clear glass to wired glass), the adoption of different opening methods, the insertion of extractor fans and other similar features, or the use of planted-on or sandwiched astragals should be avoided.
- 4.6 In exceptional circumstances, such as some conversions, there may be grounds for the removal of existing windows and their replacement with new, more thermally efficient ones. Normally this will only be considered where the existing windows are inappropriate or incapable of repair and the new windows can match the detailed design of the historic ones.

### Reinstatement

- 4.7 Some windows may have been replaced in the past using inappropriate designs or materials. Any new replacement proposals should seek to improve the situation through designs and materials that are in keeping with the character of the building.
- 4.8 Generally restoration of a window to a particular period should only be considered when the proposed style is appropriate to the building in question, it matches a documented earlier pattern, and it does not result in the loss of existing historic fabric that contributes to the character of the building. For example, it is not always appropriate to reinstate astragals to sashes that once contained small panes of glass but now contain a single sheet of polished plate glass.

### Double-glazing

- 4.9 The use of double-glazing in historic buildings will either involve replacing the glazing within existing frames or replacing the entire unit. Either solution can be acceptable in certain circumstances.



*Details of proposed replacement windows should be checked against the originals where possible. In this case the astragal profiles of the sample replacement window are too thick and flat, and would not be an appropriate match for this situation.*



*Repairing the sash cords of a timber sash and case window. Most components of a traditional window can be repaired without the waste of replacing the whole unit.*



Webster Theatre, Arbroath. Large clear sheets of internal secondary glazing were installed here during recent refurbishment.

- 4.10 Recent research has demonstrated that slim profile double glazing can be accommodated successfully in historic window frames. This solution will not be appropriate where there is the loss of historic glass.
- 4.11 Double-glazing that involves replacement of the entire window unit may be used where it can be demonstrated that the existing windows are beyond repair, and that the new windows will match the originals as closely as possible.

### Ventilation

- 4.12 Sometimes additional controlled ventilation is required. It is preferable to provide this by means of discreet vents or by 'blocking down' top sashes, rather than by the addition of prominent trickle vents. Historic Scotland's *Looking After your Sash & Case Windows* provides further guidance on alternative methods of ventilation.

### Security

- 4.13 Additional window security measures can normally be achieved discreetly without damage to the historic character of the building. Use of traditional internal shutters, or if necessary internal retractable grilles, is likely to be less disruptive to the historic appearance of a building than external shutters. Where external measures are unavoidable, removable grilles are preferable to permanent fixtures (including roller shutters).

### Colour

- 4.14 Where original or early paint schemes can be established, reinstatement is encouraged. Some local authorities control the palette of window paint colours to maintain the unified design of a conservation area or groups of listed buildings in multiple ownership/occupation.

### New window openings

- 4.15 Location and design are key considerations in proposals for new window openings. New openings must be carefully located to avoid disruption to the characteristics of the surrounding external and internal context. For example, subsidiary elevations with no formal symmetry or rooms with few internal features are likely to be more suitable for new window openings than principal elevations or rooms.
- 4.16 In cases where the building forms part of a larger grouping, it may be necessary to consider the wider context of the group and the potential for a cumulative effect if similar work was undertaken on every building. Where the location is appropriate in principle, the design of the new window must take account of the size, proportion, material and detailing of surrounding or nearby windows.



A view of the underside of the meeting rail of a new timber sash and case window at Castlemilk Stables, Glasgow. A discreet slot ventilator in the meeting rail allows ventilation without the need for obtrusive external fixtures.

### Blocking up windows

- 4.17 Permanent blocking of windows by building up the opening should only occur where the window makes little contribution to the character of the building. Evidence of the opening, such as the window surrounds or relieving arch, should be retained. The blocking materials must be appropriate to the surrounding materials. If possible the window itself should remain in situ with the blocking materials set behind.

### Converting windows to doors

- 4.18 Subsidiary elevations are usually more suitable for work of this type. Wherever possible the existing width of the window should be maintained and the opening expanded downwards to ground level. Depending on the circumstances it may be appropriate to match any external window surround detailing at the lower level. Where windows contribute to the character of an elevation or internal space, the replacement door should be solid to cill level and glazed above to match the pattern of surrounding windows. Any internal joinery, such as shutters or panelling, should be retained and matched at the lower level of the new opening.

### Blind windows

- 4.19 Original blind or 'dummy' windows form an important part of the interest of a historic building and should not normally be opened up. Such features were traditionally designed to maintain the pattern of window openings in the external elevations of a building, or sometimes to provide a visual trick or 'trompe l'oeuil'. Often fireplaces, chimneys, or other internal features prevented the creation of working windows in some locations.

## 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 Double-glazing can improve the energy efficiency of buildings. In some circumstances this can be an appropriate solution (see paragraphs 4.9-4.11). However, this may not be the most cost effective or appropriate option. It is normally possible to upgrade the performance of traditional windows by the introduction of discreet draught-proofing brushes around the sashes and by the use of well-fitting shutters at night. Further improvements can be achieved by carefully designed internal secondary glazing.



*This original window/door of the 1730s at Chatelherault, Hamilton, illustrates the principle of converting a window to a door. In order to maintain the consistency of architectural treatment in the room, the upper part of the door is treated as a window, and the lower section is solid.*



*South Charlotte Street, Edinburgh. The blind openings are detailed with sills and a 'meeting rail' to maintain the symmetry of the architectural elevation. The chimney flues pass behind the blind windows.*  
© N. Haynes.





*A distinctive, metal framed bay window at the Crook Inn, Tweedsmuir, Peeblesshire.*

## 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. A brief description of the interest of the windows and an explanation of the impact of the alterations are always helpful in assessing change.
- 6.3 Consent may also be required under the Building (Scotland) Regulations 2004. Historic Scotland's Guide for Practitioners *6 Conservation of Traditional Buildings: Application of the Scottish Building Standards* provides further guidance.

## 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)

Text: Crown copyright, Historic Scotland, 2010.

Images: Crown copyright, Historic Scotland, unless otherwise credited.

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

### Cover images

*Latticed casement windows, Luss, Loch Lomond & The Trossachs National Park.*  
© N. Haynes.

*Painted glass window, Café Royal, City of Edinburgh.* © N. Haynes.

*Timber sash and case window, Edinburgh, showing varied reflections provided by different kinds of crown, cylinder and plate glass.*

### Other selected Historic Scotland publications and links

[Looking After your Sash & Case Windows](#) (2003) (PDF 721K)

[Guide for Practitioners: Conservation of Timber Sash & Case Windows](#) (2002) (available for purchase)

[Research Report: The Historical & Technical Development of Sash & Case Windows in Scotland](#) (2001) (available for purchase)

[Technical Paper 9: Slim profile double glazing, thermal performance and embodied energy](#) (2010) (with Changeworks, Glasgow Caledonian University and Heriot-Watt University)

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

*Inform Guide: Maintaining Sash & Case Windows* (2007)

*Inform Guide: Maintaining Traditional Plain Glass and Glazing* (2007)

*Inform Guide: Decorative Domestic Glass* (2007)

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.

### Other selected publications and links

[Report by Glasgow Caledonian University for Historic Scotland: Improving the Thermal Performance of Traditional Windows](#) (2008) (PDF 1.4Mb)

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Marischal college Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100003163-003

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	<input type="text" value="CR Smith"/>		
Ref. Number:	<input type="text"/>	You must enter a Building Name or Number, or both: *	
First Name: *	<input type="text" value="Sean"/>	Building Name:	<input type="text" value="CR Smith Glaziers"/>
Last Name: *	<input type="text" value="Borthwick"/>	Building Number:	<input type="text"/>
Telephone Number: *	<input type="text" value="01383 732181"/>	Address 1 (Street): *	<input type="text" value="Gardeners Street"/>
Extension Number:	<input type="text"/>	Address 2:	<input type="text"/>
Mobile Number:	<input type="text"/>	Town/City: *	<input type="text" value="Dunfermline"/>
Fax Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
		Postcode: *	<input type="text" value="KY12 0RN"/>
Email Address: *	<input type="text" value="sean.borthwick@crsmith.co.uk"/>		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Miss"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text" value="Flat 5"/>
First Name: *	<input type="text" value="Lucy"/>	Building Number:	<input type="text" value="5"/>
Last Name: *	<input type="text" value="McCormick"/>	Address 1 (Street): *	<input type="text" value="Wallfield Crescent"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text" value="██████████"/>	Town/City: *	<input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="UK"/>
Mobile Number:	<input type="text"/>	Postcode: *	<input type="text" value="AB25 2LJ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="FLAT 5"/>
Address 2:	<input type="text" value="5 WALLFIELD CRESCENT"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ABERDEEN"/>
Post Code:	<input type="text" value="AB25 2LJ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="806506"/>	Easting	<input type="text" value="392923"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

Proposed replacement of existing white PVCu windows with new PVCu windows to third floor flat.

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

The Planning Department has rejected our application on the grounds that our proposal would have a negative impact on the integrity and character of the existing property and that of the wider Rosemount conservation area. They also feel that the proposed window arrangement impacts significantly on the current uniform fenestration. Therefore we have been asked to match the current window arrangement. We would like to argue that the existing windows do not meet current building regulations.

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 the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

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. You can attach these documents electronically later in the process: \* (Max 500 characters)

Drawings, Grounds For Appeal Statement, Photos

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

P151730

What date was the application submitted to the planning authority? \*

03/11/2015

What date was the decision issued by the planning authority? \*

28/01/2016

## 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.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

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

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: 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. 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.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

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 (if any) from the earlier consent.

## **Declare – Notice of Review**

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Sean Borthwick

Declaration Date: 17/02/2016

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## **Grounds Of Appeal Statement**

*On behalf of*

**Mr Calder & Miss McCormick  
5E Wallfield Crescent  
Rosemount  
Aberdeen**

**Proposed replacement of existing white PVCu  
windows with new white PVCu windows.**

*Planning ref : P151730*

### **Our Proposal**

The following is to be read in support of our appeal against the refusal of planning permission at 5E Wallfield Crescent, Rosemount, Aberdeen.

The Planning Department has rejected our application on the grounds that our proposal would have a negative impact on the integrity and character of the existing property and that of the wider Rosemount conservation area. They also feel that the proposed window arrangement impacts significantly on the current uniform fenestration. Therefore we have been asked to match the current window arrangement.



We are proposing to replace the existing white PVCu windows with three Tilt & Turn over fixed pane windows and one reversible over fixed pane window. In doing so, we are lowering all transoms which has been deemed unacceptable by the planning department.

However, we would like to argue on behalf of our client that our proposal would enhance the safety of the windows. Currently, the windows to the front of the property do not meet the requirements of building regulations 4.4.2. and 4.8.2. Due to the low internal cill heights, a protective barrier or a fixed un-openable pane of toughened glass (as we have proposed) would have to be fitted to eliminate the possibility of a child or adult falling from these openable windows.

**Table 4.7 Height of pedestrian protective barriers**

Location	Minimum height (mm) [1]
At the edge of a floor in front of walls, partitions and fixed glazing incapable of withstanding the loads specified in BS EN 1991-1-1/PD 6688-1-1	800
In front of an openable window	800 [2]
On a stair or ramp flight wholly within a dwelling	840 [3]
On a stair or ramp flight outwith a dwelling	900 [3]
To a gallery, landing or raised area within a dwelling	900
All other locations	1100

**Additional information:**

1. A handrail provided in accordance with clauses 4.3.14 and 4.3.15 may form the top of a protective barrier if the heights in this table are met.
2. Protective barriers should be installed where the opening window has:
  - a. a sill that is less than 800mm above finished floor level, and
  - b. an operation that will allow the possibility of falling out, and
  - c. a difference in level between the floor level and the ground level of more than 600mm.

At 2 storeys or more above ground level, reference should be made to clause 4.8.4 where external glazing is cleanable from within the building.



We would also like to argue that there are already windows fitted in the street which differ from the ‘uniformed fenestration’.

One can see from the photos above that there is a variety of window styles on the street which do not detract from the aesthetic character of the area.



### Conclusion

The Planning Department has refused our application on the basis that accepting it would be deemed detrimental to the conservation area. Our proposal is similar to what is already in place and offers an enhancement to the safety of the windows. Therefore, we feel our proposal is not unsympathetic, does not threaten the visual character of the conservation area and will not drastically differ from a number of properties on the street.

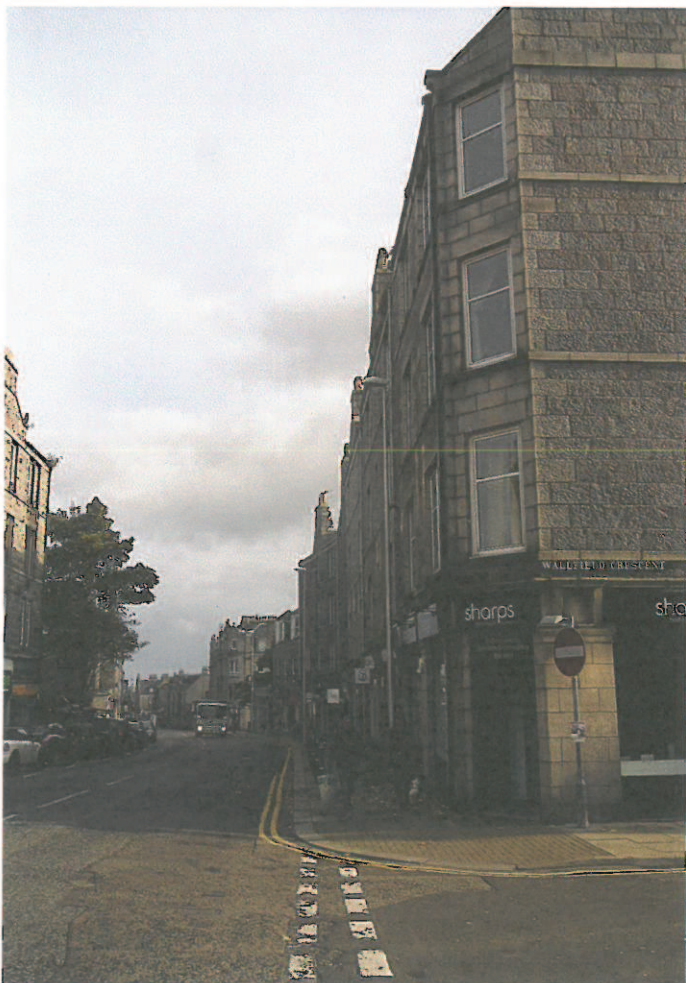
We therefore seek to appeal the decision of the Planning Department.







Miss McCormick 685609 top floor flat



5E Wallfield Crescent Aberdeen  
685609

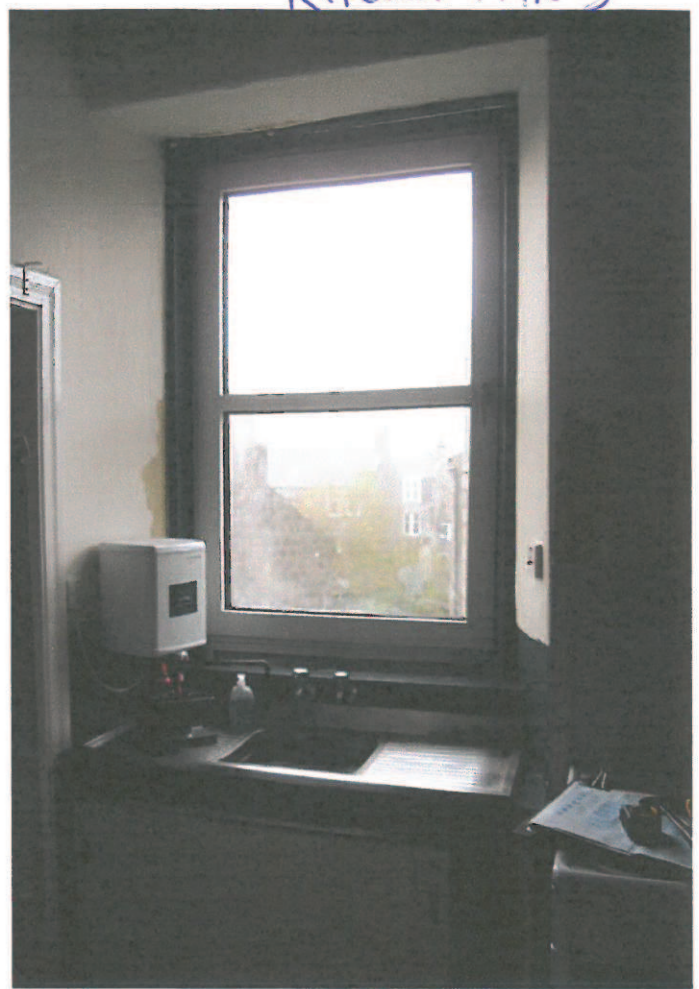
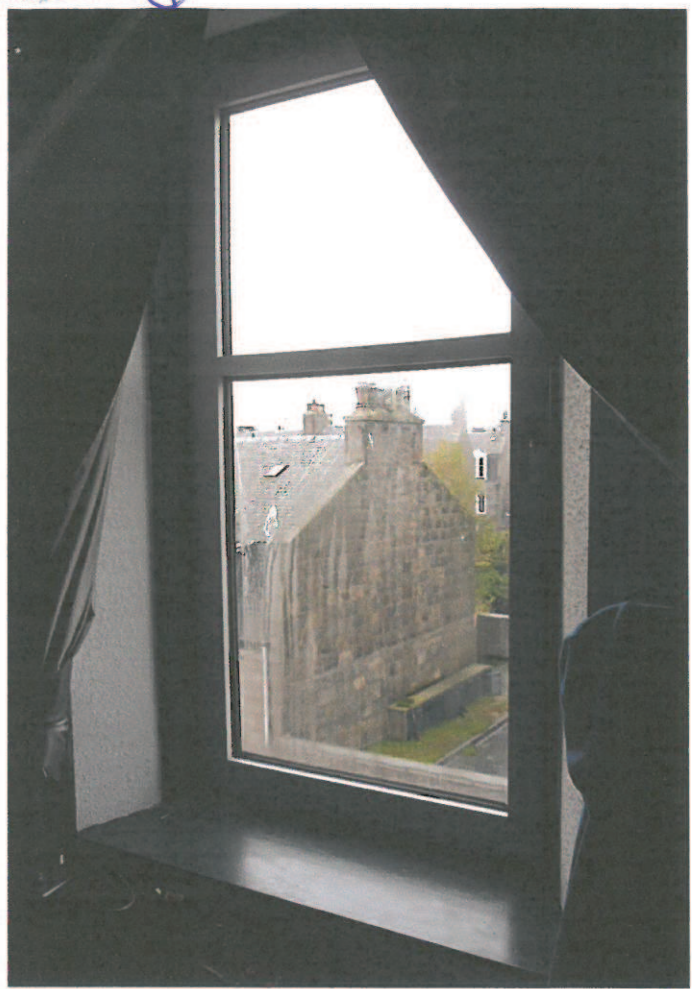


Bedroom ④

miss mccormack

685609

Kitchen line 3



line 1 lounge

line 2 lounge

# Agenda Item 3.2

Signed (authorised Officer(s)):

FLAT 6, 5 WALLFIELD CRESCENT,  
ROSEMOUNT

REPLACEMENT WINDOWS

For: Mrs K Johnstone

Application Type : Detailed Planning  
Permission

Application Ref. : P151849

Application Date : 30/11/2015

Advert :

Advertised on :

Officer : Sheila Robertson

Creation Date : 11 February 2016

Ward: Midsocket/Rosemount (B Cormie/J  
Laing/A Nicoll)

Community Council: No comments

## **RECOMMENDATION:**

### **Refuse**

### **DESCRIPTION**

The application site lies within the Rosemount & Westburn Conservation Area, located on a corner plot on the east-side of Wallfield Crescent at its junction with Rosemount Place. The application property comprises a 3<sup>rd</sup> floor flat with its principle elevation facing north across Rosemount Place, and a rear elevation facing south towards the gable of a terraced block on Wallfield Crescent. Rosemount Place is a busy mixed-use area where the ground floor units are occupied by a variety of local shops. The upper levels form residential flats and this particular block is a 4-storey traditional terraced development, which consists of a uniformed and structured fenestration pattern with symmetry in the window arrangements, colour and style in particular to the principle elevation.

### **RELEVANT HISTORY**

Replacement windows refused (P151370) at adjacent Flat 5, 5 Wallfield Crescent.

### **PROPOSAL**

Replacements are proposed for 2 windows, to the front and rear elevations. The windows are currently of a non-traditional type, formed in white uPVC with a tilt and turn operation. To the principal elevation, overlooking Rosemount Place, the window has a 30/70 split, with a central mullion, of identical appearance to all other windows to this elevation, within the building. The proposed replacement would fit the existing opening but be of different design, having a reverse 70/30

split, and the bottom pane being fixed and with a false mullion. To the rear elevation, the replacement window would omit the transom. Both replacement windows would be white, double glazed uPVC with a tilt and turn opening mechanism.

### **Supporting Documents**

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at -

<http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref.=151849>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

### **CONSULTATIONS**

**Roads Development Management** – No observations

**Environmental Health** – No observations

**Flooding** – No observations

**Community Council** – No comments received

### **REPRESENTATIONS**

No letters of representation have been received

### **PLANNING POLICY**

#### **National Policy and Guidance**

- Scottish Planning Policy (SPP)
- Scottish Historic Environment Policy (SHEP)

#### **Aberdeen Local Development Plan 2012**

- Policy D5 – Built Heritage
- Policy H1 - Residential Areas

#### **Proposed Aberdeen Local Development Plan**

The following policies in the Proposed Local Development Plan substantively reiterate those contained in the adopted 2012 LDP:

- D4 – Historic Environment (*D5 – Built Heritage in adopted LDP*)
- H1 – Residential Areas (*H1 – Residential Areas in adopted LDP*)

#### **Supplementary Guidance**

- TAN: The Repair and Replacement of Windows and Doors

#### **Other Material Considerations**

- Historic Scotland – Managing Change in the Historic Environment Guidance: Windows
- Rosemount and Westburn Conservation Area Appraisal

## **EVALUATION**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to preserve and enhance the character or appearance of conservation areas

Both the Council's Technical Advice Note and Historic Scotland's 'Windows' guidance note state that, where there is no alternative to replacement, windows should be replaced in an environmentally sensitive way in keeping with the character of the original building and the quality of its design. On non-traditional, more modern buildings in conservation areas, a broader range of materials and designs may be permitted, depending on the individual building and surrounding area. The application building, in common with many surrounding properties in this particular area, features simple casement style windows to the principal elevation, all of identical design and, while it is accepted that this design is non original, it nevertheless reflects the current character of the application building and local area context. It would be considered unreasonable on this occasion to stipulate that any replacement window must be of a more traditional style such as sash and case.

The Council's appraisal of this particular conservation area acknowledges that although uniform treatment of fenestration is one of the major contributing factors to the character of an area, many of Rosemount's tenement blocks have already lost this uniformity by inappropriate window replacements. Notwithstanding, the application building is a very good example where the uniform treatment of the fenestration, although non-original, has been maintained and which contributes positively on the character of the building and the wider area. Any replacement windows should therefore respect this uniformity and carefully match new windows to the prevalent style, to maintain a degree of uniformity thereby preserving and enhancing the character of the area. In this situation the design of the proposed window to the front elevation would not match the current style of windows throughout the block and would compromise the architectural integrity of the building.

Amended plans were received following comments from the case officer; however these also failed to reflect the current window design of the principle



elevation and have been subsequently withdrawn by the applicant. The application is to be determined on the originally submitted plans.

The proposed replacement window to the principal elevation has not been designed with due consideration for its context; the original proportions of the window have not been retained and the architectural integrity of the building would be comprised. The proposal is therefore contrary to the guidance contained in the supplementary guidance: TAN – The Repair and Replacement of Windows and Doors and would have an unacceptable impact on the character and amenity of the surrounding area, contrary to Policies D5 and H1 of the Aberdeen Local Development Plan 2012. Approval of this application would create an undesirable precedent for similar proposals resulting in further erosion of a consistent pattern of fenestration, cumulatively detracting from the character of the wider conservation area. The application is therefore recommended for refusal.

The Council may choose a more flexible approach when considering applications for replacement windows in conservation areas which are not visible from the street or are only visible from a private court; therefore given the location of the rear window, its proposed replacement is considered to be appropriate in this instance.

The property lies within the Rosemount & Westburn Conservation Area and Historic Scotland 'Scottish Historic Environment Policy' (SHEP) must be referred to in determination of the application. SHEP states that the planning authority must pay special attention to the desirability of preserving or enhancing the character and appearance of the conservation area when determining applications. It is considered that the proposed works would have an adverse effect on the appearance of this building and, by extension, the character of the conservation area.

#### Proposed Aberdeen Local Development Plan

The Proposed ALDP was approved for submission for Examination by Scottish Ministers at the meeting of the Communities, Housing and Infrastructure Committee of 27 October 2015. It constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material consideration in the determination of planning applications, along with the adopted ALDP. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to representation and are regarded as unresolved issues to be determined at the Examination; and
- the relevance of these matters to the application under consideration.

Policies and proposals which have not been subject to objection will not be considered at Examination. In such instances, they are likely to be carried forward for adoption. Such cases can be regarded as having greater material



weight than those issues subject to Examination. The foregoing can only be assessed on a case by case basis. In relation to this particular application, proposed policies D4 (Historic Environment) and H1 (Residential Areas) substantively reiterate policies D5 (Built Heritage) and H1 (Residential Areas) of the adopted Aberdeen Local Development Plan and raise no additional material considerations that would warrant approval of the application.

## **RECOMMENDATION**

**Refuse**

## **REASONS FOR RECOMMENDATION**

1. The proposal is contrary to Scottish Planning Policy, Scottish Historic Environment Policy and Policy D5 of the Aberdeen Local Development Plan 2012 as the replacement window to the principal elevation does not enhance the character of the Rosemount & Westburn Conservation Area. The proposed window arrangement would impact significantly on the current uniform fenestration and therefore be contrary to the guidance contained in Technical Advice Note – The Repair and Replacement of Windows and Doors and Historic Scotland’s guidance - Managing Change in the Historic Environment.
2. The proposal is contrary to Policy H1 of the Aberdeen Local Development Plan 2012 as the proposal would have an adverse impact on the visual character of the area.
3. Approval of this application would create an undesirable precedent for similar proposals resulting in further erosion of the character of the conservation area.

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## THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997

### Refusal of Planning Permission

Cr Smith Glaziers Dunfermline Ltd  
Gardeners Street  
Dunfermline  
KY12 0RN

on behalf of **Mrs K Johnstone**

With reference to your application validly received on 30 November 2015 for Planning Permission under the above mentioned Act for the following development, viz:-

**REPLACEMENT WINDOWS**  
at **Flat 6, 5 Wallfield Crescent, Rosemount**

the Council in exercise of their powers under the above mentioned Act hereby REFUSE Planning Permission for the said development as specified in the application form and the plan(s) and documents docketed as relative thereto and numbered as follows:-

Document No: 167124;  
Detail: Window Details;  
<http://planning.aberdeencity.gov.uk/docs/showimage.aspj=151849&index=167124>

Document No: 172270;  
Detail: Location, proposed elevations;  
<http://planning.aberdeencity.gov.uk/docs/showimage.aspj=151849&index=172270>

The reasons on which the Council has based this decision are as follows:-

1. The proposal is contrary to Scottish Planning Policy, Scottish Historic Environment Policy and Policy D5 of the Aberdeen Local Development Plan 2012 as the replacement window to the principal elevation does not enhance the character of the Rosemount & Westburn Conservation Area. The

PETE LEONARD  
DIRECTOR

**Continuation**

proposed window arrangement would impact significantly on the current uniform fenestration and therefore be contrary to the guidance contained in Technical Advice Note – The Repair and Replacement of Windows and Doors and Historic Scotland's guidance - Managing Change in the Historic Environment.

2. The proposal is contrary to Policy H1 of the Aberdeen Local Development Plan 2012 as the proposal would have an adverse impact on the visual character of the area.
3. Approval of this application would create an undesirable precedent for similar proposals resulting in further erosion of the character of the conservation area.

The plans, drawings and documents that are the subject of this decision notice are numbered as follows:-

Document No: 167124;

Detail: Window Details;

<http://planning.aberdeencity.gov.uk/docs/showimage.aspx=151849&index=167124>

Document No: 172270;

Detail: Location, proposed elevations;

<http://planning.aberdeencity.gov.uk/docs/showimage.aspx=151849&index=172270>

**Date of Signing 11 February 2016**

**Daniel Lewis**

Development Management Manager

Enc.

PETE LEONARD  
DIRECTOR

**NB. EXTREMELY IMPORTANT INFORMATION RELATED TO THIS REFUSAL OF PLANNING APPROVAL**

The applicant has the right to have the decision to refuse the application reviewed by the planning authority and further details are given in Form attached below.

Regulation 28(4)(a)

Form 1

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

*Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions*

1. If the applicant is aggrieved by the decision of the planning authority to –
  - a. refuse planning permission for the proposed development;
  - b. to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
  - c. to grant planning permission or approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at <http://eplanning.scotland.gov.uk/>.

Notices of review submitted by post should be sent to –

Planning and Sustainable Development  
 Communities, Housing and Infrastructure  
 Aberdeen City Council  
 Business Hub 4  
 Ground Floor North  
 Marischal College  
 Broad Street  
 Aberdeen  
 AB10 1AB

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 it's 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, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

PETE LEONARD  
 DIRECTOR

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DIRECTOR



## **Policy D5 – Built Heritage**

Proposals affecting Conservation Areas or Listed Buildings will only be permitted if they comply with Scottish Planning Policy. In relation to development affecting archaeological resources further details are set out in Supplementary Guidance on Archaeology and Planning.

Planning permission for development that would have an adverse effect on the character or setting of a site listed in the inventory of gardens and design landscapes in Scotland or in any additional to the inventory will be refused unless:

1. The objectives of designation and the overall integrity and character of the designated areas will not be compromised; or
2. Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, economic and strategic benefit of national importance.

In both cases mitigation and appropriate measures shall be taken to conserve and enhance the essential characteristics, aesthetics, archaeological and historical value and setting of the site.

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## **Policy H1 – Residential Areas**

Within existing residential areas (H1 on the Proposals Map) and within new residential developments, proposals for new residential development and householder development will be approved in principle if it:

1. Does not constitute overdevelopment
2. Does not have an unacceptable impact on the character or amenity of the surrounding area
3. Does not result in the loss of valuable and valued areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010
4. Complies with Supplementary Guidance on Curtilage Splits; and
5. Complies with Supplementary Guidance on House Extensions

Within existing residential areas, proposals for non-residential uses will be refused unless:

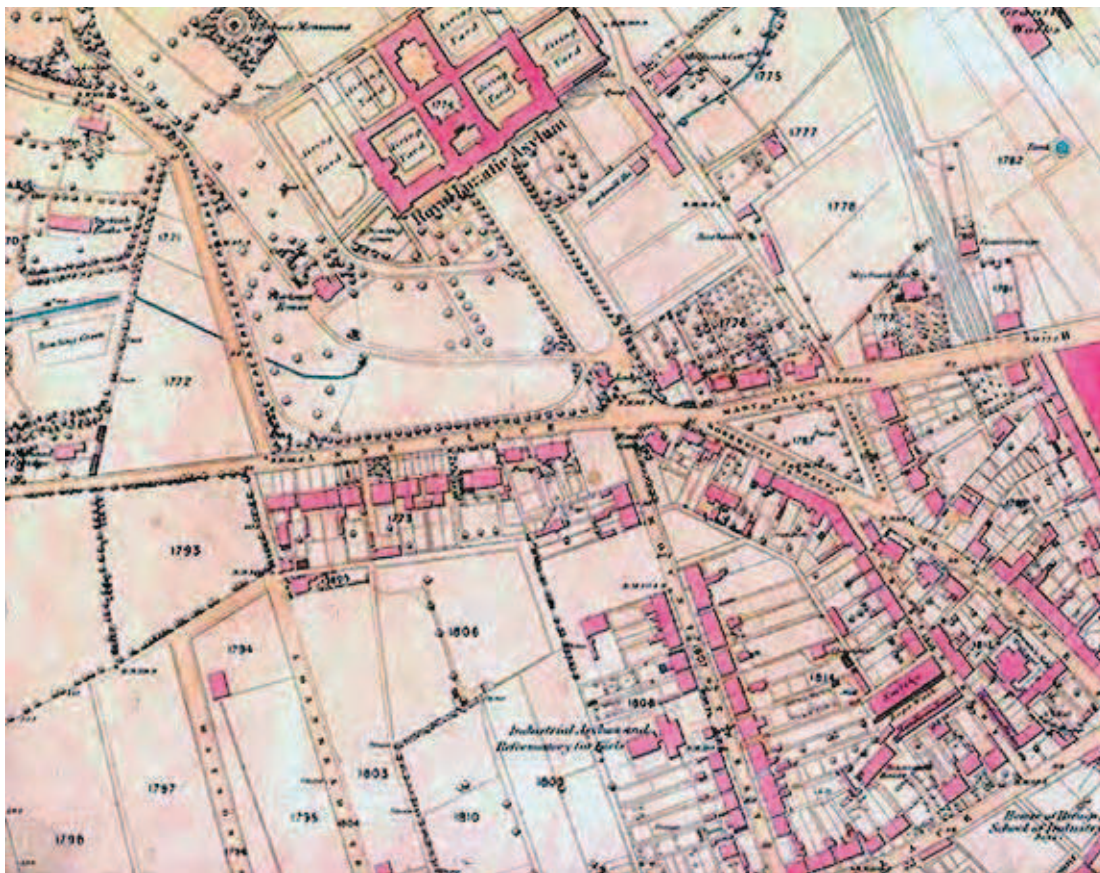
1. They are considered complementary to residential use
2. It can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity

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**ABERDEEN**  
CITY COUNCIL

Extract from the Ordnance Survey map of 1869.



# Rosemount and Westburn

CONSERVATION AREA 11 APPRAISAL

March 2004

## 1.0 Introduction

1.1 Conservation areas contribute significantly to our heritage. The historic environment helps to define a sense of place and provides a context for everyday life. Its appreciation and conservation fosters distinctiveness and contributes to creating an identity at local, regional and, in some cases, national level.

1.2 The planning authority designates conservation areas in order that their character can be protected. They are defined as “areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance”.

1.3 Individual buildings, groups of buildings, open spaces and their relationships with one another, create the character or historic interest of an area. The legislation covering conservation areas seeks to preserve this character and historic interest.

## 2.0 Background

2.1 Each local authority is required to determine which parts of its area are of special architectural or historic interest and designate these areas as conservation areas.

2.2 Government Policy is detailed in National Planning Policy Guideline 18, Planning and the Historic Environment, 1999. This recommends that

*“conservation area character appraisals can assist planning authorities in carrying out their development planning and development control functions in relation to the historic environment. (NPPG 18 Para28)*

*“Conservation area appraisals focus upon the areas likely to be included within the boundaries of a conservation area and seek to define the special interest of the area and key elements that contribute to its character and appearance. (NPPG18 Para31)*

Rosemount Viaduct





*“The preparation of an appraisal will assist in defining the boundaries of conservation areas. By appraising the character and appearance of each particular area it also becomes easier to assess development proposals in terms of their impact upon character and appearance. When the main findings of the appraisal are integrated into local plans they can be used as a benchmark against which development control proposals affecting the designated area can be assessed, thus leading to a more consistent and better informed decision making process. An authority’s justification for designation, as reflected in its assessment of an area’s special interest and its character and appearance, is also a factor which the Secretary of State [now First Minister] will take into account when considering appeals against refusals of planning permission and conservation area consent. (NPPG 18 Para32)*

*“Appraisals can serve as an important tool by identifying opportunities for further action by planning authorities and others in preparing enhancement schemes. Appraisals can also play a role in identifying and promoting development opportunities. They also provide an opportunity for widespread public consultation on the various land-use issues affecting conservation areas and their preparation can assist planning authorities in the formulation, monitoring and evaluation of local plan policies. An appraisal will also be helpful in securing partnership funding through, for example, the current Townscape Heritage Initiative, for projects within conservation areas.” (NPPG 18 Para33)*

2.3 Section 61 (Listed Buildings and Conservation Areas) (Scotland) Act 1997 states that: *“Every planning authority shall from time to time determine which parts of*

*their district are areas of special or architectural interest, the character or appearance of which it is desirable to preserve or enhance, and shall designate such areas as conservation areas”.*

2.4 The Aberdeen City District-Wide Local Plan adopted in 1991 identifies Rosemount and Westburn as proposed conservation areas. Under the terms of the District-Wide Local Plan, the majority of the Rosemount and Westburn Conservation Area is designated Residential (R1). Rosemount Place is further zoned as a Fringe/Linear Shopping Centre. Both Victoria and Westburn Parks are zoned as Recreation (OR1) spaces. Royal Cornhill Hospital to the north of Westburn Road extending through to Elmhill House and Ashgrove Road is zoned for existing Hospital (H1) use.

2.5 The District Wide Local Plan is to be replaced by a new Aberdeen City Local Plan which is currently in preparation and is expected to be published within the next few months. It is the intention that the new Local Plan continue to designate Rosemount and Westburn as a conservation area through the following draft Policy and Proposal:

*“The City Council will ensure that all areas of special architectural or historic interest are designated as conservation areas. To reinforce the effectiveness of its conservation areas, the City Council will seek to obtain Article 4 Directions in order to control alterations to non-listed buildings which would otherwise constitute permitted development. It is to be expected that the protection of the built environment should be a major factor for consideration in planning the City’s future”.*

2.6 The new Local Plan will maintain the current mix of policy designations with various parts of the Study area retained within residential, and recreation policy designations. It expected that the Conservation Appraisal will be incorporated within the new Local Plan, which is targeted to be placed on deposit in the first quarter of 2004.

### 3.0 Topography

3.1 The conservation area has a general easterly/south-easterly sloping trend of between 1 in 20 and 1 in 25, from the 50 metre contour in the north-west down to the 20 metre contour in the south-east, although there are local variations. Residents will be very familiar with these variations, in particular from having to negotiate the inclines of Craigie Loanings and Argyll Place and some of the lesser streets in the area.

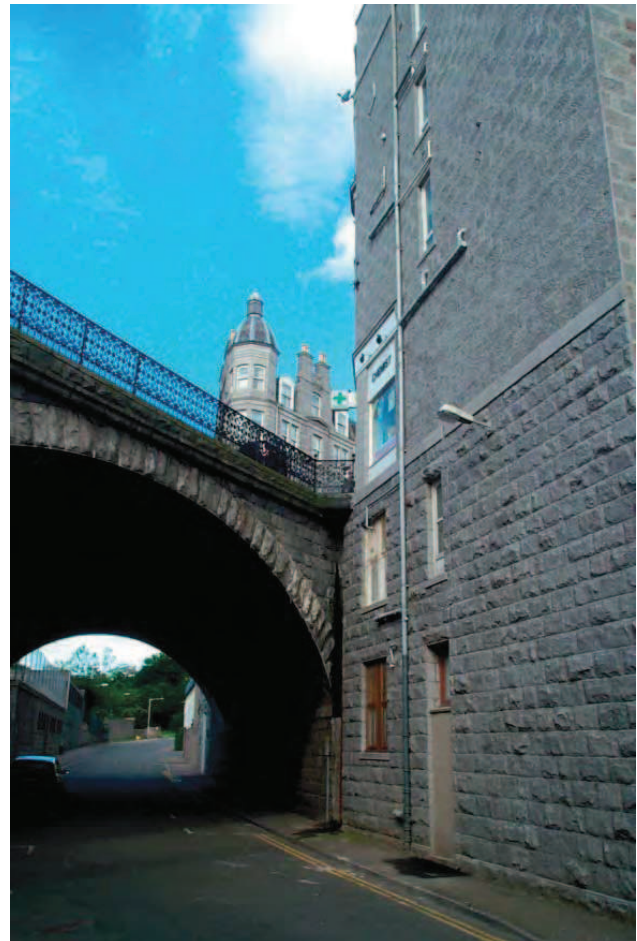
3.2 These rises and falls are due to two topographical features. Firstly, the southerly half of the conservation area is characterised by a west to east ridgeline along which Rosemount Place runs, and secondly, towards the north by a shallow linear depression in which Westburn Road is located.

3.3 The ridgeline features a small hillock at 50 metres ASL located roughly in the area around the junction of Westfield Road / Craigie Loanings with Rosemount Place, Beechgrove Terrace, Argyll Place and Mid Stocket Road. The ridgeline continues westwards where it gradually rises through the suburbs of Mid Stocket, Summerhill, Mastrick and Sheddocksley until it reaches the easterly side of the village of Kingswells where it terminates in another hillock ("Gillahill") around 185 metres ASL.

3.4 The linear depression referred to above, appears to be a former glacial meltwater channel or valley, which flowed eastwards from a point within the larger valley of the Den Burn, situated to the west in the vicinity of Maiden Craig. To complete the picture, although it is beyond the area of study, another depression or meltwater channel occurs to the south which coincides with the Skene Street, Carden Place, Queen's Road transport corridor. Both of these meltwater channels have helped to contribute towards the formation of the Rosemount ridge.

3.5 Geologically, the area is comprised in the main of locally affected, metamorphosed, igneous rock from which much of the granite used for local buildings was derived. Only two small parts, towards the south-east around the Denburn Health Centre, and east of Caroline Place and Skene Square, comprise sedimentary rocks. All of the area is overlain by glacial meltwater deposits and till, the latter consisting of rocky debris of clays, sandy clay, or sand, the former of water-sorted sand and fine coarse gravel.

*Rosemount Viaduct*



## 4.0 Townscape evolution

4.1 The Ordnance Survey maps for the middle of the 19th century show that during that period more than fifty percent of the land area of the conservation area was undeveloped, especially between Westburn Road and Mid Stocket Road where there were a number of open fields. North of the Westburn Road in the area now referred to as the Cornhill Hospital, practically all of the land was used for the purposes of healthcare – in those days referred to as “The Royal Lunatic Asylum” with “airing yards” for exercise, Elmhill House Lunatic Asylum, and an “Hydropathic Establishment” at Loch-head next to Westburn House. Much of the land around these rather grand style hospital buildings was laid out as parkland with open lawns, tree planting, and fields in which residents of the establishments could be occupied.

4.2 To the east of the area, between Westburn Road and Mid Stocket Road, were some houses, but a large area of the built up land consisted of an “Industrial Asylum and Reformatory for Girls”. Much of the south-east and eastern areas beyond the conservation area boundary was devoted to industry – with a Tannery and Dye Works close to the Den Burn for a supply of water, some ‘Handloom’ factories, the Rosemount Works and Winery, and the Gilcomston Brewery.

4.3 Rosemount first came into existence in 1829 and was named after a house already in the neighbourhood. In the south-west of the area, between Mid Stocket Road and what is now Whitehall Place, were some single large houses – for example, Belvidere House, Craigiepark House, and Westfield – and some groups of cottages and smaller detached houses. The south west of the area was laid out as a market garden and nursery.

4.4 In 1871, the Aberdeen Municipality Extension Act allowed the city boundary to be extended to include the whole of the Rosemount district and North Broadford. This boundary was extended again in 1883. Since the great improvement Act of 1800, which gave rise to Union Street and King Street, the Town Council had not embarked on any great measure of city improvement till the Act promoted by Provost Esslemont in 1883.

4.5 The routes connecting the centre with the north-west of the city were, prior to 1883, narrow steep and tortuous, and it was felt that before any development could take place in that quarter, a new and improved access should be made.

4.6 In 1882, the Town Council laid out Esslemont Avenue, but it was too far west to serve as a suitable direct access to the Rosemount district. The older accesses by Gilcomston Steps and Skene Square or by the Incurable Brae and South Mount Street could never have met the traffic demanded by Rosemount and the new district of the Stockets beyond.

4.7 A new thoroughfare, Rosemount Viaduct, was therefore projected, starting from the end of Union Terrace, crossing Skene Terrace, Skene Street, and by a viaduct of skew arches, the valley of the Denburn, till it joined the higher ground at South Mount Street. This work was the first undertaken under the powers of the 1883 Act. The cost of the work was very heavy, amounting, between property and works, to almost £81,000.

4.8 James Emslie opened Loanhead Quarry in 1830 (Rubislaw opened in 1741). The Wrights and Coopers Incorporation in the 1870s laid out Loanhead Terrace and although the name is taken from the quarry, the actual quarry was nearer to Mile End and Craigie Loanings.



4.9 The Incorporated Trades laid out Thomson Street in 1879, and like many of the neighbouring streets, the builder was John Morgan. He had a house built for him and his family overlooking Victoria Park, until they moved in 1886 to 50 Queen's Road. The street was named after James Thomson who was involved in managing the widows' fund for the Incorporated Trades.

4.10 At the turn of the 20th century, whilst the area to the north was still devoted to hospital uses, the need for housing had led to the majority of the land between Westburn Road and Whitehall Place being developed for terraced style housing. To the south-west there remained some gaps between housing areas, but a pattern of streets had already been developed and it is clear that they would soon be similarly developed. The exceptions were the open fields referred to above, which had been taken over to create the five-hectare Victoria Park which was opened to the public in 1871.

4.11 Whilst some poorer housing had encroached towards it, the industrial areas to the south-east had become consolidated and associated with a far larger area, including the Broadford Works and Granite Works, associated with Hutcheon Street, Maberley Street and John Street east of Skene Square.

4.12 Towards the middle of the 20th century, practically all of the current housing had been built. The areas north of Cornhill road were still used for hospital purposes, but the grounds around Westburn House had been formed into a public park with its formal walled garden turned into bowling greens and tennis courts.

4.13 Some strips of land along the southern side of Whitehall Road, and beside Whitehall Terrace, and Craigie Park, remained undeveloped until relatively recently. During the 1960s some of the former industrial land and poorer housing areas to the east were developed for more modern housing by the local authority.

## 5.0 Parks

5.1 In the mid-nineteenth Century there were no public parks in the City except the Links. By 1900 there were six: Union Terrace Gardens, Duthie Park (which were gifted to the Town), Stewart and Walker Parks (which were purchased) and Westburn and Victoria Parks in the conservation area.

5.2 Westburn, the mansion house, for many years the residence of the Chalmers family, the well-known printers, was acquired by the Town Council and opened to the public in 1901. The original estate of Westburn extended to 22 acres and was purchased for the sum of £14,000 with subsequent works bringing costs to a total of £18,717. The old house of Westburn was converted into refreshment rooms, and a bowling green laid out in the *Westburn Park*



former kitchen garden. The public park now includes a children's cycle track and play area, and has become known for an excellent grass bowls facility. An open section of the Denburn (a local stream) runs through the park and modelled water features have been added to it. There is a more 'open' feel to the grounds, which are readily visible to traffic on the adjoining roads, and this contrasts significantly to the contained intimacy of the Victoria Park opposite it.

5.3 The five-hectare Victoria Park was opened to the public in 1871. In addition to an informal layout of flowers, shrubs and trees, there is a conservatory to be used during inclement weather, and a small glasshouse feature. In the centre of the park is a Category A listed fountain made of fourteen different granites, presented to the public by the granite polishers and master builders of Aberdeen.

*Victoria Park Fountain*



## 6.0 19th Century urban housing

6.1 The first element which has been instrumental in guiding housing development at Rosemount, and subsequently having an effect upon character, is landform. It will be clear to anyone who walks around the area that the ridge and hollow topography described earlier has given a distinct character and sense of place. Streets often have kinks or turns in them to follow the ground contours such as at Belvidere Crescent, Wallfield Place and Wallfield Crescent, and more subtly at Whitehall Place. These bends invite the eye to follow and increase anticipation as to what is beyond. Where roads are aligned down the side slopes of the Rosemount ridge, such as at Skene Square, Grosvenor Place, Craigie Loanings, and the streets north of Rosemount Place leading down to Victoria Park, the tiered arrangement of buildings create visual diversity to an otherwise linear form, and offer an invitation to follow the eye downwards.

6.2 In addition to landform, there are three other basic elements that have an influence upon character. The ways they relate to each other have been initially examined in order to aid definition:

- a) the architectural style and density of buildings;
- b) the way the external spaces are arranged around them, and
- c) the presence or absence of trees and other vegetation.

6.3 Initial appraisal has shown that the areas immediately to the west of the conservation area around Mid Stocket Road, whilst comprising some attractive late 19th and early 20th Century housing layouts, do not adequately match up to the quality and diversity of those described in the following sections. At present nearly all of this area consists of private housing and is unlikely to be subjected to pressure to change. This does not, however, preclude the Mid Stocket area from being the subject of a detailed appraisal for conservation area status in its own right in the future.



## 7.0 Townscape, architecture and history

7.1 Rosemount Viaduct and South Mount Street demonstrate the transition from a truly significant urban scale in the City Centre through to a more domestic suburban scale evident in much of Rosemount. The rapid emergence of Rosemount as a suburb of Aberdeen in the latter half of the 19th Century has meant that the vast majority of the surviving buildings are of a similar age.

*Wallfield Place*



7.2 57-85 and 46-80 Rosemount Viaduct flank either side of the gateway from the City Centre to Rosemount. 4 storey and attic with ground floor shopfronts finished in granite ashlar with finely dressed string courses and pilasters. 96-120 Rosemount Viaduct (James Souttar, 1887) on the north east side comprises three imposing 4 storey and attic tenements grouped together. Constructed of rusticated granite block with smooth ashlar details such as stringcourses, mullions and even turrets flanking the central of the three gables, this tenement has ground floor shops to the street. The two churches opposite each other, the former UF Church at 82 Rosemount Viaduct and the Bon Accord Church with its impressive square tower form fitting bookends to the larger scale tenements.

7.3 Rosemount Square (Leo Durnin, 1938) is based upon the Karl Marx Hof in Vienna and represents a dignity of scale not often attained in local authority housing. A refined exterior of unbroken fenestration achieves the art deco style meriting a category A listing. Vertical stair windows contrast with the horizontal windows of the flats themselves. Finished in granite Rosemount Square includes relief sculptures by TB Huxley-Jones above the entrance arches depicting the Spirits of Wind and Rain. Tenements at 9-13 and 19-21 Short Loanings reflect the scale and design of Rosemount Square, with the addition of entrance doors to the street. These tenements demonstrate how the appearance of such a building can be detrimentally altered with the introduction of inappropriate window styles.



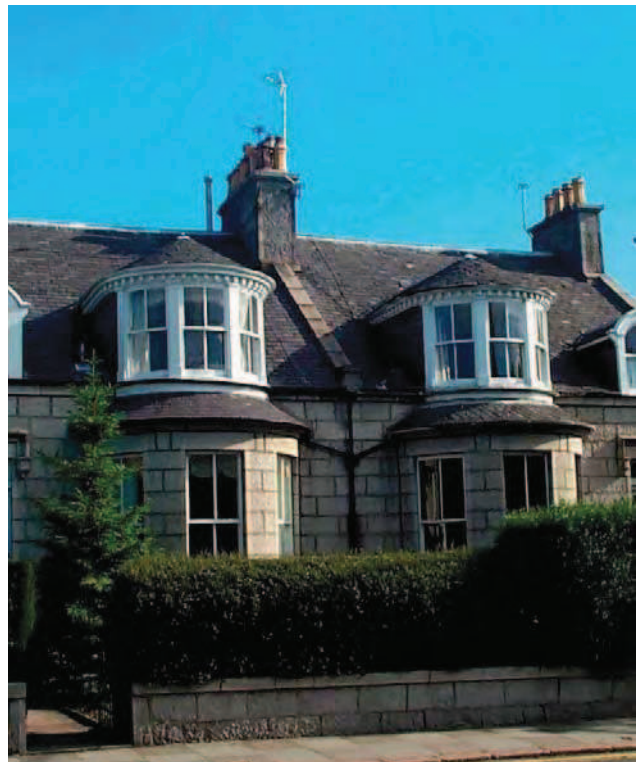
*Rosemount Square*



7.4 Mount Street, Rosemount Terrace and Caroline Place all appear on the first edition Ordnance Survey map together with Rosemount House. The low scale housing towards the north in Mount Street and Mount Cottage are amongst the first buildings in Rosemount. The houses of Caroline Place and the cottages in Rosemount Terrace date from the 1830s. These added to the tenements on Westburn Road to the north, form a triangular island on which stands the former Rosemount Church (William Smith 1875-7). C listed, the Gothic style church has been converted to a cancer support centre, Clan House.

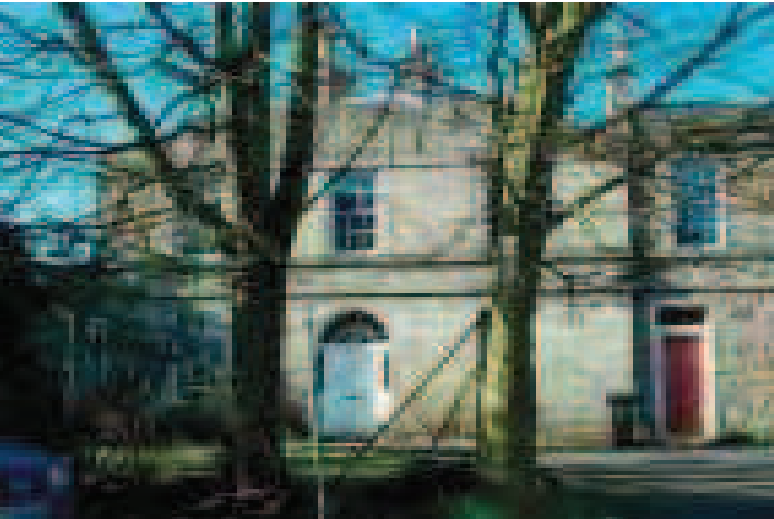
7.5 Rosemount Place forms the spine of the Rosemount neighbourhood. Its character is typified by a selection of building styles of differing heights, ranging from single to four storeys. Serving as the centre of the neighbourhood with many local shops at ground floor. Rosemount Place also provides the main link to the suburbs to the west. Notable buildings include Category C(S) listed Rutherford Church, B listed Rosemount School (James Souttar 1883-84) and 250-252 Rosemount Place, C(S) listed. The imposing former Rosemount School is prominently situated at the corner of Esslemont Avenue, Belgrave Terrace and Rosemount Place, contributing to the legibility of the area. The juxtaposition of the diverse range of buildings on Rosemount Place is in direct contrast to those streets in the conservation area that are accessed from it.

*250-252 Rosemount Place*



7.6 Rosemount House at 28 Rosemount Place is set behind the main thoroughfare. This very early 19th Century 'B' listed former mansion has been extended to form a short terrace. Constructed in finely picked granite ashlar with an impressive semicircular doorway, the neighbourhood is believed to be named after Rosemount House.

*Rosemount House*



7.7 Most notable of the streets running off the spine of Rosemount Place is Argyll Place, nos 31, 37-49, 55-93 of which are listed category B (Pirie & Clyne, 1884-85). This single storey and attic terrace, built for the local builder and contractor John Morgan, is constructed in grey and pink granite, with contrasting rusticated and dressed finishes. Interestingly, no two doors are the same with a variety of single, paired recessed or near flush arrangements.

7.8 To the north, 1-13 Argyll Crescent (1887, Pirie & Clyne) is a single storey and attic terraced crescent with 26 bays constructed in grey and pink granite. The smooth convex nature of the B listed terrace is unusual, with private drive and gardens in front and enclosed radial gardens to the rear, and a segmented drying green at the apex. This forms a unique and complete design.

7.9 Parallel with Argyll Place are Belvidere Street and Thomson Street terminating at Victoria Park. Belvidere Street comprises late 19th century single storey and attic terraced townhouses set behind modest front gardens, each with a bay window and bay dormer above. Entrance doors are generally grouped together in pairs and modestly embellished with a small projecting entablature. The west side of Thomson Street has single storey and attic terraced houses similar to those in Belvidere Street, whilst the east side increases in scale to 3 storeys, the top floor of which is formed by a mansard roof and gable to the front of each tenement.

7.10 Watson Street encloses Victoria Park on the east side with the most notable building the late 19th Century Victoria Park Lodge. The single storey and attic cottage sits in a landscaped oasis setting it apart from the urban setting of the rest of the street. Loanhead Terrace is a mixture of terraced and semi-detached single storey and attic dwellinghouses.

*Victoria Park Lodge*





Unusually, only the east side of the street is developed, the west having a tree lined border with Watson Lane, creating an open and pleasant environment with a suburban feel. 2-12 Loanhead Terrace have shallow-arched windows and doors to the ground floor with decorative facings around the dormers.

7.11 View Terrace includes the B listed no 2A (originally Viewplace House), now converted to a nursery. The single storey and attic terraced housing on the west side are typical of the Victorian house type of the area but differ slightly- the bays all have a painted finish in pastel colours.

*Raeburn Place*



7.12 Raeburn Place has impressive and colourful 4 storey tenements constructed in pink rusticated granite with grey granite details. Constructed on the site of the former Gilcomston Brewery, each tenement has a traditional mansard with a gable centred over the entrance door. Similar to Raeburn Place are 15-27 Baker Street with the same scale, materials and colour.

7.13 Belgrave Terrace includes several recently listed buildings. 21,23, 25-3, 33-39 are single storey and attic semi-detached houses with bays, again having bay dormers above. Designed by the City Architect (John Rust, 1904), these terraced houses have green slate fish-scale mansard roofs. 42 Belgrave Terrace (John Rust 1896) is a substantial townhouse on an elevated setting along with others on the north west side of the street. 44 Belgrave Terrace (William Kelly, 1887) and 46 Belgrave Terrace (Ellis & Wilson, 1886) complete the impressive range of villas.

7.14 Esslemont Avenue has plain tenements with no front garden forming a canyon of a curved street leading up to Rosemount Place. Rather more ostentatious are those tenements facing the Grammar School on Whitehall Place. To the south west of the conservation area is Westfield Terrace. Nos 6-16 (James Henderson, 1874) are C(S) listed, although B for the group. Three double villas with Scots Baronial and Dutch inspired detailing form this curious terrace.

7.15 To the north of the conservation area lie Westburn Park and Royal Cornhill Hospital. The character of this area is typified by a collection of Victorian Asylum buildings of granite construction sitting proud in a parkland setting. A number of additional buildings have appeared, especially with the expansion of the Royal Cornhill Hospital in 1989, but still the overriding impression is that of a parkland with open lawns and tree planting.

7.16 Westburn House (1839, Archibald Simpson) was designed for David Chalmers of the Aberdeen Journal. Brick built and stuccoed, the single storey building is centred in Westburn Park with a two-storey centre gable to the north and slim Doric portico with pediment to the west. The cast iron veranda on the south is a later addition to this A listed building. Farther north, B listed Elmhill House (1862, William Ramage) is an imposing E-plan Italianate former mental hospital, designed

*Westburn House*



as an extension to the original hospital facilities for the mentally ill. A striking granite building of three storeys with twin towers in a spacious parkland setting, including now overgrown ornamental gardens to the west.

7.17 The original asylum building of The Royal Cornhill Hospital (designed by Archibald Simpson in the early 19th Century) has since been engulfed by many later additions. The main hospital building, a substantial 2-storey granite structure around central courtyards dates from 1819. To the north the separate 2-storey and attic hospital extension was added in 1890 along with 2-storey pavilions in the 1920s. A number of single storey wards complete Royal Cornhill. To the south of the original building, a new hospital complex was constructed in 1989 with a series of low pavilions. Royal Cornhill, together with the Asylum Lodge and Elmhill House, is the last remaining example of the original healthcare facilities that were so prevalent in the north and west of Aberdeen in the 19th century. The relationship of the pavilions, villas, wards and courtyards and spaces between may have altered over time with the introduction of car parking, however the localised sense of enclosure still exists within the hospital complex. The site includes the Forbes of Newe Obelisk (1830, John Smith) in memory of John Forbes who bequeathed £10,000 for building the hospital. The Obelisk originally sat in St Nicholas churchyard and is now listed category C(S).

*Royal Cornhill Hospital*





## 8.0 External spaces

8.1 The individual components that can contribute to character comprise the varying widths and alignments of roads; the arrangements of public and private spaces; the surface materials of carriageway and pavements and any associated street furniture. Where there are front or side gardens abutting the street boundary enclosures the impact of associated planting can be important. Also relevant is how car parking is accommodated and whether it is visually intrusive.

8.2 There is considerable diversity in the manner in which the streets and external spaces have been laid out. The distance between buildings on either side of a street, for example, varies from around 60 metres in the case of Westfield Terrace, to those where there is less than 14 metres as at View Terrace. The intervening space accommodates a road with pavements, usually on both sides and with or without street trees, on street car parking and, in the widest ones front gardens. In the narrowest streets the buildings front directly onto the pavement. Carriageway widths can vary from one such as at Esslemont Avenue of almost 10 metres wide, to those like Craigie Loanings and Thomson Street, which are only around 7 metres wide.

8.3 In general, the streets north of Rosemount Place are distinguished from those south of it since they not only have larger front gardens but also rear lanes with garaging facilities. There is overall within the residential areas a very clear arrangement of public and private spaces. The one anomaly occurs at Loanhead Terrace where, as previously mentioned, the fronts of the houses on the eastern side face directly towards the rear lane and back gardens of the houses on Watson Street to the west.

8.4 A relatively recent introduction into the public zone, and which have had a significant effect upon the character and attractiveness of some streets, are on-street refuse arrangements. These comprise permanent stanchions and large 'wheelie' bins for use by local residents. Where there has been adequate width they have been

incorporated on pavement edges. However, these bins disrupt the visual flow and rhythm of the street pattern especially where tree planting, other vegetation or structures do not mask them. A better and far more unobtrusive solution is achieved where there is less width on the footpath resulting in bins being inserted between car spaces on the carriageway. Thus the physical and visual obstacle is removed.

*Northfield Place*



## 9.0 Vegetation

9.1 When the majority of the houses within the area were built, the Victorians included a number of components that were designed to give areas a pleasant outlook. In all but the area to the south-east and generally bounded by Mount Street, West Mount Street, View Terrace, Rosemount Place, and Wallfield Place, the streets were planted with trees. These were mainly within the pavement although in the case of Belgrave Terrace, Grosvenor Place, Richmond Terrace, and Watson Street they were located within the carriageway itself. Where there were small front gardens they were generally enclosed by railings and the street itself would have been laid with granite setts and stone pavements.

9.2 The position has change significantly in the intervening years. Most railings were removed during the war years, and concrete slabs and blacktop have gradually replaced the granite used for pavements and roads. Only Westfield Terrace seems to have retained its stone flags. Street trees have needed to have their crowns raised above high sided vehicles and, where their roots have either raised the pavement, or their stems interfered with residents parking, they have been progressively removed. In some cases they have not been replaced, or have been substituted by smaller species. In others, routine tree pruning has been severe so that they have been left with small crowns with callused nodules at cut points that are very visible in winter.

9.3 Where trees have been retained there can be little doubt that they contribute significantly to character – they tend to be more in scale with building heights, and help to soften the otherwise hard and linear arrangements of buildings. They can also, along with garden planting, provide some refuge for wildlife that would otherwise be largely displaced from urban areas. In that regard, where front gardens have incorporated privet or other types of hedging, they have helped to substitute for the lack of frontage railings.

## 10.0 Development matters affecting the conservation area

10.1 The redevelopment of Elmhill House and associated parkland is currently under consideration. A planning brief was published in May 2001 stipulating the requirements for the preservation of the listed building and to give guidance on suitable development in the surrounding area.

10.2 An outline planning application threatening demolition and subsequent replacement of Royal Cornhill Hospital is also under consideration. The appraisal identifies Royal Cornhill as an important series of granite buildings contributing to the history and character of the area. It is recommended that a planning brief be prepared for the Hospital site in order to give clear guidance as to how this site may be reasonably developed within the context of the historic environment.

*Elmhill House*





## 11.0 Enhancement of the conservation area

11.1 The preservation and enhancement of the conservation area will primarily be achieved through the development control process. The main implication of conservation area designation is that consent will be required for demolition works. Consent for specific types of development that would not otherwise require it is also required. In addition, permission is required from the City Council for any work involving felling, lopping or pruning of any tree within a conservation area.

11.2 Article 4 Directions have a particular role to play in helping protect important unifying features (e.g. doors, windows) and in arresting the incremental erosion of the character and appearance of the area. However it is acknowledged that many of the tenements in the conservation area have few of their original windows remaining, with those in Esslemont Avenue, Wallfield Crescent and Gilcomston Park being notable examples. In 1992, the Government introduced stricter control over development within conservation areas. Such control is considered sufficient for the Rosemount and Westburn conservation area.

## 12.0 New Development in the Conservation Area

12.1 To safeguard conservation areas for the enjoyment and benefit of future generations any new development must respect and enhance the character of the conservation area. The designation of a conservation area not only has the overall objective of protecting what is of value in the existing built environment, it is also a means to ensure that any new development adds to that value.

12.2 However it is important that the conservation area is not viewed as a barrier to creativity. The genuine heritage of the conservation area must not be diluted and debased by the introduction of designs that merely mimic their surroundings in an unconvincing and ill-considered fashion. Designs should, however be compatible with local area context.

12.3 Design quality should be encouraged and not inhibited by the development control process. Promotion of design quality should be strengthened through the planning process. With this in mind it is recommended that planning briefs be prepared to give guidance for potential development sites such as the Cornhill Estate.

12.4 It is acknowledged that one of the major contributing factors to the character of any area is the uniform treatment of fenestration. This uniformity has been lost in Rosemount; in most tenements no two windows are alike. It is impractical to expect conservation area designation to be a means of reinstating original timber sash and case windows.

12.5 Control of fenestration is covered more rigorously in the other conservation areas in the City by the inclusion of Article 4 Directions, effectively removing permitted development rights for replacing windows. Since the designation of Aberdeen's existing conservation areas, the Town and Country Planning (General Permitted Development) (Scotland) Order has been revised (1992), introducing stricter controls

for development in conservation areas. It is not considered necessary to introduce an Article 4 Direction to the conservation area to further restrict development.

12.6 The Rosemount and Westburn conservation area consists mainly of flatted properties that require planning consent in any case to replace windows. Rather than restricting the material or opening method of new windows in Rosemount, it is recommended that all new windows in tenements should be kept simple in style and have white frames. In addition, carefully matching new windows to the most prevalent and appropriate existing appearance, possibly including a dummy transom for example, will enhance a tenement. This will assist in creating a degree of uniformity in terraces thereby preserving and enhancing the character of the area.

### 13.0 Conclusion: Justification for Designation

13.1 The conservation area retains, almost intact, the later 19th century expansion of Aberdeen north-west from the city. Unlike the substantial villas constructed in the West End around the same time, the housing forms in Rosemount are the tenements and the terraces of modest houses.

Following the grand intervention of Rosemount Viaduct, the resulting pattern of development responded to the topography of the area. The tenements that front onto Rosemount Viaduct are up to 5 storeys high with 7 storeys to the rear. Parallel terraces curve around a slope as at Belvidere Crescent, Wallfield Place and Crescent, or straight down the slope towards Victoria Park as at Belvidere, Thomson and Watson Streets.

The two public parks, Victoria and Westburn provide open space to compensate for the compact street pattern and smaller size, or absence, of private gardens.

13.2 Designation of the Rosemount and Westburn Conservation area has been proposed for two main reasons:

**1) preservation of street pattern and granite buildings that make an important, positive and lasting contribution to the City's character and building stock; and**

**2) preservation of the parkland setting of both Westburn and Victoria Parks, and the Cornhill Estate for the benefit of future generations.**

Designation of the Rosemount and Westburn Conservation area enables the protection of the whole area rather than simply individual buildings. Demolition can be prevented and changes controlled so that the distinct character of the area is preserved.

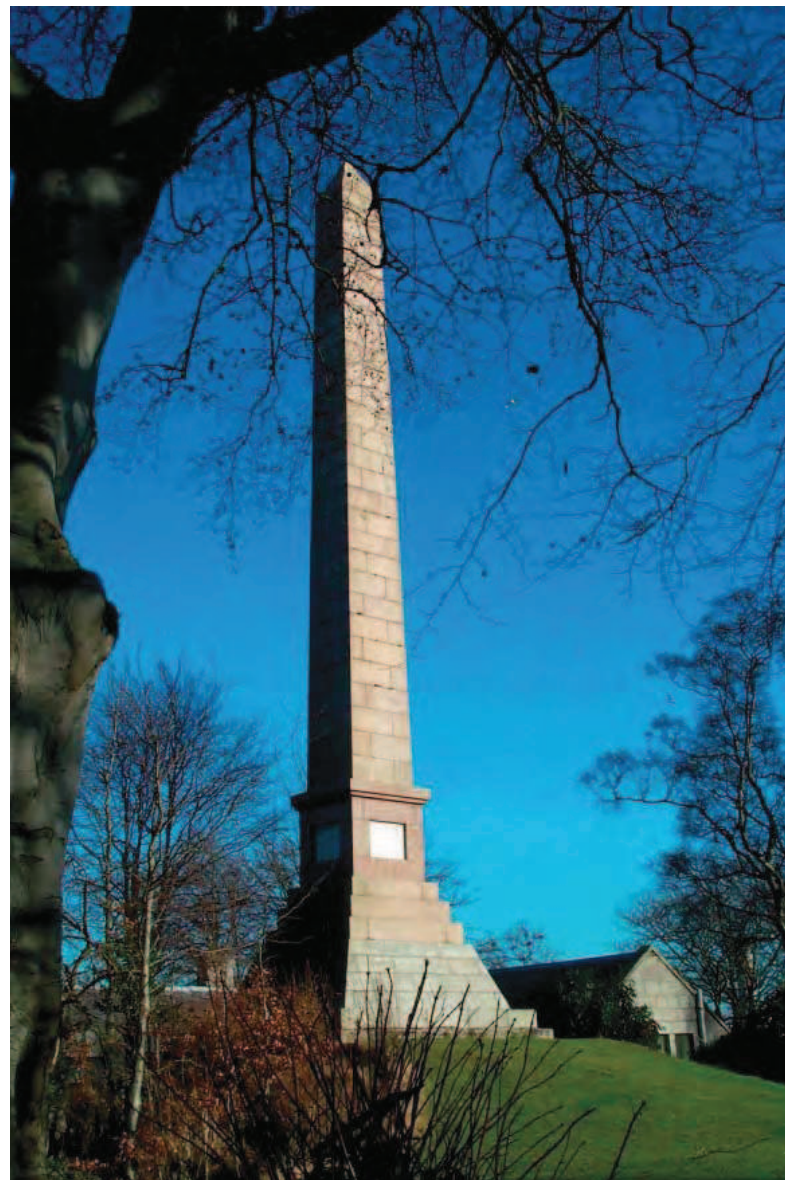
13.3 The boundaries of the Rosemount and Westburn Conservation Area are shown on the attached plan and can be broadly described as follows:

Ashgrove Road, west of Woodgrove and Barkmill Road, south of the rear boundaries of 1-25 Chestnut Row, south along Berryden Road to Hutcheon Street, rear boundaries of 1-6 Caroline Place, Skene Square, Rosemount Place, rear boundaries of 2-30 South Mount Street, rear boundaries of 56 and 58 Baker Street, Baker Street, Gilcomston Steps, Spa Street, South side of Denburn Health Centre, Upper Denburn, up steps to Skene Street, Skene Street to the west boundary of Skene Street School, Jack's Brae, rear boundaries of 8-30 Northfield Place, rear boundaries of 2-10 Esslemont Avenue, Esslemont Avenue, Whitehall Place, Albert Place, Albert Lane, rear boundaries of 53-105 Whitehall Place, rear boundaries of 10-64 Whitehall Road, rear boundaries of 6-52 Craigie Park, Westfield Road, rear boundary of 2 and 4 Westfield Road, rear boundary of 1-3 Beechgrove Terrace, rear boundary of Argyll Place, rear boundary of Argyll Crescent, rear boundary of 1-31 Westburn Drive, rear boundary of 2-6 Westburn Crescent, Westburn Drive to Ashgrove Road.

13.4 Streets or small areas that may not normally be considered suitable for conservation area status in their own right have been included to link to the existing Union Street and Albyn Place/Rubislaw conservation area boundaries. This avoids unnecessarily complicated boundaries that would otherwise be created. Although examples of modern development are included in the area, these should not be interpreted as suitable models for future development. Rather their inclusion offers the opportunity for improvement in the future to enhance the quality of building and urban spaces in the area.

13.5 The conservation area includes the following addresses:

*Forbes of Newe Obelisk*



Rosemount and Westburn Conservation Area Appraisal

Street	Nos		
		Richmond Terrace	All nos
		Richmond Walk	All nos
			Rosemount
Albert Den	All nos	House	
Albert Lane	1	Rosemount Place	51-295 odd nos, 2-292 even nos
Albert Place	All nos	Rosemount Square	All nos
Albert Street	37-53 odd nos, 44-54 even nos	Rosemount Terrace	All nos
Argyll Crescent	All nos	Rosemount Viaduct	57-85 odd nos, 46-122 even nos, Bon Accord Church
Argyll Place	All nos		
Baker Street	1-59 odd nos, 56-62 even nos	Short Loanings	All nos
Barkmill Road	All nos	Skene Square	47, 61, 82, 83, 84, 89, Skene Square Primary School
Beechgrove Terrace	1,3		
Belgrave Terrace	All nos	Skene Street	Gilcomston Primary School
Belvidere Crescent	All nos	South Mount Street	All nos
Belvidere Street	All nos	Spa Street	21-41 odd nos
Berryden Road	1-49 odd nos, Royal Cornhill Hospital	Stevenson Court	All nos
		Thomson Street	All nos
Caroline Place	All nos	Thomson Street Lane	All nos
Cornhill Road	1-36 all nos, Pavilion, Tennis Centre, Westburn House, Westburn Park Lounge, Lodge, Royal Cornhill Hospital	Upper Denburn	60-82 even nos
		Victoria Park	
Craigie Loanings	All nos	View Terrace	All nos
Craigie Park	All nos	Wallfield Crescent	All nos
Craigie Park Place	All nos	Wallfield Place	All nos
Denburn Court	All nos	Watson Lane	All nos
	Denburn Health Centre	Watson Street	All nos
Donald Place	All nos	West Mount Street	All nos
Eden Place	All nos	Westburn Court	All nos
Esslemont Avenue	29-63 odd nos, 2-74 even nos	Westburn Crescent	All nos
		Westburn Drive	1-31 odd nos Westburn Park Westburn House, Westburn Park Lounge
Forbes Street	All nos	Westburn Road	1-99 odd nos, 2-120 even nos, Westburn Occupational Therapy Centre, Park House Centre
Gilcomston Park	All nos		
Gilcomston Steps	1-5 odd nos	Westfield Road	2,4 and 5
Grosvenor Place	All nos	Westfield Terrace	All nos
Grosvenor Terrace	All nos	Whitehall Place	All nos
Hamilton Place	2	Whitehall Terrace	All nos
Kintore Place	19-21 odd nos, 20-46 even nos		
Leadside Road	All nos		
Loanhead Place	All nos		
Loanhead Terrace	All nos		
Loanhead Walk	All nos		
May Baird Avenue	All nos, Elmhill House, Ross Clinic		
Mid Stocket Road	2-12 even nos		
Mount Street	All nos		
Mountview Gardens	All nos		
Northfield Place	All nos		
Raeburn Place	All nos		
Richmond Court	All nos		
Richmond Street	All nos		





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## Technical Advice Note (TAN)

Title: The Repair and Replacement of  
Windows and Doors

Date: 19 March 2013

# Technical Advice Note

## The Repair and Replacement of Windows and Doors



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## 1. Introduction

This is one in a series of **Technical Advice Notes** (TANs) produced by Aberdeen City Council to help explain the Council's policies on various aspect of development in the City and who to contact for further information and advice.

This TAN addresses the **Repair and Replacement of Windows and Doors** and applies to all properties in the City. It:

- provides advice and guidance to residents and developers who are considering the repair or replacement of windows or doors;
- provides advice on whether any approvals are required before undertaking works (e.g. Planning Permission, Listed Building Consent, Building Warrant), and how to apply for these approvals;
- is a 'material consideration' and will assist Officers within Aberdeen City Council in determining applications;
- explains why windows, doors and doorways are important features of traditional buildings;
- outlines the Council's expectations for properties which are Listed Buildings and / or within a Conservation Area;
- provides 'best practice' guidance on suitable replacement windows and doors where repair is not an option; and,
- advises on measures to enhance the efficiency and security of older windows and doors without having to replace them.

A Further Reading list is provided at the rear of the guide (Section 11), along with a Glossary (Section 10) to explain terms which may not be familiar. The TAN does not include guidance on new dormer windows or rooflights, as these are covered separately within the Householder Development Guide Supplementary Guidance, available at:

[www.aberdeencity.gov.uk/localdevelopmentplan](http://www.aberdeencity.gov.uk/localdevelopmentplan).



*Windows, doors and doorways can be important features of a building which are important to protect*

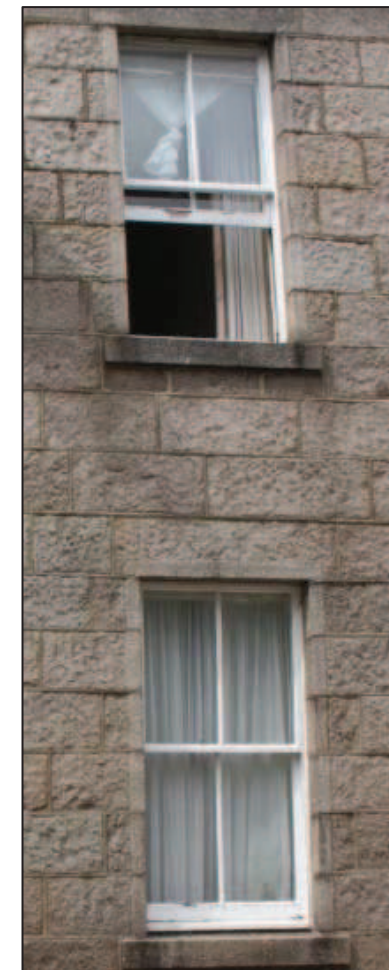
## 2. Thinking About Change

There are a number of reasons why owners might consider replacing their windows or doors, however the most common reasons are generally to do with concerns over heat loss, sound proofing, security and maintenance.

The general assumption is that these types of issues can only be resolved by completely replacing original windows and doors with something new – such as new ‘double glazing’. This is however often unnecessary, and can be extremely costly and unsustainable.

Below are a number of questions to consider before deciding whether replacing your windows or doors is right for you:

- Do my windows or doors actually need replacing or would it be more cost effective and sustainable to repair them?
- How old are my existing windows or doors? Are they of local or historic value or interest? Do they add value to my house?
- Are there upgrades which can be made to my existing windows to address heat loss, sound proofing and security?
- Can any parts of my existing windows or doors be recycled or reused if they cannot be repaired?
- Will new windows or doors really result in less maintenance?
- How long will it take for any savings in my heating costs to pay for the cost of new units, and how long will the new units last?



*Repair of sash & case windows can often be much cheaper than replacement*



### 3. Why Do We Need to Manage Change?

Windows, doors and doorways are distinctive features of a building which can often tell us a lot about local history and social change. In areas of Aberdeen where buildings have little decoration, traditional windows can make an important contribution to a building's architectural interest.

Changes to windows and doors which are well managed can make a positive contribution to the design and appearance of a building and to the quality and character of the surrounding area. Inappropriate changes can however have a significant negative impact on the character or appearance of a building which, when repeated over time, can dilute the appeal of wider areas.

For Listed Buildings and Conservation Areas inappropriate change can be particularly damaging, and may result in drops in property values. Unauthorised change may also lead to legal enforcement action.

Unauthorised windows and other works can also be identified by conveyancing solicitors and can affect property sales.



*Inappropriate change can negatively affect streets and wider areas as well as individual buildings*

To check if your property is a Listed Building, visit: [www.historic-scotland.gov.uk/historicandlistedbuildings](http://www.historic-scotland.gov.uk/historicandlistedbuildings).

To check if you live within a Conservation Area, visit: [www.aberdeencity.gov.uk/masterplanning](http://www.aberdeencity.gov.uk/masterplanning).



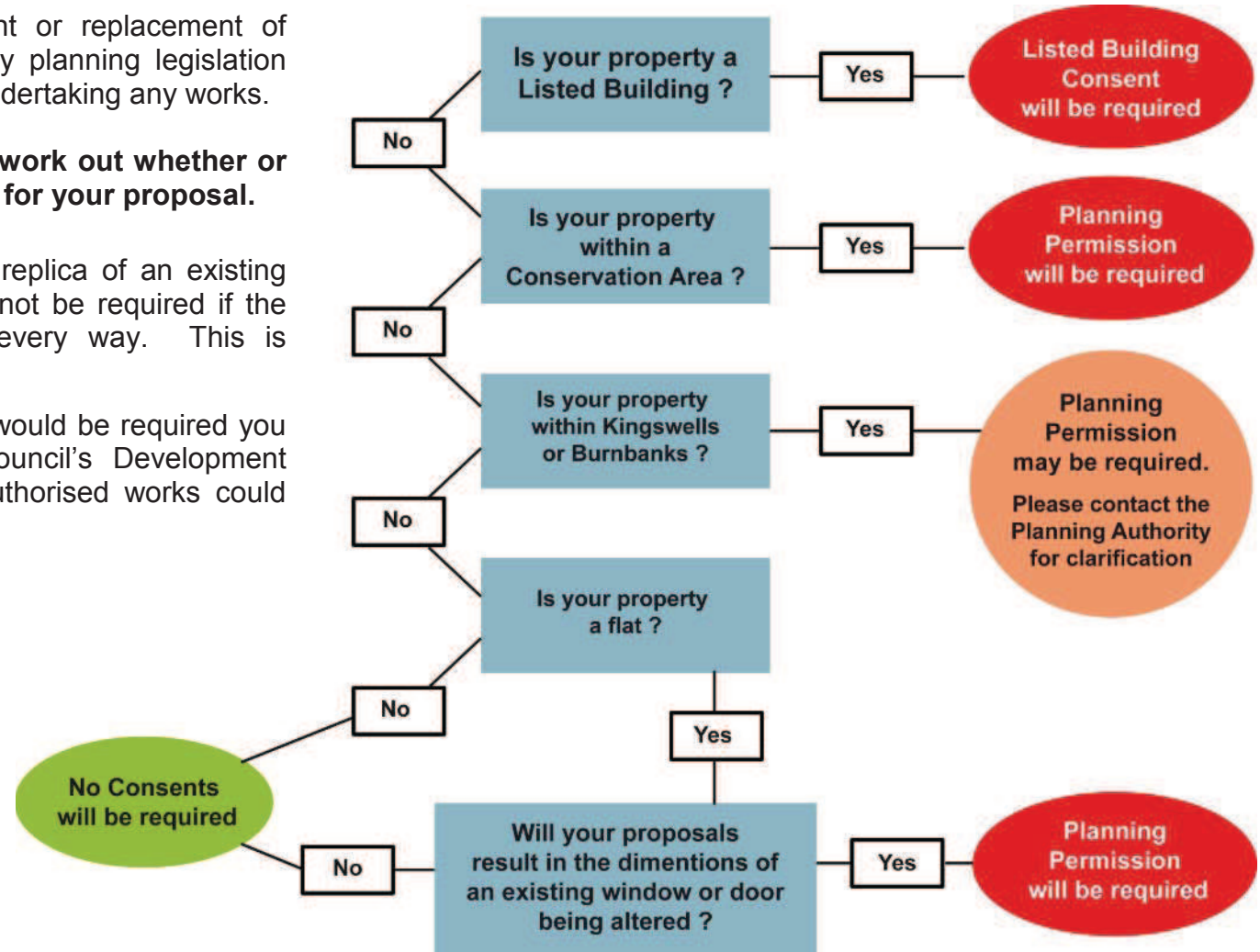
#### 4. Do I Need Consent?

In some instances the amendment or replacement of windows and doors is controlled by planning legislation and permission is required before undertaking any works.

**This diagram should help you to work out whether or not permission would be required for your proposal.**

If your proposals are for an exact replica of an existing window or door then consent may not be required if the proposals match the existing in every way. This is discussed further in Section 5.

If you are unsure whether consent would be required you should always check with the Council's Development Management Section first, as unauthorised works could lead to costly enforcement action.



## 4.1 Building Regulations

Building Regulations exist to protect the public and for replacement windows and doors cover aspects such as ventilation, safety from collision, safe cleaning, prevention of falls, thermal performance and means of escape.

There is no need to obtain Building Warrant approval for replacing your windows or doors, but the work you undertake should meet the requirements of the Building Regulations, and the responsibility for compliance rests with the owner.

This guidance applies whether or not the new window or door is to be the same style and material as the existing.

Repairs to an existing window are slightly different and can be completed to return the window to the original standard without the need for the repaired window meeting current standards e.g. replacing the cill.

It is recognised that compliance with all Building Regulations may be difficult in buildings that have existing historical features or are Listed. Further advice on relaxations can be sought from the Building Standards Team at 01224 523470 or [pi@aberdeencity.gov.uk](mailto:pi@aberdeencity.gov.uk). Further guidance on Building Regulations can be found in Appendix 2.

## 4.2 Bats

If you are considering repairing or replacing any windows or doors you should also consider the possibility of bats being present. Bats and bat roosts can be found in many kinds of building, old or new, and can sometimes be found roosting in window frames, window sills, doorways, lintels and porches.

Bats are European Protected Species (EPS) and are protected by European, UK and Scottish Law. The main piece of the legislation in the UK for the protection of bats is the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended). If you do not require planning permission for the amendment or replacement of your windows or doors, however suspect that you may have roosting bats, a bat survey will confirm this and whether a licence from Scottish Natural Heritage is likely to be required.

Further information about bats, surveys and surveyors can be found in our Bats and Development Supplementary Guidance.

## 5. Listed Buildings, Conservation Areas and Other Areas of Special Control

### 5.1 Listed Buildings

In Aberdeen, Listed Buildings range from grand villas on Queens Road, to tenement blocks on Rosemount Viaduct and fishermen's cottages at Footdee. Each Listed Building has its own character and style, be it individually, or as part of a wider group of buildings.

All Listed Buildings are protected, not just those in Conservation Areas, and all elevations of a Listed Building are protected, regardless of the Category of Listing.

Listed Building Consent will almost always be required for the alteration or replacement of windows or doors in Listed Buildings. In some instances repairs to traditional windows and doors using the original materials ("like for like") may not require Listed Building Consent. For proposals not to require consent they must include exact replication of the opening method and materials. For windows they must also include exact details of astragal dimensions and profiles, fixing of glass and the reuse of historic glass where this contributes to a building's character.

In considering applications for Listed Building Consent, the Council is required by law 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" (Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997). If the Listed Building is situated in a Conservation Area, or is part of a flatted property, Planning Permission may also be required.

It is recommended that you check with the Council's Development Management section prior to undertaking any works to receive confirmation as to whether any consents would be required.



*Building may exhibit a variety of window sizes and glazing patterns. This can provide important evidence of the history of the building and contribute to its character and interest*

Original or historic windows, doors and doorways in Listed Buildings must be repaired and restored rather than replaced. Only in exceptional circumstances will replacement windows and doors be permitted, and these replacements must match the originals in terms of appearance and material as far as is reasonably possible. Consent to replace original windows or doors on Listed Buildings will only be given when it can be demonstrated to the satisfaction of the Council that they are beyond economic repair, and evidence of this will be required as part of any application. This evidence should take the form of a Professional Survey, further details on which are provided in Appendix 1.

## 5.2 Conservation Areas

Conservation Areas are areas of the City which have been designated by the Council for their special architectural or historic interest. Aberdeen has 11 Conservation Areas within the City Boundary, which include areas such as Old Aberdeen, Ferryhill and Rosemount / Westburn. Appraisals of Conservation Areas in Aberdeen are available at [www.aberdeencity.gov.uk/masterplanning](http://www.aberdeencity.gov.uk/masterplanning).

If your property is not a Listed Building but is located within a Conservation Area then you will require Planning Permission to alter or replace windows or doors other than on a “like for like” basis (as described in Section 5.1). If you property is both a Listed Building and located in a Conservation Area then you will need to apply for both Listed Building Consent and Planning Permission. These requirements apply to both modern and older, traditional, properties.

In considering applications for Planning Permission in Conservation Areas, the Council is required by law to pay special attention “*to the desirability of preserving or enhancing the character or appearance of that area*”. (Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997). For Listed Buildings within



*Details of the Conservation Areas in Aberdeen can be found on the Council's website, [www.aberdeencity.gov.uk](http://www.aberdeencity.gov.uk).*

Conservation Areas, Planning Permission will be required in addition to Listed Building Consent. For buildings which are located within Conservation Areas (but are not Listed Buildings), the Council's preference is for original windows and doors to be repaired and restored wherever possible.

### **5.3 Other Areas of Special Control**

For properties which are not Listed Buildings or within Conservation Areas, permitted development rights can exist so that small alterations to properties, such as replacing windows or doors, can be undertaken without the need for some permissions. These are not however applicable in the following circumstances:

#### Burnbanks and Kingswells

In both Burnbanks Village and Kingswells the City Council has taken the decision to remove some or all Permitted Development Rights via an Article 4 Direction, and so planning permission for replacing or amending windows / doors in these areas will be required.

The general preference will be for original or historic windows and doors in areas covered by an Article 4 Direction to be repaired and restored wherever possible. Where there is no original or historic fabric to be retained then any assessment of replacement proposals will principally be based on styling/type, materials and colouring.

#### Flats

If you live in a flatted property, planning permission will be required if you intend to alter the dimensions of an existing window or door opening.



## 6. Repair, Upgrade and Replacement

### 6.1 Retain and Repair

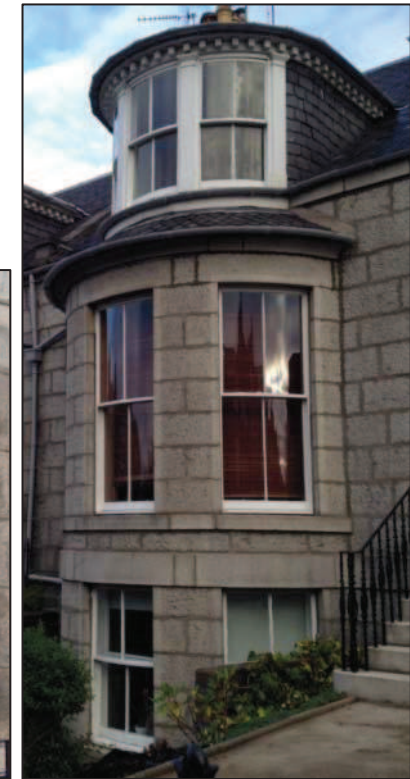
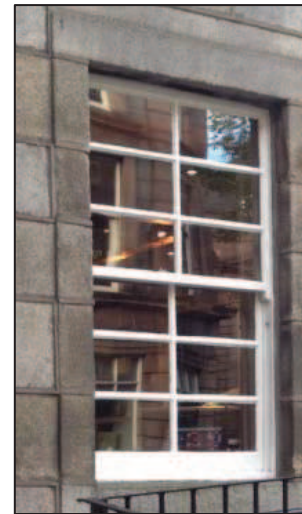
If you are considering new windows or doors, it is first worth checking whether replacing your existing windows/doors would be appropriate, or indeed necessary. Windows and doors can almost always be improved by being repaired, even if they are in very poor condition. Repair is also preferred in terms of sustainability as it reduces the requirement for new raw materials and energy.

#### Traditional Windows and Doors

The repair of original windows and doors is the best means of safeguarding the historic character of a traditional building, and in maintaining the visual character of wider areas. Repair will always be promoted over replacement, as new, modern, units will very rarely be capable of matching the character and visual interest of the units to be replaced.

Traditional windows are nearly always timber sash and case and are found in a variety of forms that reflect changing glass technology and architectural fashion. Timber sash and case windows are a recognised feature of Aberdeen's traditional buildings, and are generally of a straightforward design and construction, meaning that they can usually be easily repaired.

Curved corner windows and rectangular "lying" panes of glass are features which are particularly special to Aberdeen must always be retained.



*Examples of rectangular panes and curved glass*

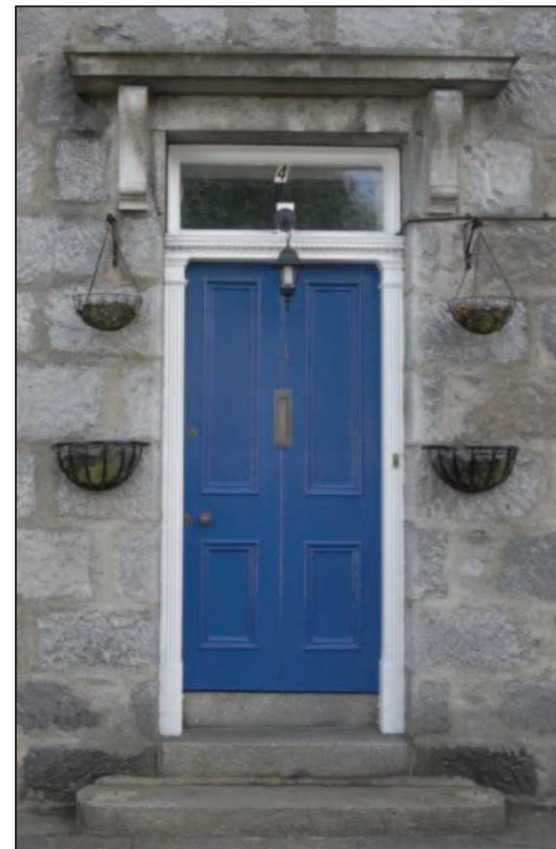


Traditional external doors and doorways are usually of solid timber frame construction with inset panelling retained by mouldings. Throughout the 18<sup>th</sup> and 19<sup>th</sup> centuries panelled doors became standard for the main entrance of most types of building. In Aberdeen this was typically reflected in 4, 5 and 6 panel varieties in a number of different configurations. A good joiner should be able to treat most faults with traditional doors, and again repair should be less expensive than replacement.

Traditional windows and doors are extremely durable and when properly maintained can last for centuries - many in Aberdeen are already well over 100 years old. In contrast, some modern windows can need replacing after just 20 years. Traditional windows and doors are generally made from good quality, durable, timber from mature trees which is of a much better quality than timber which is generally economically available today from sustainable sources. It therefore makes sense to retain and repair original windows, doors and doorways rather than to replace them with new timber which may not last as long and may be more susceptible to decay.

Original or historic windows, doors and doorways in Listed Buildings must be repaired and restored rather than replaced. Only in exceptional circumstances will replacement windows and doors be permitted, and these replacements must match the originals in terms of appearance and material as far as is reasonably possible. For buildings which are located within Conservation Areas, the Council's preference is also for original windows and doors to be repaired and restored wherever possible.

Original door ironmongery such as letterboxes, door knockers and handles should be retained and reused wherever possible, as should original window fittings such as cord clamps, sash lifts, sash fasteners and hooks.



*4 panelled door with associated door ironmongery / furniture*

## 6.2 Upgrading Traditional Windows and Doors

Replacing existing 'single glazed' timber windows and original timber doors with new 'double glazed' windows and uPVC / composite doors is often promoted as a means of fighting heat loss, draughts, dust ingress and providing improvements to sound insulation and security. Traditional windows and doors can however be upgraded at a lower cost to bring these same benefits, whilst still retaining the original features and style which gives character to your building.

### Energy Efficiency

By the nature of their construction many older buildings are prone to heat loss through cracks and gaps which develop as building elements move and settle over time. Although this natural settlement helps to properly ventilate the building, often these draughts result in heat loss which can be uncomfortable for occupiers.

Draughts around older windows and doors (including key holes and letter boxes) can be a source of air leakage, and **draught-proofing** is one of the best ways to improve comfort and reduce energy use, with little or no change to a building's appearance.

Draught-proofing simply means blocking up any unwanted gaps which let cold air in and warm air out. Keeping warm air in the building means less energy spent heating it, therefore saving you money. A number of draught-proofing measures are widely available from DIY stores and can be fitted relatively cheaply.

Draught-proofing can also improve noise insulation, reduce dust ingress and make sash and case windows easier to slide up and down. Curtains lined with a layer of heavy material can also help reduce heat loss from a room and cut draughts.

Traditional timber doors are generally very effective in retaining warm air within a building, however additional insulation material can be added to the panels on the indoor side of the door to enhance the effect and fight additional heat loss whilst still maintaining the character of the door from the outside.



*Draught-proofing strips can be easily applied to interior side of external door*

Where installing draught-proofing to traditional windows is difficult, **secondary glazing** systems can be a good alternative. Secondary glazing consists of an additional pane of glass fitted on the inside of the existing window frame which can be removed during summer months and for cleaning. Providing similar insulation values to double glazing, it can also reduce dust ingress, provide good noise insulation, and be an extra security measure.

Secondary glazing design should seek to be as discreet as possible, particularly in Listed Buildings, with small frames concealed from view. Meeting rails and frames should be as small in section as possible to allow them to be disguised behind existing rails. If secondary glazing is installed, the original windows should not be draught-proofed to help avoid condensation.

For more information about improving energy efficiency in traditional properties a number of Historic Scotland's publications are included in the Further Reading List at the end of this document (Section 11).

### Security

To improve the security of traditional sash and case windows additional sash locks can easily be fitted to the meeting rails to improve the security of the window when closed. Timber blocks and / or sash stops can also be fitted to restrict the size of openings.

Additional security measures on doors can also be easily incorporated without affecting the character of a door, for example extra mortice locks, rimlocks or bolts.



*Secondary glazing should seek to be as discreet as possible*

### 6.3 Replacing Windows and Doors

The principles in this Section are especially relevant where Planning Permission or Listed Building Consent is required, but should also be considered as 'best practice' for all properties throughout the City, even when consent is not required.

The most appropriate windows and doors for a property are likely to be those which were originally designed for it. Instances will however exist where original features will have deteriorated to such a state that replacement is the only viable option. Complete replacement of traditional windows and doors should however only be contemplated where the features to be replaced have deteriorated beyond economic repair, i.e. it would be unviable to repair and replacement is the only option remaining.

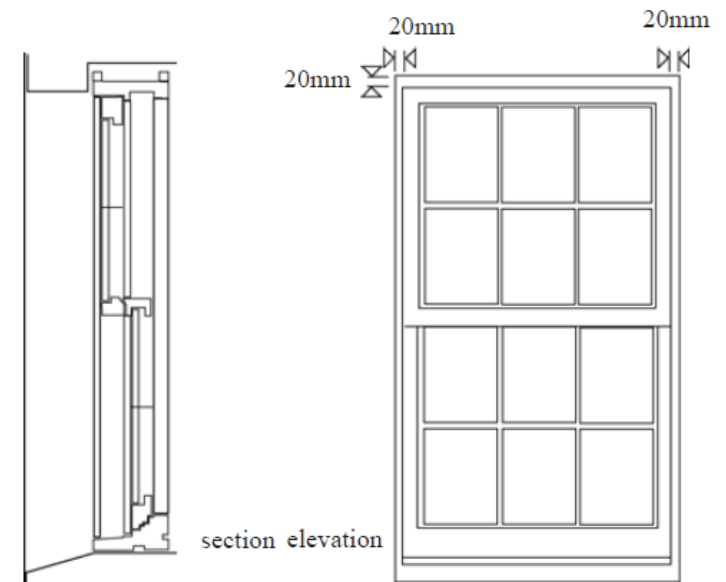
The reinstatement of the original types and arrangements of windows and doors will be encouraged. Modern windows and doors which are badly proportioned, the wrong type or incorrectly glazed should be restored to the original proportions wherever possible. If there is no indication what the original windows or doors were like, then authentic historic precedents can often be found on neighbouring properties.

#### Windows

Where there is no alternative to replacement, new windows should be sensitively replaced in an environmentally sensitive way which is in keeping with the character of the original building and the quality of its design.

The original proportions of window openings should be retained to ensure the architectural integrity of the building is not compromised. Where any original glazing survives, every effort should be made to retain or to salvage as much as possible for re-use.

The relative proportions of the upper and lower sashes of new windows in Listed Buildings must be the same as in the original windows, as should the size of timber sections. Replacement windows should be fitted in the same plane, be made up from timber sections of the same profile and dimensions, and have the



*Sash & case window illustration*



meeting rails in the same position. Generally, when the window is fully closed, the visible part of the sash stiles, top rail and meeting rails should be of a similar width/ depth. Where there is no existing original model on which to base a replica, bottom rails should be at least 75mm deep and 25mm deeper than the meeting rails, on elevation. No more than 20-25mm of the sash box should be visible in the window opening, the remainder being concealed behind the masonry window check.

Factory made standard windows, whether in timber, aluminium, galvanised steel, plastic (uPVC) or a composite are almost always damaging to the character and appearance of historic buildings and will not be appropriate for Listed Buildings. In Listed Buildings joiner-made timber replacements will generally be the only type of replacement window which will be accepted.

Ventilators cut through the glass or visible on the window frames will not be considered acceptable on Listed Buildings or on public elevations in Conservation Areas. Ventilators, where required, should be located unobtrusively in the meeting rail. Where trickle ventilation is required other more discreet means of achieving this should always be considered. Historic Scotland's publication "Sash & Case Windows: A Guide for Homeowners" provides further guidance on ventilation.

Consent for replacement windows on Listed Buildings or public elevations in a Conservation Area which reproduce the astragal pattern but open in a different manner will always be refused, as will consent for those where the astragals are merely applied to the surface of, or are sandwiched between, the panes of double glazing. Where astragals are required, they must be kept slender to match the thickness of the original astragals, particularly in multiple pane sashes.



*Discreet means of achieving ventilation will be required for Listed Buildings and on public elevations in Conservation Areas*

Where glazing beads are required they should be wedge shaped to match a putty fillet, and taper from 10mm at the glass to less than 2mm at the outside. The edge of the bead must be flush with, or kept slightly back from, the face of the sash. It must never project out from the face of the sash, or an unacceptable shadow line will be created around each pane of glass.



The dimensions of replacement window astragals should use original sash windows as the model. Typically astragals may only be 17-19mm wide. In Listed Buildings, where the interior of the building can often be as important as the exterior, the internal profile of the astragals must not be over-simplified, but should reproduce traditional moulding appropriate to the period and detail of the building. Astragals must carry through the sash to completely separate each pane of glass.

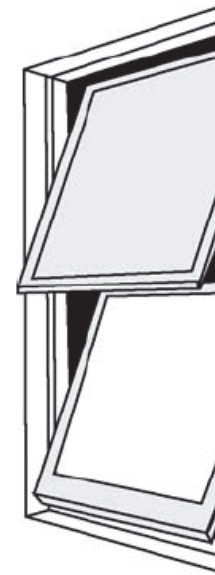
Glazing in sash windows on Listed Buildings should preferably be retained in position with traditional putty or modern butyl based putty, which is always preferred to timber beads.

In both Listed Buildings and Conservation Areas there will be a strong presumption in favour of retaining stained or decorative leaded glass and etched glass in replacement proposals. Proposals to use wired glass, obscured glass, louvered glass or extract fans in windows on Listed Buildings or on public elevations in Conservation Areas will not generally be considered acceptable.

On traditional buildings in Conservation Areas, modern window designs will generally be inappropriate on elevations of the building which are visible from public areas.

Sash and case “lookalike” windows, which closely match the detailing and appearance of a traditional sash and case window, but may employ a different opening mechanism, may be acceptable in Conservation Areas.

“Lookalike” windows will normally be formed in timber and will have upper and lower sashes of the same size as those in the window they are to replace. It is of vital importance that the upper sash is stepped out in front of the lower sash in profile, with the meeting rails fully overlapping as seen in elevation, such that the window when closed, is virtually indistinguishable from a traditional sash and



*Acceptable type of 'lookalike'  
in a Conservation Area*



*Not acceptable as a 'lookalike'  
in a Conservation Area*

case window. White uPVC vertical sliding windows may be acceptable as 'lookalike' replacements for windows in Conservation Areas provided that proposals with through / embedded astragals comply with original dimensions. No planted astragals will be accepted on elevations in Conservation Areas which are visible from public areas.

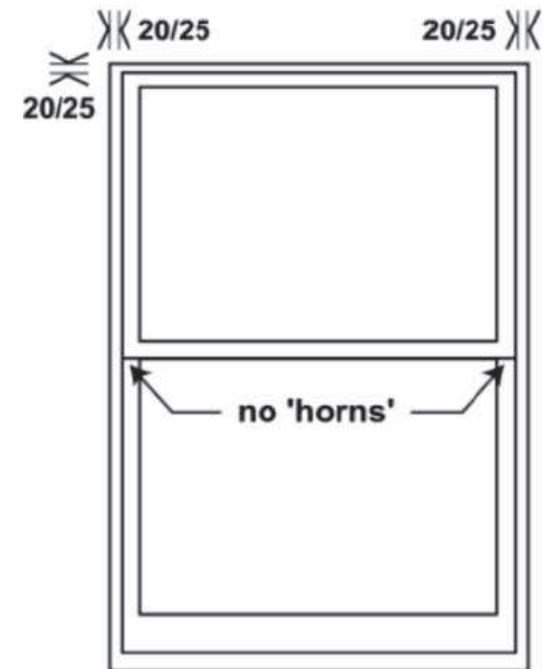
Where uPVC "lookalike" windows are to be used they should fully replicate the significant features of timber sash and case windows. Such features would include:

- no more than 25mm of the outer window frame should be visible at the top and sides, once the window has been fitted into the masonry opening.
- the meeting rails must fully overlap.
- the bottom rail of the lower sash must be at least 75mm high.
- the glass must be recessed from the front face of the sash by at least 10mm..

The Council may choose to be more flexible when considering applications for replacement windows and doors in Conservation Areas which are not visible from the street or are only visible from a private court.

On non-traditional, more modern, buildings in Conservation Areas a broader range of materials and designs may be permitted, depending on the individual building and surrounding area.

Elsewhere in the country most mid/late Victorian windows have 'horns' however this is not the case in Aberdeen. Along with original Georgian and early Victorian windows, most nineteenth century windows in Aberdeen do not have horns, and neither should the windows which replace them. The use of horns should only be contemplated only where there is clear evidence that they existed on the original windows, and in such instances the design of the horns should match the original.



*Elevation of sash & case  
'lookalike' windows with no 'horns'*

## Doors

Where there is no alternative to the replacement of an original door, new elements must match the original as far as possible when the property is a Listed Building or is visible from a public area within a Conservation Area. The new door should match the original in terms of proportion, profile and material, and reuse historic glass where this contributes to a building's character. If the property forms part of a group of uniform design, then any replacement should make reference to those of the neighbouring properties in style, design and size. Joiner-made replicas will be strongly encouraged in Conservation Areas and will be a requirement for Listed Buildings.

Composite door solutions may be appropriate on public elevations in Conservation Areas depending on the specified design proposed. Composite, aluminium and uPVC solutions will never be acceptable on Listed Buildings. Only on non-public elevations in Conservation Areas will uPVC, aluminium or doors from DIY chain stores be acceptable. Doors from DIY chain stores and flush plywood doors with mouldings applied to resemble panelling will not be acceptable substitutes on Listed Buildings or on public elevations in Conservation Areas. Replacement doors with a stained or varnished finish, and those which introduce asymmetrical elements, integral fanlights, inappropriate glazing or panelled patterns, will also be rejected.

The original proportions of doorways and door openings on street frontages must always be retained, and proposals to recess a door either less or more deeply within the door opening will not be supported. Original door ironmongery such as letterboxes, door knockers and handles should be retained and reused if the timber door is being replaced. Where this does not survive, the replacement of modern fittings with items appropriate to the period of the building will be encouraged.

Where the opportunity exists, modern doors which are badly proportioned, or of the wrong type or material, should be replaced with a more appropriate solution.



*Historic glass should be reused where this contributes to the character of a building*

## Colour Palette

As white is the colour of most existing sash and case windows in Aberdeen, this is the colour which new windows will generally require to be in order to encourage uniformity.

This will be particularly important in tenements where the use of a uniform window colour helps give the building an architectural cohesion it may otherwise lack.

Other colours will only be agreed to in exceptional circumstances.

Doors should be painted in an appropriate dark and muted colour, and bright glosses and white paint avoided.

Stained or varnished wood finishes will generally be unacceptable, except on non-public elevations in Conservation Areas.



*Replacement windows will generally require to be white*

## 7 Inserting New and Blocking Up Old

Applications to insert additional windows in Listed Buildings or in Conservation Areas may be permitted where this does not detract from the character of the building or area.

Location and design are the key considerations for new window openings which should be assessed in the context of the rest of the building and surrounding properties. The blocking up, in whole or in part, of original openings should only occur where the window makes little contribution to the building or area.

In principle the blocking up should be done in materials that relate to the surrounding building and evidence of the opening, such as window surrounds, be retained.

Proposals to increase the glazing area by removing stone or timber mullions which form the divisions in bipartite or tripartite windows will not be supported on Listed Buildings or in Conservation Areas.

The re-opening of blocked windows will be encouraged only where this will reinstate the intended elevational treatment of the building. It will not be permitted in cases where blocking up has taken place during later alterations to the structure and where the earlier window openings consequently no longer relate to present elevational form.

Doors in street frontages, even though no longer used, should always be retained



*Example of blocked up windows in Ferryhill*



## 8. Summary Charts - What Could Be Acceptable Where?

The following charts have been produced for general guidance purposes only. Proposals will still require to demonstrate satisfactory detailed designs and implementation methods. The charts should only be read in the context of the advice provided within the rest of this TAN. Any queries should be directed to the Council's Development Management Section.

### Windows

	Listed Buildings	Conservation Areas: Public Elevations	Conservation Areas: Non-Public Elevations
Joiner made timber sash and case	✓	✓	✓
Retaining historic or original stained / decorative leaded glass and etched glass	✓	✓	✓
Through astragals	✓	✓	✓
uPVC sash and case 'lookalikes'	X	✓	✓
Planted astragals	X	X	✓

### Doors and Doorways

	Listed Buildings	Conservation Areas: Public Elevations	Conservation Areas: Non-Public Elevations
Joiner made timber panelled door	✓	✓	✓
Composite Door	X	✓	✓
uPVC / aluminium / DIY chain store door	X	X	✓
Flush (e.g. plywood) doors with mouldings applied	X	X	✓

**Examples of windows and doors to avoid on Listed Buildings and on public elevations in Conservation Areas**



## 9. What To Do Next

Applications for Planning Permission and / or Listed Building Consent can be made online via the Scottish Government's e-planning website: [www.eplanning.scotland.gov.uk](http://www.eplanning.scotland.gov.uk)

Or direct to Aberdeen City Council using the application forms available at: [www.aberdeencity.gov.uk/planning\\_environment](http://www.aberdeencity.gov.uk/planning_environment)

For applications for Planning Permission an application fee will be required. There is no charge for applications for Listed Building Consent, however a fee may be requested to advertise the application in the local press.

Failure to obtain appropriate consents and permissions could result in enforcement action being taken to have unauthorised windows or doors replaced, which may entail considerable costs for the building owner. Unauthorised windows and other works are often identified by conveyancing solicitors and can affect property sales.

In the case of a Listed Building unauthorised work falls under criminal law, and so the person who executes the works, or causes them to be executed, is liable to prosecution or imprisonment in addition to standard enforcement proceedings.

### Submission Requirements

Two (2.no) copies of the following scaled drawings will be required for applications for Planning Permission and three (3.no) for Listed Building Consent in addition to the relevant application forms:



#### For further information please contact:

Planning and Sustainable Development  
Aberdeen City Council  
Business Hub 4, Ground Floor North  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

Telephone: 01224 523470

Fax: 01224 523180

Email: [pi@aberdeencity.gov.uk](mailto:pi@aberdeencity.gov.uk)

1. An OS Plan which clearly identifies the location of the site
2. Plans and detailed elevations of both existing and proposed works.
3. Horizontal and sectional drawings with details at a larger appropriate scale.
4. Details of proposed materials and style of opening.
5. Any other relevant technical information and photographs

In addition, for applications for the replacement of windows/doors on a Listed Building or within a Conservation Area, the following will also be required:

6. A clear statement which sets out a justification for the proposals, including why the works are desirable or necessary.
7. Detailed justification (e.g. a professional survey – for more information refer Appendix 1) to demonstrate to the satisfaction of the Council that the windows/doors to be replaced are beyond economic repair. Within Conservation Areas this will only be required for proposals affecting front elevations or elevations which are visible from public areas.
8. Drawings will normally be required at a scale of 1:1 or 1:2 and should include sections through window head, meeting rails, bottom rail and cill, window jambs and astragals. In addition, an elevation of the window should be provided showing the position of the meeting rails and the arrangement of any astragals.

### **Sources of Assistance**

If your property is a Listed Building or situated within a Conservation Area then you may wish to investigate whether any sources of funding assistance exist:

- The Aberdeen City Heritage Trust is a limited company and charity that operates within Aberdeen City. The Trust has its own criteria for determining in what circumstances it may be prepared to offer assistance. Further details can be found on its website [www.aberdeenheritage.org.uk](http://www.aberdeenheritage.org.uk) or by calling 01224 522755
- Historic Scotland also administers a programme of building repair grants throughout Scotland for Listed Buildings of outstanding architectural or historic importance, or key buildings within Conservation Areas. More information is available at [www.historic-scotland.gov.uk/grants](http://www.historic-scotland.gov.uk/grants)

## 10. Glossary

**Article 4 Direction:** Some types of development do not need planning permission by virtue of permitted development rights. An Article 4 Direction is an order made by Scottish Ministers which suspends (for specified types of development) the general permission granted under the Town and Country (General Permitted Development) (Scotland) Order 1992 (as amended), thereby removing permitted development rights. Article 4 Directions are currently in place in Burnbanks and parts of Kingswells.

**Astragal:** A glazing bar separating panes of glass within a window.

**Conservation Area:** Conservation Areas are areas of special architectural or historical interest, the character or appearance of which it is desirable to preserve or enhance. Such areas are designated by the local planning authority. Details of the Conservation Areas in Aberdeen can be found via [www.aberdeencity.gov.uk/masterplanning](http://www.aberdeencity.gov.uk/masterplanning).

**Dwellinghouse:** For the purposes of this guidance, the term “dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building

**Fenestration:** The arrangement / pattern of the windows in a building.

**Flat:** A separate and self contained residence, which is one of several within a larger building.

**Lintel:** A structural beam above an opening, such as a window or door,

**Listed Building:** Working on behalf of Scottish Ministers, Historic Scotland inspectors identify buildings which are worthy of statutory protection. These are ‘Listed Buildings’. The criteria by which the Scottish Ministers define the necessary quality and character under the relevant legislation are broadly; Age and Rarity; Architectural Interest; and Close Historical Association A list of listed building is available from Historic Scotland [www.historic-scotland.gov.uk/historicandlistedbuildings](http://www.historic-scotland.gov.uk/historicandlistedbuildings).



**Listed Building Consent:** Although the listing of a building should not be seen as a bar to all future change, strict controls do exist to ensure that works undertaken to Listed Buildings are appropriate. Listed Building Consent is obtained through an application process which is separate from, but runs parallel to, applications for planning permission. This separate regulatory mechanism allows planning authorities to ensure that changes to listed buildings are appropriate and sympathetic to the character of the building.

**Material Consideration:** Any issue which relates to the use and development of land and is relevant to the planning process.

**Mullion:** A vertical piece of stone or timber dividing a window into sections.

**Permitted Development:** A term used for certain types of development which, by satisfying specified conditions, is automatically granted planning permission without the submission of an application to the planning authority. These Permitted Development Rights are removed for Listed Buildings, Conservation Areas, Article 4 areas, and flats.

**Planning Authority:** The term given to the Council in its role exercising statutory functions under Planning legislation. Authorities have three main planning duties: Development Management (assessing and determining planning applications); Development Planning (preparing, updating and monitoring the authority's Local Plan/Local Development Plan); and Enforcement (seeking to investigate and resolve breaches of planning control)

**Sash and Case Window:** A window that slides vertically on a system of cords and balanced weights.

**Terrace House:** A dwellinghouse situated in a row of three or more buildings

**Transom:** A horizontal glazing bar in a window.

## 11. Further Reading

- **Aberdeen Local Development Plan**  
[www.aberdeencity.gov.uk/localdevelopmentplan](http://www.aberdeencity.gov.uk/localdevelopmentplan)
- **Bats and Development Supplementary Guidance**  
<http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=47678&sID=14394>
- **Householder Development Supplementary Guidance**  
<http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=45460&sID=14394>
- **Conservation Area Appraisals**  
[www.aberdeencity.gov.uk/masterplanning](http://www.aberdeencity.gov.uk/masterplanning)
- **Historic Scotland - Energy Efficiency Advice**  
<http://www.historic-scotland.gov.uk/index/heritage/technicalconservation/energyefficiencyadvice.htm>
- **Historic Scotland - Managing Change in the Historic Environment: Doorways**  
<http://www.historic-scotland.gov.uk/index/heritage/policy/managingchange.htm>
- **Historic Scotland - Managing Change in the Historic Environment: Windows**  
<http://www.historic-scotland.gov.uk/index/heritage/policy/managingchange.htm>
- **Historic Scotland – Sash & Case Windows: A Short Guide for Homeowners**  
<http://www.historic-scotland.gov.uk/maintaining-your-home.pdf>
- **Scottish Historic Environment Policy**  
[www.historic-scotland.gov.uk/index/heritage/policy/shep.htm](http://www.historic-scotland.gov.uk/index/heritage/policy/shep.htm)

## Appendix 1: Professional Survey

National planning policy only allows windows in Listed Buildings to be replaced where there is evidence that they cannot be repaired. It also requires that applications for Listed Building Consent are supported by sufficient information to enable the local planning authority to determine them. This is why we ask for a survey to demonstrate that existing window(s) are beyond repair and need to be replaced. This is in addition to the elevational drawings and sections required. Please note that comprehensive window replacement is unlikely to be justified in all but exceptional circumstances.

### What should be in a survey?

The survey should be carried out by a joiner or similar and include each individual window. It should include an image of the whole elevation with the windows numbered and an accompanying proportionate amount of information about the type, age and condition of each window. For a straightforward residential property this could be an annotated photo with the windows numbered and a short description of the window condition. Additional information may be required for a more complex building or where significant historic windows are involved

## **Appendix 2: Building Standards Information**

### **Ventilation**

Every apartment must have a window(s) or door(s) with an opening area of at least 1/30th of the floor area of that room. Where the opening area of the existing window is already less than 1/30th of the floor, the opening area of the replacement window must not be less than the original size. If the existing window had an integral trickle ventilator the replacement window must also have an integral trickle ventilator of at least the same size as the original.

### **Safety from Collision**

Windows must not open over footpaths or any place to which the public has access, where they could form a hazard or obstruction.

### **Safety Glass**

Glazing which is less than 800 mm above the floor must be toughened or laminated. Alternatively, a protective barrier could be installed to prevent collision.

### **Thermal Insulation**

Windows must have a U-value (thermal insulation rating) of not more than 1.8 W/m<sup>2</sup>K. There are many types of window construction which meet the required degree of thermal insulation and this should be confirmed with the window installer.

### **Protective Barriers**

Openable windows to a storey with a floor level of at least 600 mm above the outside ground level, and with a cill height less than 800 mm above floor level, must be provided with a protective barrier to minimise the risk of falling from the window. On the ground and first storeys, the barrier must be not less than 800 mm above the floor level. There must not be any gaps in the barrier which would allow a 100 mm ball to pass through. Alternatively, permanently fixed safety glass may be used instead of a barrier.

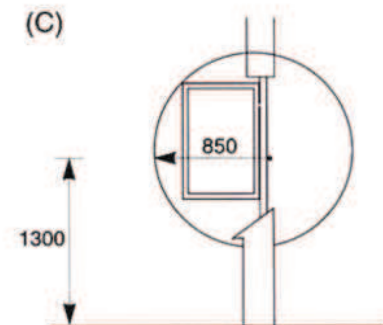
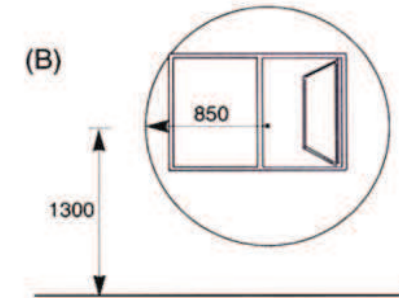
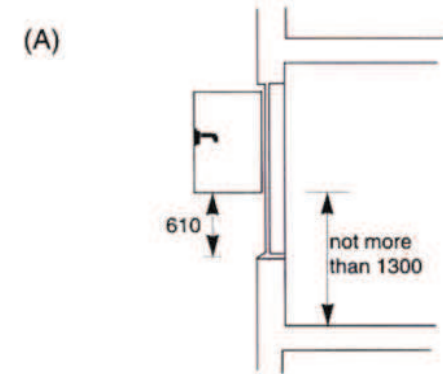
### Emergency Escape Windows

An escape window must be provided in every apartment on the first floor of a dwelling. Escape windows must also be provided in rooms on the ground storey where the escape is through another room. Escape windows must have an unobstructed openable area that is at least 0.33 m<sup>2</sup> and at least 450 mm high and 450 mm wide. The bottom of the openable area must not be more than 1100 mm above the floor except in cases where the existing cill height is greater than 1100 mm.

### Safe Cleaning

All windows must be safely cleanable. Windows, all or part of which are more than 4 m above the adjacent ground level must be designed so that any external and internal glazed surfaces can be cleaned safely from inside the building. These windows must be cleanable whilst standing on the floor and without over-reaching. The maximum reach must not exceed that shown in the diagrams over, and the maximum upwards reach is 2150 mm. If parts of the existing window are out with the maximum reach, the replacement window should be of a type which allows those parts to be brought within the safe reach in order to allow safe cleaning.

All dimensions are in mm.



- (A) downwards reach through an opening light
- (B) side reach through an opening light
- (C) reach for cleaning an open window with easy-clean hinges



**For Further Information Please Contact:**

Planning and Sustainable Development  
Enterprise, Planning & Infrastructure  
Aberdeen City Council  
Business Hub 4  
Ground Floor North  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB  
Telephone: 01224 523470  
Fax: 01224 523180  
Email: [pi@aberdeencity.gov.uk](mailto:pi@aberdeencity.gov.uk)

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# SCOTTISH HISTORIC ENVIRONMENT POLICY December 2011



# 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 townscapes; 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 polices 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 disapplied (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 Munn 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)

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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 disapplied.

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/adldata/arch-352-1/dissemination/pdf/vol\\_125/125\\_001\\_008.pdf](http://ads.ahds.ac.uk/catalogue/adldata/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 duntakings 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.





# Windows



# Key Issues

- 1. The windows of a historic building form 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 contribution of the windows in a historic building to its character must be understood before considering alteration.**
- 3. The size, shape and proportion of a window, the reflective sparkle and irregularities of old glass, the pattern of design, the materials and details of construction, the method of opening, the finish, and associated fixtures typically contribute to the character of a historic window.**
- 4. Maintenance and appropriate repair is the best means of safeguarding the historic character of a window.**
- 5. Where a window is beyond repair, replacements must match the original window design as closely as possible.**
- 6. Significant improvements in energy efficiency can be achieved by discreet draught-stripping, internal secondary glazing and use of shutters/curtains at night.**
- 7. Double-glazing may be acceptable either where the existing windows are beyond repair and the new windows will match the original joinery, or where it can be incorporated within the original joinery.**
- 8. 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 windows 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 In this guidance note the term “historic window” is used for both original and significant historic windows.
- 1.4 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).



*Fixed small-pane windows in the cupola of Robert Gordon's Hospital, Aberdeen, designed by William Adam in 1731–32. Thick astragals (glazing bars) and small panes of glass are typical of this period of design.*

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## 2. WHY ARE HISTORIC WINDOWS IMPORTANT?

- 2.1 Windows make a substantial contribution to the character and physical integrity of most historic buildings and also to the character and interest of historic streets and places. They are an important element of a building’s design and weatherproofing. The size, shape and position of the openings are significant, as are the form and design of the framing and glazing. Their style, detailing and materials help us to understand when a building was constructed or altered, its function and advances in related technology. In simple vernacular buildings a considerable amount of the character comes from the windows.

## 3. IDENTIFYING THE INTEREST OF HISTORIC WINDOWS

- 3.1 The significance of a historic window is derived from a number of factors including its form or shape, the characteristics of historic glass, the pattern of design, the materials and details of construction, the method of opening, associated fixtures, and sometimes even the paint colour.



*Banff Castle, Aberdeenshire. Here the size of the windows at the first floor indicate that this was the principal storey where the public rooms were located. The symmetrical arrangement and careful proportioning of the windows is the main architectural feature of the building.* © N. Haynes.



*Signet Library, Parliament Square, Edinburgh, circa 1810. A round-headed cylinder glass sash and case window with slim 'astragals', or glazing bars. Irregularities in the glass provide the variety and individuality of the reflective pattern.*  
© N. Haynes.



*Detail of a timber sash and case window of circa 1890 showing the profile of the astragals, the irregularities of the glass, and a decorative sash fastener.*  
© N. Haynes.

## Form

- 3.2 There are many shapes and sizes of historic window, from simple rectangular openings to arched or elaborately traceried windows. Sometimes window openings are sized and located for purely functional purposes. However in most cases windows are carefully sized and located as part of a broader design for a building or group of buildings. Window proportions and spacing frequently relate to other elements of the building, such as the overall dimensions of an elevation or other features (e.g. doorways). Windows are important components of an architectural design, perhaps expressing different parts of a building through differences in size, positioning and design.

## Glazing materials and patterns: general

- 3.3 The different production methods of various types of historic glass resulted in a wide range of thicknesses, colours, and refractive and reflective qualities. The irregularities resulting from the historic glass-making processes can provide an attractive reflective sparkle, refractive variety and individual character to each window. By contrast, modern float-glass is flat and blemish-free to a high degree of standardisation. The way in which a window is divided up into panes by glazing bars or 'astragals' can also form a key part of its character.

## Glazing materials and patterns: crown and cylinder glass

- 3.4 Before the 17th century, glass was very expensive to produce, and could only be obtained in small panes which were set in lead. Decorative stained glass was used in this way in churches. By the end of the 17th century, larger pane sizes could be produced and timber sash and case windows were being used in prestigious domestic buildings. Timber glazing bars or 'astragals' allowed a number of panes of glass to be used in a single sash.
- 3.5 These types of window became predominant in all sorts of buildings throughout the 18th and 19th centuries. Much of the glass of this period was produced by spinning the molten glass to form thin sheets (crown glass), or by forming cylinders that were later flattened (cylinder or broad glass). The results of the spinning action or flattening of the cylinder often created irregularities in the glass that gave each type its own distinctive appearance.
- 3.6 The general trend was for decreasing thicknesses of glass and astragals, and increasing sizes of window opening. The standard arrangement was for two sashes containing six 'portrait' format panes each. Frequently the profile of the astragal related to local joinery traditions. A larger variety of glazing patterns became more widespread in the early 19th century with 'lying-pane' (landscape format) sashes becoming popular. Leaded diamond-pane windows and other forms of metal glazing bar were particularly associated with the 'cottage orné' style.



### Glazing materials and patterns: patent plate glass

- 3.7 Patent plate glass was invented in 1839, enabling much larger sizes. Ripples, bubbles, and other imperfections still characterise this type of glass. Although expensive, the new glass became very fashionable. Often owners re-glazed only the front windows of their properties, reusing the old sashes by removing the astragals and installing single panes of glass. This demonstrates 19th-century technological advances in glass production and the accompanying shifts in style and taste. 'Horns' were used to strengthen the lower joints of the top sashes. Decorative stained and painted glass began a revival that was to see its use in ecclesiastical, domestic, civic and commercial buildings.

### Glazing materials and patterns: modern glass

- 3.8 The development of structural iron and steel and reinforced concrete in the late 19th century allowed increasing quantities and sizes of glazing in outer walls, eventually leading to fully glazed curtain walls in the early 20th century. The drawn flat sheet process increased the mechanised production of glass. Modern float glass, characterised by its uniform appearance and availability in very large sizes, was first developed in 1959.

### Framing materials

- 3.9 Timber, usually seasoned pine, continued to predominate as a framing material until the Second World War. Metal frames, allowing thin profiles and curved designs, were also used particularly from the 1920s to the 1950s.

### Method of opening

- 3.10 The way in which a window opens can contribute significantly to the authenticity and appearance of a historic building. All traditional sash and case windows open by sliding the sashes up or down in the same plane: in the open position they never project outwards from the building. Other common forms of opening method are casements, which are hinged at the side and open outwards (or more rarely inwards), and hoppers, which are hinged at the bottom and usually open outwards on a track or a restrictor. Some early 20th-century metal-framed windows pivot.

### Finish

- 3.11 Most window frames were traditionally painted. It is sometimes possible to sample underlying layers to establish the original colour. Whilst light colours were widespread in the 18th century and are now ubiquitous, many mid-to-late 19th-century timber windows were painted in dark colours including red, green, blue, brown, black and grey.

### Associated fixtures

- 3.12 A wide range of fixtures are often associated with historic windows, including sash boxes, cords, weights, sash lifts, catches, shutters, blinds, curtains and rails/pelmets, window guards, and balconies. Such fixtures can be purely functional or



*Former Niddrie Marischal School, Edinburgh. Designed in Art Deco style in 1935 by architects Reid & Forbes. The strips of blue-painted steel windows have two opening methods: horizontal pivots and small hoppers. The ground-floor windows are protected from vandalism by discreet metal mesh screens painted in the same colour. © N. Haynes.*



*St Vincent Street Church by Alexander 'Greek' Thomson, St Vincent Street, Glasgow. Thomson's Graeco-Egyptian designs emphasised the solid monumentality of the masonry against the void of the window openings. He used large sheets of plate glass and minimal frames to achieve this effect. © S. Dibdin.*



Associated fixtures such as traditional timber shutters contribute to the interest and character of a window.



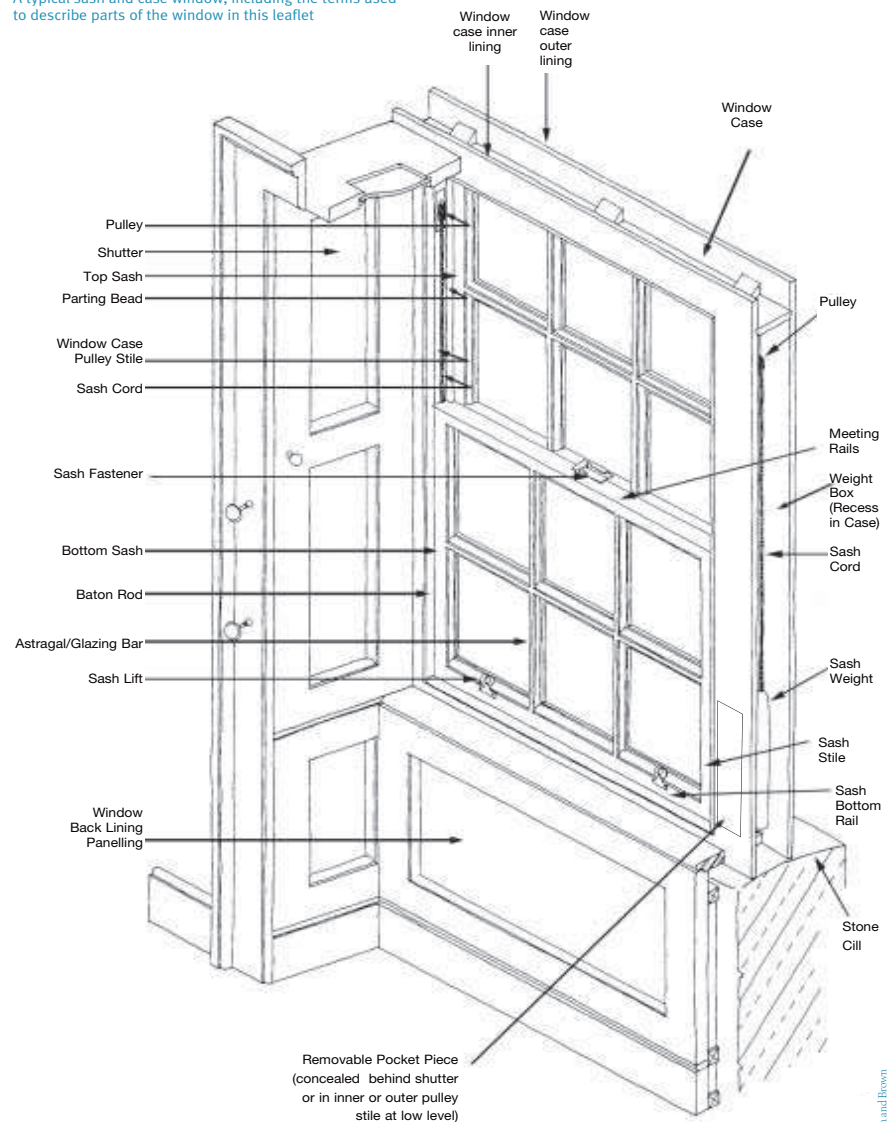
A new single-glazed window detailed to match the previous window, except that horns have been added to the top sash, not necessary where the astragals give rigidity, and a 'permavent' has been added. See page 7 for an alternative ventilation method.

also decorative, contributing to the interest and character of a window.

### Illustration of a typical sash and case window

3.13 The illustration below shows a typical sash and case window, including terms used to describe parts of the window in this leaflet.

A typical sash and case window, including the terms used to describe parts of the window in this leaflet



Simpson and Brown

## 4. PRINCIPLES FOR REPAIR AND ALTERATIONS

### Character and interest of the building

4.1 Repairs and alterations to a historic building must protect its character. The contribution of the windows to that character must therefore be understood before considering how to alter the building. This includes whether the windows are original, of historic significance or modern replacements. This will inform any subsequent strategy for repair or replacement.



- 4.2 The form, glazing materials and pattern, framing materials, method of opening, finish and associated fixtures of the window are important considerations.

### Repair

- 4.3 In almost all cases, repair of components on a like-for-like basis is preferable to replacement of a whole unit, as this will best maintain the character and historic fabric of the window. More detailed advice on the repair of timber windows can be found in our Inform Guides (details at the end of this leaflet).

### Replacement

- 4.4 Where there is no alternative to the replacement of historic windows or elements of their joinery or glazing, the new elements should match the original. This should include replication of the proportion, opening method, astragal dimensions and profiles, and fixing of the glass (e.g. putty). Historic glass should be reused where this contributes to a building's character.
- 4.5 Changes in framing materials or types of glazing (e.g. from clear glass to wired glass), the adoption of different opening methods, the insertion of extractor fans and other similar features, or the use of planted-on or sandwiched astragals should be avoided.
- 4.6 In exceptional circumstances, such as some conversions, there may be grounds for the removal of existing windows and their replacement with new, more thermally efficient ones. Normally this will only be considered where the existing windows are inappropriate or incapable of repair and the new windows can match the detailed design of the historic ones.

### Reinstatement

- 4.7 Some windows may have been replaced in the past using inappropriate designs or materials. Any new replacement proposals should seek to improve the situation through designs and materials that are in keeping with the character of the building.
- 4.8 Generally restoration of a window to a particular period should only be considered when the proposed style is appropriate to the building in question, it matches a documented earlier pattern, and it does not result in the loss of existing historic fabric that contributes to the character of the building. For example, it is not always appropriate to reinstate astragals to sashes that once contained small panes of glass but now contain a single sheet of polished plate glass.

### Double-glazing

- 4.9 The use of double-glazing in historic buildings will either involve replacing the glazing within existing frames or replacing the entire unit. Either solution can be acceptable in certain circumstances.



*Details of proposed replacement windows should be checked against the originals where possible. In this case the astragal profiles of the sample replacement window are too thick and flat, and would not be an appropriate match for this situation.*



*Repairing the sash cords of a timber sash and case window. Most components of a traditional window can be repaired without the waste of replacing the whole unit.*



Webster Theatre, Arbroath. Large clear sheets of internal secondary glazing were installed here during recent refurbishment.

- 4.10 Recent research has demonstrated that slim profile double glazing can be accommodated successfully in historic window frames. This solution will not be appropriate where there is the loss of historic glass.
- 4.11 Double-glazing that involves replacement of the entire window unit may be used where it can be demonstrated that the existing windows are beyond repair, and that the new windows will match the originals as closely as possible.

### Ventilation

- 4.12 Sometimes additional controlled ventilation is required. It is preferable to provide this by means of discreet vents or by 'blocking down' top sashes, rather than by the addition of prominent trickle vents. Historic Scotland's *Looking After your Sash & Case Windows* provides further guidance on alternative methods of ventilation.

### Security

- 4.13 Additional window security measures can normally be achieved discreetly without damage to the historic character of the building. Use of traditional internal shutters, or if necessary internal retractable grilles, is likely to be less disruptive to the historic appearance of a building than external shutters. Where external measures are unavoidable, removable grilles are preferable to permanent fixtures (including roller shutters).

### Colour

- 4.14 Where original or early paint schemes can be established, reinstatement is encouraged. Some local authorities control the palette of window paint colours to maintain the unified design of a conservation area or groups of listed buildings in multiple ownership/occupation.

### New window openings

- 4.15 Location and design are key considerations in proposals for new window openings. New openings must be carefully located to avoid disruption to the characteristics of the surrounding external and internal context. For example, subsidiary elevations with no formal symmetry or rooms with few internal features are likely to be more suitable for new window openings than principal elevations or rooms.
- 4.16 In cases where the building forms part of a larger grouping, it may be necessary to consider the wider context of the group and the potential for a cumulative effect if similar work was undertaken on every building. Where the location is appropriate in principle, the design of the new window must take account of the size, proportion, material and detailing of surrounding or nearby windows.



A view of the underside of the meeting rail of a new timber sash and case window at Castlemilk Stables, Glasgow. A discreet slot ventilator in the meeting rail allows ventilation without the need for obtrusive external fixtures.



### Blocking up windows

- 4.17 Permanent blocking of windows by building up the opening should only occur where the window makes little contribution to the character of the building. Evidence of the opening, such as the window surrounds or relieving arch, should be retained. The blocking materials must be appropriate to the surrounding materials. If possible the window itself should remain in situ with the blocking materials set behind.

### Converting windows to doors

- 4.18 Subsidiary elevations are usually more suitable for work of this type. Wherever possible the existing width of the window should be maintained and the opening expanded downwards to ground level. Depending on the circumstances it may be appropriate to match any external window surround detailing at the lower level. Where windows contribute to the character of an elevation or internal space, the replacement door should be solid to cill level and glazed above to match the pattern of surrounding windows. Any internal joinery, such as shutters or panelling, should be retained and matched at the lower level of the new opening.

### Blind windows

- 4.19 Original blind or 'dummy' windows form an important part of the interest of a historic building and should not normally be opened up. Such features were traditionally designed to maintain the pattern of window openings in the external elevations of a building, or sometimes to provide a visual trick or 'trompe l'oeuil'. Often fireplaces, chimneys, or other internal features prevented the creation of working windows in some locations.

## 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 Double-glazing can improve the energy efficiency of buildings. In some circumstances this can be an appropriate solution (see paragraphs 4.9-4.11). However, this may not be the most cost effective or appropriate option. It is normally possible to upgrade the performance of traditional windows by the introduction of discreet draught-proofing brushes around the sashes and by the use of well-fitting shutters at night. Further improvements can be achieved by carefully designed internal secondary glazing.



*This original window/door of the 1730s at Chatelherault, Hamilton, illustrates the principle of converting a window to a door. In order to maintain the consistency of architectural treatment in the room, the upper part of the door is treated as a window, and the lower section is solid.*



*South Charlotte Street, Edinburgh. The blind openings are detailed with sills and a 'meeting rail' to maintain the symmetry of the architectural elevation. The chimney flues pass behind the blind windows.*  
© N. Haynes.



*A distinctive, metal framed bay window at the Crook Inn, Tweedsmuir, Peebleshire.*

## 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. A brief description of the interest of the windows and an explanation of the impact of the alterations are always helpful in assessing change.
- 6.3 Consent may also be required under the Building (Scotland) Regulations 2004. Historic Scotland's Guide for Practitioners *6 Conservation of Traditional Buildings: Application of the Scottish Building Standards* provides further guidance.

## 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

*Latticed casement windows, Luss, Loch Lomond & The Trossachs National Park.*  
© N. Haynes.

*Painted glass window, Café Royal, City of Edinburgh.* © N. Haynes.

*Timber sash and case window, Edinburgh, showing varied reflections provided by different kinds of crown, cylinder and plate glass.*

### Other selected Historic Scotland publications and links

[Looking After your Sash & Case Windows](#) (2003) (PDF 721K)

[Guide for Practitioners: Conservation of Timber Sash & Case Windows](#) (2002) (available for purchase)

[Research Report: The Historical & Technical Development of Sash & Case Windows in Scotland](#) (2001) (available for purchase)

[Technical Paper 9: Slim profile double glazing, thermal performance and embodied energy](#) (2010) (with Changeworks, Glasgow Caledonian University and Heriot-Watt University)

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

*Inform Guide: Maintaining Sash & Case Windows* (2007)

*Inform Guide: Maintaining Traditional Plain Glass and Glazing* (2007)

*Inform Guide: Decorative Domestic Glass* (2007)

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.

### Other selected publications and links

[Report by Glasgow Caledonian University for Historic Scotland: Improving the Thermal Performance of Traditional Windows](#) (2008) (PDF 1.4Mb)

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## **Policy D4 – Historic Environment**

The Council will protect, preserve and enhance the historic environment in line with Scottish Planning Policy, SHEP, its own Supplementary Guidance and Conservation Area Character Appraisals and Management Plan. It will assess the impact of proposed development and support high quality design that respects the character, appearance and setting of the historic environment and protects the special architectural or historic interest of its listed buildings, conservation areas, archaeology, scheduled monument, historic gardens and designed landscapes.

The physical in situ preservation of all scheduled monuments and archaeological sites will be supported. Developments that would adversely impact upon archaeological remains, including battlefields, of either national or local importance, or on their setting will only be permitted in exceptional circumstances, where there is no practical alternative site and where there are imperative reasons of over-riding public need.

In any such case, the applicant must at their own expense:

- take satisfactory steps to mitigate adverse development impacts; and
- where the preservation of the site in its original location is not possible, arrange for the full excavation and recording of the site in advance of development.

In those cases where this is not justifiable or feasible, provision should be made for excavation and record with an appropriate assessment and evaluation. The appropriate publication/curation of findings will be expected.

Further guidance can be found within the supplementary guidance and technical advice notes listed in Appendix 6.

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## **Policy H1 Residential Areas**

Within existing residential areas (H1 on the Proposals Map) and within new residential developments, proposals for new development and householder development will be approved in principle if it:

- 1 does not constitute over development;
- 2 does not have an unacceptable impact on the character and amenity of the surrounding area;
- 3 does not result in the loss of valuable and valued areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010; and
- 4 complies with Supplementary Guidance.

Within existing residential areas, proposals for non-residential uses will be refused unless:

- 1 they are considered complementary to residential use; or
- 2 it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.

Any proposed loss of Local Shops or Community facilities would need to comply with the relevant policies Policy CF1 Existing Community Sites and Facilities and Policy NC7 Local Shop Units.

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Marischal college Broad Street Aberdeen AB10 1AB Tel: 01224 523 470 Fax: 01224 636 181 Email: pi@aberdeencity.gov.uk

Applications cannot be validated until all the necessary documentation has been submitted and the required fee has been paid.

Thank you for completing this application form:

ONLINE REFERENCE 100004074-001

The online reference is the unique reference for your online form only. The Planning Authority will allocate an Application Number when your form is validated. Please quote this reference if you need to contact the planning Authority about this application.

## Applicant or Agent Details

Are you an applicant or an agent? \* (An agent is an architect, consultant or someone else acting on behalf of the applicant in connection with this application)

Applicant  Agent

## Agent Details

Please enter Agent details

Company/Organisation:	Cr Smith		
Ref. Number:		You must enter a Building Name or Number, or both: *	
First Name: *	Grant	Building Name:	Cr Smith
Last Name: *	Allan	Building Number:	
Telephone Number: *	01383 732181	Address 1 (Street): *	Gardeners Street
Extension Number:		Address 2:	
Mobile Number:		Town/City: *	Dunfermline
Fax Number:		Country: *	Scotland
		Postcode: *	KY12 0RN
Email Address: *	grant.allan@crsmith.co.uk		

Is the applicant an individual or an organisation/corporate entity? \*

Individual  Organisation/Corporate entity

## Applicant Details

Please enter Applicant details

Title:	<input type="text" value="Mrs"/>	You must enter a Building Name or Number, or both: *	
Other Title:	<input type="text"/>	Building Name:	<input type="text"/>
First Name: *	<input type="text" value="K"/>	Building Number:	<input type="text" value="5F"/>
Last Name: *	<input type="text" value="Johnstone"/>	Address 1 (Street): *	<input type="text" value="Wallfield Crescent"/>
Company/Organisation	<input type="text"/>	Address 2:	<input type="text"/>
Telephone Number: *	<input type="text"/>	Town/City: *	<input type="text" value="Aberdeen"/>
Extension Number:	<input type="text"/>	Country: *	<input type="text" value="Scotland"/>
Mobile Number:	<input type="text" value=""/>	Postcode: *	<input type="text" value="AB25 2LJ"/>
Fax Number:	<input type="text"/>		
Email Address: *	<input type="text"/>		

## Site Address Details

Planning Authority:	<input type="text" value="Aberdeen City Council"/>
Full postal address of the site (including postcode where available):	
Address 1:	<input type="text" value="FLAT 6"/>
Address 2:	<input type="text" value="5 WALLFIELD CRESCENT"/>
Address 3:	<input type="text"/>
Address 4:	<input type="text"/>
Address 5:	<input type="text"/>
Town/City/Settlement:	<input type="text" value="ABERDEEN"/>
Post Code:	<input type="text" value="AB25 2LJ"/>

Please identify/describe the location of the site or sites

Northing	<input type="text" value="806506"/>	Easting	<input type="text" value="392923"/>
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## Description of Proposal

Please provide a description of your proposal to which your review relates. The description should be the same as given in the application form, or as amended with the agreement of the planning authority: \*  
(Max 500 characters)

proposed replacement of existing upvc windows with new white upvc windows.

## Type of Application

What type of application did you submit to the planning authority? \*

- Application for planning permission (including householder application but excluding application to work minerals).
- Application for planning permission in principle.
- Further application.
- Application for approval of matters specified in conditions.

What does your review relate to? \*

- Refusal Notice.
- Grant of permission with Conditions imposed.
- No decision reached within the prescribed period (two months after validation date or any agreed extension) – deemed refusal.

## Statement of reasons for seeking review

You must state in full, why you are seeking a review of the planning authority's decision (or failure to make a decision). Your statement must set out all matters you consider require to be taken into account in determining your review. If necessary this can be provided as a separate document in the 'Supporting Documents' section: \* (Max 500 characters)

Note: you are unlikely to have a further opportunity to add to your statement of appeal at a later date, so it is essential that you produce all of the information you want the decision-maker to take into account.

You should not however raise any new matter which was not before the planning authority at the time it decided your application (or at the time expiry of the period of determination), unless you can demonstrate that the new matter could not have been raised before that time or that it not being raised before that time is a consequence of exceptional circumstances.

details of statement attached

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 the new matter, why it was not raised with the appointed officer before your application was determined and why you consider it should be considered in your review: \* (Max 500 characters)

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. You can attach these documents electronically later in the process: \* (Max 500 characters)

Existing and Proposed Elevations. Existing photographs highlighting the inconsistency of window design throughout the building.  
Supporting Statement

## Application Details

Please provide details of the application and decision.

What is the application reference number? \*

P151849

What date was the application submitted to the planning authority? \*

26/11/2015

What date was the decision issued by the planning authority? \*

11/02/2016

## 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.

Can this review continue to a conclusion, in your opinion, based on a review of the relevant information provided by yourself and other parties only, without any further procedures? For example, written submission, hearing session, site inspection. \*

Yes  No

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

Can the site be clearly seen from a road or public land? \*

Yes  No

Is it possible for the site to be accessed safely and without barriers to entry? \*

Yes  No

## Checklist – Application for Notice of Review

Please complete the following checklist to make sure you have provided all the necessary information in support of your appeal. Failure to submit all this information may result in your appeal being deemed invalid.

Have you provided the name and address of the applicant?. \*

Yes  No

Have you provided the date and reference number of the application which is the subject of this review? \*

Yes  No

If you are the agent, acting on behalf of the applicant, have you provided details of your name and address and indicated whether any notice or correspondence required in connection with the review should be sent to you or the applicant? \*

Yes  No  N/A

Have you provided a statement setting out your reasons for requiring a review and by what procedure (or combination of procedures) you wish the review to be conducted? \*

Yes  No

Note: 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. 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.

Please attach a copy of all documents, material and evidence which you intend to rely on (e.g. plans and Drawings) which are now the subject of this review \*

Yes  No

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 (if any) from the earlier consent.



## **Declare – Notice of Review**

I/We the applicant/agent certify that this is an application for review on the grounds stated.

Declaration Name: Mr Grant Allan

Declaration Date: 22/02/2016

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## **Grounds Of Appeal Statement**

*On behalf of*

**Mrs Johnstone  
5F Wallfield Crescent  
Rosemount  
Aberdeen**

**Proposed replacement of existing white PVCu  
windows with new white PVCu windows.**

*Planning ref : P151849*

### **Our Proposal**

The following is to be read in support of our appeal against the refusal of planning permission at 5F Wallfield Crescent, Rosemount, Aberdeen.

The Planning Department has rejected our application on the grounds that our proposal would have a negative impact on the integrity and character of the existing property and that of the wider Rosemount conservation area. They also feel that the proposed window arrangement impacts significantly on the current uniform fenestration. Therefore we have been asked to match the current window arrangement.



We are proposing to replace the existing white PVCu windows with three Tilt & Turn over fixed pane windows. In doing so, we are lowering all transoms which has been deemed unacceptable by the planning department.

However, we would like to argue on behalf of our client that our proposal would enhance the safety of the windows. Currently, the windows to the front of the property do not meet the requirements of building regulations 4.4.2. and 4.8.2. Due to the low internal cill heights, a protective barrier or a fixed un-openable pane of toughened glass (as we have proposed) would have to be fitted to eliminate the possibility of a child or adult falling from these openable windows.

**Table 4.7 Height of pedestrian protective barriers**

Location	Minimum height (mm) [1]
At the edge of a floor in front of walls, partitions and fixed glazing incapable of withstanding the loads specified in BS EN 1991-1-1/PD 6688-1-1	800
In front of an openable window	800 [2]
On a stair or ramp flight wholly within a dwelling	840 [3]
On a stair or ramp flight outwith a dwelling	900 [3]
To a gallery, landing or raised area within a dwelling	900
All other locations	1100

**Additional information:**

1. A handrail provided in accordance with clauses 4.3.14 and 4.3.15 may form the top of a protective barrier if the heights in this table are met.
2. Protective barriers should be installed where the opening window has:
  - a. a sill that is less than 800mm above finished floor level, and
  - b. an operation that will allow the possibility of falling out, and
  - c. a difference in level between the floor level and the ground level of more than 600mm.

At 2 storeys or more above ground level, reference should be made to clause 4.8.4 where external glazing is cleanable from within the building.



We would also like to argue that there are already windows fitted in the street which differ from the ‘uniformed fenestration’.

One can see from the photos above that there is a variety of window styles on the street which do not detract from the aesthetic character of the area.



### Conclusion

The Planning Department has refused our application on the basis that accepting it would be deemed detrimental to the conservation area. Our proposal is similar to what is already in place and offers an enhancement to the safety of the windows. Therefore, we feel our proposal is not unsympathetic, does not threaten the visual character of the conservation area and will not drastically differ from a number of properties on the street.

We therefore seek to appeal the decision of the Planning Department.



WINDOWS CONCERNING APPLICATION





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# Agenda Item 4.2

Signed (authorised Officer(s)):

24 MORGAN ROAD, ABERDEEN

STRAIGHTEN EXISTING HIPPED GABLE,  
AND ERECT DORMER WINDOW TO  
FRONT AND REAR ELEVATIONS.

For: Mr Stuart Hale

Application Type : Detailed Planning  
Permission

Application Ref. : P151426

Application Date : 01/09/2015

Advert :

Advertised on :

Officer : Sepideh Hajisoltani

Creation Date : 6 January 2016

Ward: Hilton/Woodside/Stockethill (G Adam /  
L Dunbar/N Copland)

Community Council: No response received

## **RECOMMENDATION:**

**Refuse**

## **DESCRIPTION**

The application site is located to the north of Morgan Road and extends to 335 sq.m. and is occupied by a single storey semi-detached dwelling house and a detached single garage to the rear. The area is characterised by hipped roofed properties of similar design and materials.

The site is identified by the Adopted Aberdeen Local Development Plan 2012 as a Residential Area.

## **RELEVANT HISTORY**

None.

## **PROPOSAL**

Detailed Planning Permission is sought for straightening the existing hipped gable and erecting dormer windows to front and rear elevations. Proposal would accommodate 3 no. additional bedrooms and a bathroom on the first floor.

The proposed dormers would have an overall width of 8.1m, overall height of 1.8m and would sit approximately 300mm below the existing ridge, 800mm from the eaves and 1.3m from the proposed gable end.

The proposed hip to gable extension and dormers would be finished in natural slates, light grey render and white UPVC window frames and rainwater goods and facings; all to match existing.

## Supporting Documents

All drawings and the supporting documents listed below relating to this application can be viewed on the Council's website at -

<http://planning.aberdeencity.gov.uk/PlanningDetail.asp?ref=151426>

On accepting the disclaimer enter the application reference quoted on the first page of this report.

## CONSULTATIONS

**Roads Development Management-** Comments received from the Council's Road Projects Team stated that the existing layout at the rear of the property would make turning manoeuvres difficult. In addition it is noted that the garage is considered to be undersized. However it is accepted for two vehicles to be stored at the rear of the property either in the garage or in the rear courtyard and another vehicle may be stored at the front of the property. The provision would allow three vehicles to be sorted at the property as required by ACC- No objection.

**Environmental Health** – No observations.

**Communities, Housing and Infrastructure (Flooding)** – No observations.

**Community Council** – No comments received.

## REPRESENTATIONS

None.

## PLANNING POLICY

### **Aberdeen Local Development Plan**

#### **Policy D1- Architecture and Placemaking**

To ensure high standard of design, new development must be designed with due consideration for its context and make a positive contribution to its setting. Factors such as siting, scale, massing, colour, materials, orientation, details, the proportions of building elements, together with the spaces around building, including streets, squares, open space, landscaping and boundary treatments, will be considered in assessing that contribution.

#### **Policy H1- Residential Areas**

Within existing residential areas (H1 on the Proposals Map) and within new residential developments, proposals for new residential development and householder development will be approved in principle if it:

1. Does not have an unacceptable impact on the character or amenity of the surrounding area; and
2. Complies with Supplementary Guidance contained in the Householder Development Guide

## **Supplementary Guidance** **Householder Development Guide**

### **Proposed Aberdeen Local Development Plan**

The following policies substantively reiterate policies in the adopted local development plan as summarised above:

D1-Quality Placemaking by Design (D1- Architecture and Placemaking in adopted LDP);

H1- Residential Areas (H1- Residential Areas in adopted LDP).

### **EVALUATION**

Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) require that where, in making any determination under the planning acts, regard is to be had to the provisions of the development plan and that determination shall be made in accordance with the plan, so far as material to the application, unless material considerations indicate otherwise.

#### **Principle of Development**

The application site is located within an area zoned for residential use in the Adopted Aberdeen Local Development Plan (2012), and relates to an existing dwelling. The proposal is therefore acceptable in principle subject to an acceptable form and appearance. In determining what constitutes an acceptable form of extension, the aforementioned national and local planning policies and associated supplementary guidance will be of relevance.

#### **Design, Scale and Massing**

The Council's Supplementary Guidance: Householder Development Guide was adopted in 2012 and introduced specific guidance on the straightening of hipped roofs. Applications for such development prior to this date were determined under different circumstances in terms of policy context and offer no precedent for applications submitted after the adoption of this guidance. The current Householder Development Guide states that modifying only one half of a hipped roof is likely to result in the roof/ building having an unbalanced appearance. The practice of extending a hipped roof on one half of a pair of semi-detached houses to terminate at a raised gable will not generally be accepted unless the other half of the building has already been altered in this way or such proposal would not, as a result of the existing streetscape and the character of the buildings therein, result in any adverse impact on the character or visual amenity of the wider area.

As the application property adjoins another with a hipped roof, the proposal does not meet the first criteria and the proposal therefore falls to be assessed against the second exception.

In this case the existing streetscape, particularly on Morgan Road has a consistent design theme of hipped roof properties. It is considered that there is a clear and overwhelming predominance of the original design character of hipped roof prevailing within this streetscape. The only one exception with a hip to gable extension is No. 19 Morgan Road. It is noted that the mentioned property got an approval for such development in 2005 and as mentioned above this decision does not set precedent for similar applications submitted after the introduction of the Supplementary Guidance in 2012. To permit additional such alterations would clearly degrade the character of the streetscape. Equally, the fact that such alterations have happened for a single property on this street does not mean that these instances demonstrated a high level of design consciousness.

The proposed hip to gable extension would create a significant amount of additional roof space which would be maximised with the proposed extended dormers. As a basic principle and based on the Supplementary Guidance (2012), new dormer windows should respect the scale of the building and they should not dominate or tend to overwhelm or unbalance the original roof. In addition, all new dormers will have to be of an appropriate scale and substantial area of the original roof must remain untouched and clearly visible around and between dormers.

In this case the scale of the proposed dormers and the slated infill panels and aprons combined with the horizontal and vertical grey parts that form the lead flashing (that have reduced the level of glazing in each panel), contributes to a bulky appearance that dominates the roof which is particularly a concern for the front elevation.

The reasons mentioned above demonstrate that the proposed development has not been designed with due regard for its context, and would not make a positive contribution to its setting, as required by policy D1 (Architecture and Placemaking).

#### Residential Amenity

Additionally, the Council's Householder Development Guide states that no development should result in a situation where amenity is 'borrowed' from an adjacent property. Since daylight is ambient, the calculation is applied to the nearest window serving a habitable room. Using the "45 degree rule" as set out in the British Research Establishment's Site Layout Planning for Daylight and Sunlight – A guide to Good Practice'. Calculations indicate that all neighbouring properties are located sufficiently distant from the proposed extension to ensure no significant detrimental impact in terms of loss of daylight to habitable windows.

Turning to the impact to adjacent properties in terms of overshadowing, the orientation of the proposed extension and its distance are important factors. Calculations indicate that due to the size, form and orientation of the proposal,



there would not be any additional impact relating to overshadowing of private rear garden ground to surrounding properties.

It is also considered that the introduction of new windows to the front and rear elevation would not have any additional impact in terms of privacy on surrounding properties.

#### Proposed Aberdeen Local Development Plan

The Proposed ALDP was approved for submission for Examination by Scottish Ministers at the meeting of the Communities, Housing and Infrastructure Committee of 27 October 2015. It constitutes the Council's settled view as to what should be the content of the final adopted ALDP and is now a material consideration in the determination of planning applications, along with the adopted ALDP. The exact weight to be given to matters contained in the Proposed ALDP (including individual policies) in relation to specific applications will depend on whether:

- these matters have been subject to representation and are regarded as unresolved issues to be determined at the Examination; and
- the relevance of these matters to the application under consideration.

Policies and proposals which have not been subject to objection will not be considered at Examination. In such instances, they are likely to be carried forward for adoption. Such cases can be regarded as having greater material weight than those issues subject to Examination. The foregoing can only be assessed on a case by case basis. In relation to this particular application, the policies in the Proposed ALDP substantively reiterate those in the Adopted Local Development Plan and the proposal is not considered to be acceptable in terms of the relevant policies set out in the Proposed ALDP.

#### Conclusion

To summarise, while it is acknowledged that there is one property on Morgan Road with a hip to gable extension, it is considered that the proposed hip to gable extension would create an unbalanced look for the semi-detached property and additionally the proposed dormers would overwhelm and dominate the original appearance of the dwelling roof in a manner that fails to demonstrate due regard for its context or make a positive contribution to its setting. For avoidance of doubt, the principle of forming dormers to the front and rear elevations are acceptable, however any such dormers must be designed in a manner which is architecturally compatible with the scale and building proportions of the application property. For the aforementioned reasons, the proposal thereby fails to comply with the relevant policies and the associated supplementary guidance contained within the Adopted Aberdeen Local Development Plan 2012.

## **RECOMMENDATION**

**Refuse**

### **REASONS FOR RECOMMENDATION**

The proposed hip to gable extension and subsequent dormers relate to an existing residential use and are in compliance with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2012, however the proposal does not comply with Policy D1 (Architecture and Placemaking) of ALDP and the associated 'Householder Development Guide' Supplementary Guidance in that the proposal does not demonstrate due regards for the design and context of the streetscape, and as a result the proposed development would appear out of context and would impose a negative design on the surrounding area. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that the proposal does not accord with the provisions of the Development Plan and that there are no material planning considerations – including the Proposed Aberdeen Local Development Plan – that would warrant approval of the application.



**PLANNING & SUSTAINABLE DEVELOPMENT**  
Communities, Housing and Infrastructure  
Business Hub 4, Marischal College, Broad Street,  
ABERDEEN. AB10 1AB

## **THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

### **Refusal of Planning Permission**

Mr Stuart Hale  
24 Morgan Road  
Aberdeen  
AB16 5JY

on behalf of **Mr Stuart Hale**

With reference to your application validly received on 1 September 2015 for Planning Permission under the above mentioned Act for the following development, viz:-

**STRAIGHTEN EXISTING HIPPED GABLE, AND ERECT DORMER WINDOW TO FRONT AND REAR ELEVATIONS.**  
at **24 Morgan Road, Aberdeen**

the Council in exercise of their powers under the above mentioned Act hereby REFUSE Planning Permission for the said development as specified in the application form and the plan(s) and documents docketed as relative thereto and numbered as follows:-

PL- 001, PL-013A, PL-015A, PL-016A, PL-017, PL-019, PL-021, PL-022,  
PL-023

The reasons on which the Council has based this decision are as follows:-

The proposed hip to gable extension and subsequent dormers relate to an existing residential use and are in compliance with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2012, however the proposal does not comply with Policy D1 (Architecture and Placemaking) of ALDP and the associated 'Householder Development Guide' Supplementary Guidance in that the proposal does not demonstrate due regards for the design and context of the streetscape, and as a result the proposed development would appear out of context and would impose a negative design on the surrounding area. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that the proposal does not accord with the provisions of the Development Plan and that there are no material planning considerations - including the Proposed Aberdeen Local

PETE LEONARD  
DIRECTOR

Development Plan - that would warrant approval of the application.

The plans, drawings and documents that are the subject of this decision notice are numbered as follows:- PL- 001, PL-013A, PL-015A, PL-016A, PL-017,PL-019, PL-021, PL-022, PL-023

**Date of Signing 11 January 2016**

**Daniel Lewis**  
Development Management Manager

Enc.

PETE LEONARD  
DIRECTOR

**NB. EXTREMELY IMPORTANT INFORMATION RELATED TO THIS REFUSAL OF PLANNING APPROVAL**

The applicant has the right to have the decision to refuse the application reviewed by the planning authority and further details are given in Form attached below.

Regulation 28(4)(a)

Form 1

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**

*Notification to be sent to applicant on refusal of planning permission or on the grant of permission subject to conditions*

1. If the applicant is aggrieved by the decision of the planning authority to –
  - a. refuse planning permission for the proposed development;
  - b. to refuse approval, consent or agreement required by condition imposed on a grant of planning permission;
  - c. to grant planning permission or approval, consent or agreement subject to conditions,

the applicant may require the planning authority to review the case under section 43A(8) of the Town and Country Planning (Scotland) Act 1997 within three months from the date of this notice. Any requests for a review must be made on a 'Notice of Review' form available from the planning authority or at <http://eplanning.scotland.gov.uk/>.

Notices of review submitted by post should be sent to –

Planning and Sustainable Development  
 Communities, Housing and Infrastructure  
 Aberdeen City Council  
 Business Hub 4  
 Ground Floor North  
 Marischal College  
 Broad Street  
 Aberdeen  
 AB10 1AB

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 it's 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, the owners of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

PETE LEONARD  
 DIRECTOR

PETE LEONARD  
DIRECTOR



## **Policy D1 – Architecture and Placemaking**

To ensure high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting. Factors such as siting, scale, massing, colour, materials, orientation, details, the proportions of building elements, together with the spaces around buildings, including streets, squares, open space, landscaping and boundary treatments, will be considered in assessing that contribution.

To ensure that there is a consistent approach to high quality development throughout the City with an emphasis on creating quality places, the Aberdeen Masterplanning Process Supplementary Guidance will be applied.

The level of detail required will be appropriate to the scale and sensitivity of the site. The full scope will be agreed with us prior to commencement.

Landmark or high buildings should respect the height and scale of their surroundings, the urban topography, the City's skyline and aim to preserve or enhance important views.

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## **Policy H1 – Residential Areas**

Within existing residential areas (H1 on the Proposals Map) and within new residential developments, proposals for new residential development and householder development will be approved in principle if it:

1. Does not constitute overdevelopment
2. Does not have an unacceptable impact on the character or amenity of the surrounding area
3. Does not result in the loss of valuable and valued areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010
4. Complies with Supplementary Guidance on Curtilage Splits; and
5. Complies with Supplementary Guidance on House Extensions

Within existing residential areas, proposals for non-residential uses will be refused unless:

1. They are considered complementary to residential use
2. It can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity

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## Supplementary Guidance

### Topic: Householder Development Guide



## ▪ INTRODUCTION

Good quality design, careful siting and due consideration of scale are key to ensuring that domestic development does not erode the character and appearance of our residential areas. Poorly designed extensions and alterations to residential properties can have a significant impact on the character and appearance of a building which, when repeated over time, can have a significant cumulative impact upon the wider area. By ensuring that careful consideration is given to such works, and consistent standards applied, we can seek to retain the characteristics of the built environment which contribute towards the character and identity of an area, while also protecting the amenity enjoyed by residents.

## ▪ OVERALL OBJECTIVE

All extensions and alterations to residential properties should be well designed, with due regard for both their context and the design of the parent building. Such extensions and alterations should make a positive contribution to the design and appearance of a building, maintain the quality and character of the surrounding area, and respect the amenity of adjacent neighbours. This document seeks to facilitate good design and provide a sound basis for restricting inappropriate development, bringing together a number of existing pieces of supplementary guidance into a single document in the process.

## ▪ SCOPE OF GUIDANCE

The guidelines set out in this document shall apply, on a city-wide basis unless otherwise stated, to all domestic properties. In the case of dormer windows and roof extensions, the guidelines will also extend to originally residential properties now in non-domestic use. It should be noted that the guidance contained within this document will be applicable only to those development proposals which require an express grant of planning permission, and shall not apply where any proposal is exempted from the application process by virtue of relevant permitted development rights. Permitted Development is a term used for certain types of development which, by satisfying specified conditions, is automatically granted planning permission without the submission of an application to the planning authority.

This document supersedes existing supplementary guidance relating to '*Dormer Windows and Roof Extensions*', '*Dwelling Extensions in Aberdeen City*', '*Dwelling Extensions in Cove*' and '*Extensions forward of the Building Line*'. The guidelines set out in this supplementary guidance should, where relevant to the development proposal, be read in conjunction with the City Council's other published Supplementary Guidance and Technical Advice Notes.



## ▪ THE ROLE OF THE PLANNING SYSTEM

In coming to a decision on any planning application, the planning authority must determine that application in accordance with the development plan, unless '*material considerations*' indicate otherwise. At time of writing, the development plan comprises the Aberdeen Local Plan 2008 and the Aberdeen City and Shire Structure Plan 2009.

There are two main tests in deciding whether a consideration is material and relevant:

- It should serve or be related to the purpose of planning – it should therefore relate to the development and use of land; and
- It should fairly and reasonably relate to the particular application.

It is for the decision-maker to assess both the weight to be attached to each material consideration and whether individually or together they are sufficient to outweigh the provisions of the development plan. As a result of changes to the planning system, made through the 2006 Planning etc. (Scotland) Act and associated regulations, Supplementary Guidance prepared and adopted in connection with a Local Development Plan will form part of the development plan.

It should be noted that the planning system does not exist to protect the interests of one person against the activities of another, although in some cases private interests may well coincide with the public interest. In distinguishing between public and private interests, the basic question is whether the proposal would unacceptably affect the amenity and existing use of land and buildings which ought to be protected in the public interest, not whether owners or occupiers of neighbouring or other existing properties would experience financial or other loss from a particular development.

## ▪ STATUTORY REQUIREMENTS

The definition of "development" is set out in the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006, and is termed as the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land. There are various exemptions to this, details of which can be provided by the planning authority.

Permitted Development rights set out in the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended. This document, commonly termed the 'Permitted Development Order' or 'PD Order', sets out various works which will not require an express grant of planning permission, provided those works are carried out in accordance with certain criteria. Where it is intended to utilise these rights, we encourage householders to seek confirmation from the planning authority before any works are carried out. The permitted development rights available to any

particular property can vary depending on factors such as location within a conservation area, removal of such rights by condition placed on a past approval, or removal of such rights by a virtue of an Article 4 direction. The effect of such a Direction is to remove permitted development rights, thereby necessitating submission of a formal application for planning permission. All of Aberdeen's Conservation Areas are covered by Article 4 Directions, with the exception of Rosemount and Westburn (Conservation Area 11). Article 4 directions also apply to areas of areas of Kingswells and Burnbanks, which lie outwith any Conservation Area. Please contact the planning authority for further details.

Taking into account the above, householders considering any works to land or property, should ask the following questions;

1. Do these works constitute 'development' as set out in planning legislation?
2. If the works constitute 'development', can they be carried out as 'Permitted Development'?

The answers to these questions will determine whether a planning application is necessary for any works, though it is recommended that the Council be consulted in order to ensure that any interpretation of legislation is correct.

In assessing planning applications, there are a number of duties incumbent upon Aberdeen City Council as the planning authority. These are duties set out in relevant planning legislation, and include the following;

**Listed Buildings** – The authority shall 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.

**Conservation Areas** – With respect to buildings or land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

**Trees** – The planning authority shall, in granting planning permission for any development, ensure adequate provision is made for the preservation or planting of trees. Furthermore the authority shall make tree preservation orders (TPOs) as it considers to be necessary in connection with the grant of any such permission.

**Protected Species** – Where there is reason to believe that protected species may be located within or adjacent to a development site, the Planning Authority may deem it necessary for an application to be accompanied by additional supporting information in order to allow proper assessment of any likely impact as a result of development. For further guidance in relation to protected species, applicants should consult the City Council's published Supplementary Guidance on **Natural Heritage**; and **Bats and Development**.

Where works would affect a listed building, it may be necessary to apply for a separate consent for those works, called Listed Building Consent. This consent is independent from ordinary planning permission, and may be required in addition to planning permission. Where both consents are necessary, the applicant must obtain both consents before work can begin.

In assessing any application for Listed Building Consent, the emphasis is placed on preserving the historic character of the building(s) in question. Applications can be made online via the Scottish Government's e-planning website ([www.eplanning.scotland.gov.uk](http://www.eplanning.scotland.gov.uk)) or direct to Aberdeen City Council using the application forms available on our own website. For advice on whether Listed Building Consent will be necessary for your proposal, please contact Aberdeen City Council's Development Management section on 01224 523 470 or by email via [pi@aberdeencity.gov.uk](mailto:pi@aberdeencity.gov.uk). In considering proposals for Listed Building Consent, Conservation Area Consent or planning permission for development which may affect the historic environment, the planning authority will take into account Scottish Planning Policy (SPP), the Scottish Historic Environment Policy (SHEP) and the Managing Change in the Historic Environment guidance note series published by Historic Scotland.

Planning legislation requires that certain applications are advertised in the local press. Applications for Listed Building Consent or planning applications that affect the setting of a listed building will be advertised, while those located within a Conservation Area may be advertised depending on the potential impact of the proposal. There is no charge to the applicant in such instances. Advertisement is also required where it has not been possible to issue notification because there are no properties on adjacent land, and for this the cost will be borne by the applicant.

#### ▪ GENERAL PRINCIPLES

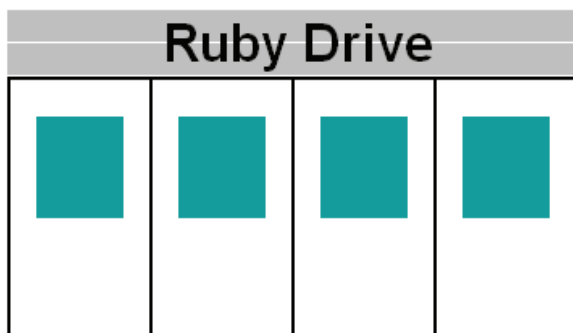
Elsewhere in this document, guidelines are set out in relation to specific types of development, such as house extensions, porches etc. In addition to those specific criteria, the following principles will be applied to **all** applications for householder development:

1. Proposals for extensions, dormers and other alterations should be architecturally compatible in design and scale with the original house and its surrounding area. Materials used should be complementary to the original building. Any extension or alteration proposed should not serve to overwhelm or dominate the original form or appearance of the dwelling.
2. Any extension or alteration should not result in a situation where amenity is 'borrowed' from an adjacent property. Significant adverse impact on privacy, daylight and general residential amenity will count against a development proposal.

3. Any existing extensions, dormers or other alterations which were approved prior to the introduction of this supplementary guidance will not be considered by the planning authority to provide justification for a development proposal which would otherwise fail to comply with the guidance set out in this document. This guidance is intended to improve the quality of design and effectively raise the design standards and ground rules against which proposals will be measured.
4. The built footprint of a dwelling house as extended should not exceed twice that of the original dwelling.
5. No more than 50% of the front or rear curtilage shall be covered by development.

▪ **REAR & SIDE EXTENSIONS**

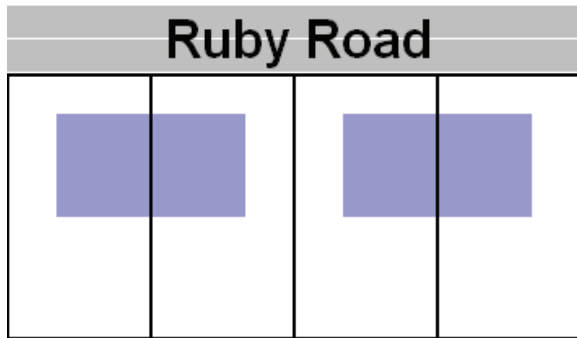
In addition to the design considerations noted above, the planning authority shall continue to apply guidelines relating to specific types of dwellings, as follows. Where dimensions are stated for projection of extensions, these should be measured from the rearmost original part of the main building, and should not include any store or outhouse which did not originally contain any internal living accommodation. Where an extension is proposed as part of a steading conversion, the proposal will be assessed primarily against the Council’s published Supplementary Guidance on *‘The Conversion of Steadings and other Non-residential Vernacular Buildings in the Countryside’*.



**1. Detached Dwellings**

- a) The maximum dimensions of any single-storey extension will be determined on a site-specific basis.
- b) On detached properties of 2 or more storeys, two storey extensions will generally be possible, subject to the considerations set out in the ‘General Principles’ section, above.

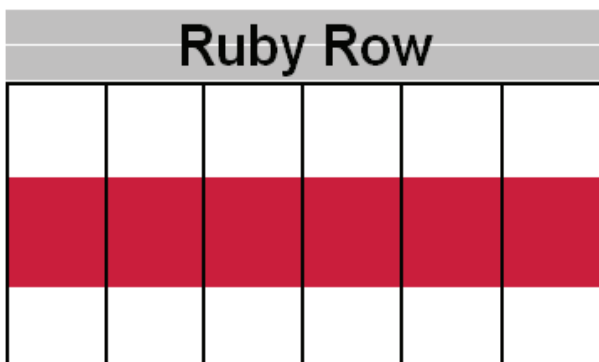
## 2. Semi-detached Dwellings



- a) Single storey extensions will be restricted to 4m in projection along the boundary shared with the other half of the semi-detached property. In all other cases, the maximum size of single storey extension will be determined on a site-specific basis, with due regard for the topography of the site and the relationship between buildings.

- b) On properties of 2 or more storeys, two storey extensions may be possible, subject to the design considerations set out in the 'General Principles' section, above. The projection of two-storey extensions will be restricted to 3m along the boundary shared with the other half of the semi-detached property.

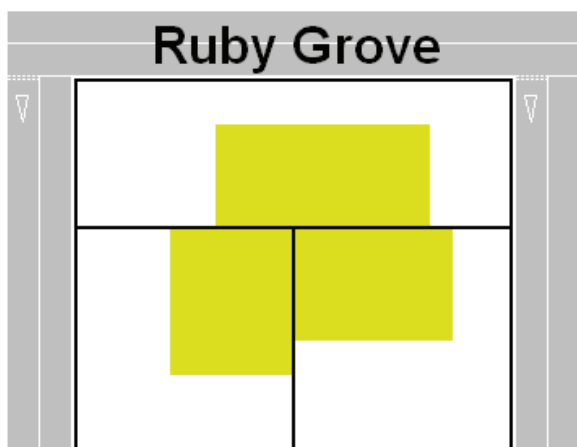
## 3. Conventional Terraced Dwellings



- (a) Single storey extensions to terraced dwellings will be restricted to 3m in projection along a mutual boundary.
- (b) Two storey extensions will normally be refused where the proposal runs along a mutual boundary. There will generally be limited scope for the addition of two-storey extensions to terraced properties.

- (c) Proposals for extensions to end-terrace properties will be subject to these standards unless it can be demonstrated that the specific circumstances of the site and the proposal justify a departure from the above.

## 4. Grouped Terraces



- (a) Extensions should not project forward of any established building line
- (b) Single-storey extensions to group terrace properties will be restricted to 3m in projection from the rear wall of the original dwelling
- (c) Two-storey extensions to grouped terrace properties will not normally be acceptable

## ▪ FRONT EXTENSIONS / PORCHES

The Council has developed the practice, when considering proposals for porch extensions in front of a formal building line, of limiting such structures to the minimum size necessary for protection from storms.

The practice which has become established is intended to preserve the consistent architectural form of a terrace, maintain an uncluttered street scene and to ensure that light and prospect are not lost to neighbouring properties. Recent changes to permitted development legislation allow the construction of porches in certain prescribed instances. In assessing applications of this nature, the following will apply;

a) Front extensions of any type should be of a scale and design which is complementary to, and consistent with, the original dwelling. Modest porches will generally be acceptable, but these should not incorporate additional rooms (e.g. toilet, shower room), and should not detract from the design of the original building or the character of the street.

b) In all cases, careful consideration will be given to (i) impact on adjacent property; (ii) visual impact; and (iii) the extent of any building line and the position of the adjacent buildings generally.

c) Within a Conservation Area, it will not be permitted to add a front extension to any property which forms part of an established building line.

d) Given the wide variety of house types across the city and the existence of 'dual-frontage' dwellings, it will be for the planning authority to determine which elevation forms the principal elevation of a dwelling for the purposes of this guidance.

e) It may be permissible to incorporate bay windows on front elevations, subject to an appropriate restriction in depth and an acceptable design outcome which will complement the original property. The design and scale of such extensions should reflect that of the original dwelling, and should not be utilised as a means to secure significant internal floorspace.

f) Any front extension should incorporate a substantial proportion of glazing, in order to minimise its massing and effect on the streetscape.



## ▪ DORMER WINDOWS AND ROOF EXTENSIONS

Recent changes to the Permitted Development rights available to householders allow for the addition of dormer windows (subject to criteria regarding position in relation to a road, distance from site boundaries etc) to properties outwith Conservation Areas. Nevertheless, such alterations can have a significant impact upon the character of a property and the wider streetscape, and so careful consideration of proposals remains important.

As a basic principle, new dormer windows or roof extensions should respect the scale of the building and they should not dominate or tend to overwhelm or unbalance the original roof. The purpose of this design guide is to assist those intending to form, alter or extend dormer windows in their property, in formulating proposals which are likely to be considered favourably by the planning authority. Situations may arise where the extent of new dormers or roof extensions will be considered excessive. There may also be situations where any form of roof extension or dormer will be considered inappropriate e.g. on a very shallow pitched roof with restricted internal headroom. It is recommended therefore that advice from the planning authority is obtained before submitting a formal application for any consent.

A series of general guidelines are outlined below, and are followed by further guidelines which will be applied to older properties of a traditional character and modern properties respectively.



Above: Examples of the variety of dormer types to be seen around Aberdeen

Below: Situation where roof pitch is too shallow to comfortably accept any type of dormer or roof extension



Example of a poorly designed roof extension – Dormers are too large, dominating the roof slope, and use of substantial infill panels and slated aprons contributes to bulky appearance

### **Dormer Windows: General Principles**

The following principles will normally apply in all cases:

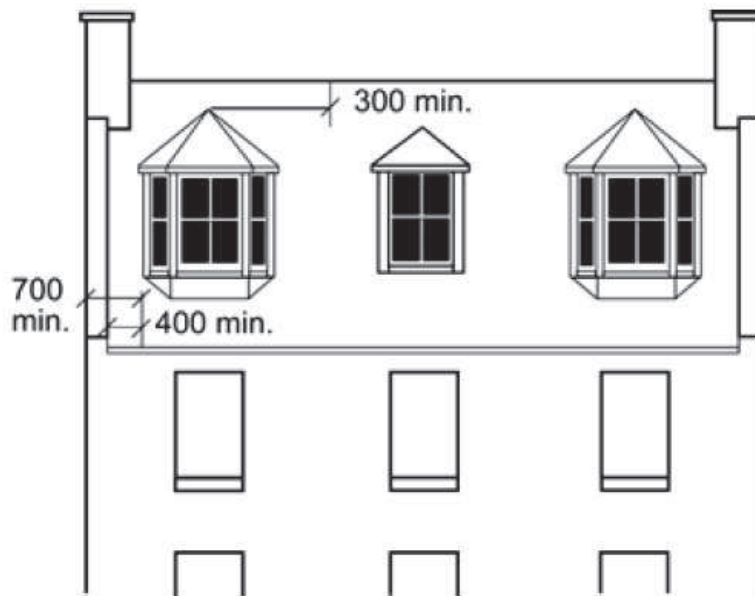
- a) On traditional properties, original dormers must be retained and repaired, and their removal and/or replacement with larger or modern dormers will not be permitted;
- b) The removal of inappropriate earlier dormers and roof extensions, and their replacement by architecturally and historically accurate dormers will be actively encouraged;
- c) In terraces or blocks of properties of uniform design where there are no existing dormers, the construction of new dormers will not be supported on the front or other prominent elevations (e.g. fronting onto a road);
- d) On individual properties or in terraces where there are existing well-designed dormers and where there is adequate roof space, the construction of new dormers which match those existing may be acceptable. Additional dormers will not be permitted however, if this results in the roof appearing overcrowded. These dormers should be closely modelled in all their detail and in their position on the roof, on the existing good examples. They will normally be aligned with windows below;
- e) Box dormers will not be permitted anywhere on listed buildings, nor will the practice of linking existing dormers with vertical or inclined panels; and
- f) In the case of non-listed buildings in conservation areas, consideration may be given to the provision of linked panels between windows on the private side of the building, where the extension is not seen from any public area or is otherwise only visible from distant view. In such cases any linked panel should slope at a maximum of 75° to the horizontal.

Non-traditional style dormers may be accepted on the rear of non-listed buildings in conservation areas, but generally not on the rear or any other elevations of listed buildings.

## **Dormer Windows: Older properties of a traditional character**

### **1. Front Elevations**

- a) On the public elevations of older properties the Council will seek a traditional, historically accurate style of dormer window. In addition, all new dormers will have to be of an appropriate scale, i.e. a substantial area of the original roof must remain untouched and clearly visible around and between dormers. The main principles to be followed are:
- b) Existing original dormers should be retained or replaced on a "*like for like*" basis. Box dormer extensions will not normally be acceptable on the front elevations;
- c) The aggregate area of all dormers and/or dormer extensions should not dominate the original roof slope. New dormers should align with existing dormers and lower windows and doors;
- d) The front face of dormers will normally be fully glazed and aprons below the window will not be permitted unless below a traditional three faceted piended dormer;
- e) Dormers should not normally rise directly off the wallhead. In the case of stone buildings, dormers which rise off the inner edge of the wallhead will generally be acceptable. The position of the dormer on the roof is very important. Dormers which are positioned too high on the roof give the roof an unbalanced appearance
- f) The outer cheek of an end dormer should be positioned at least 700mm in from the face of the gable wall or 1000mm from the verge. Where there is tabling on top of the gable, the cheek should be at least 400mm in from the inside face of the tabling. It is never acceptable for a dormer haffit to be built off the gable or party wall; and
- g) The ridge of any new dormer should be at least 300mm below the ridge of the roof of the original building. If it is considered acceptable for the dormer ridge to be higher than this, it should not nevertheless, breach the ridge or disturb the ridge tile or flashing.

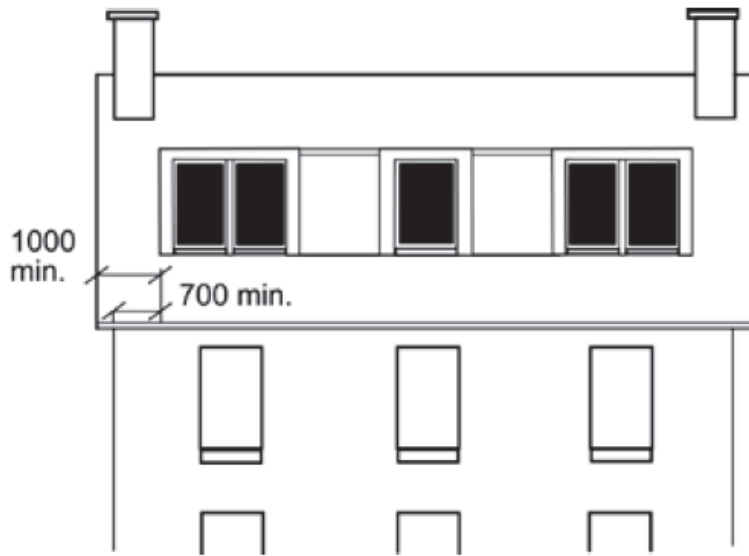


Piended dormers on typical Aberdeen tenement (linking dormers not acceptable on front elevations)

## 2. Rear Elevations and Exceptions

The guidelines for older properties may be relaxed where a property is situated between two properties which have existing box dormer extensions, or in a street where many such extensions have already been constructed. They may also be relaxed on the non-public (rear) side of a property. In such cases, and notwithstanding the design and finish of neighbouring development, the following minimum requirements will apply:

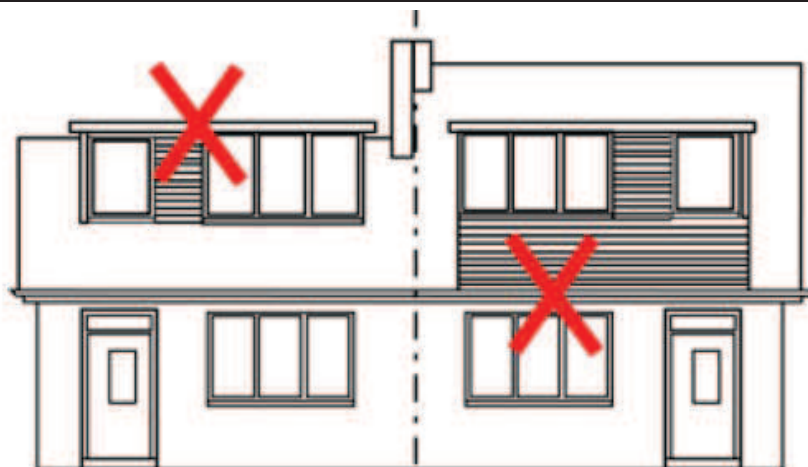
- a) The aggregate area of all dormer and/or dormer extensions should not dominate the original roof slope;
- b) Dormer haffits should be a minimum of 400mm in from the inside face of the gable tabling;
- c) The front face of dormer extensions should be a minimum of 400mm back from the front edge of the roof, but not so far back that the dormer appears to be pushed unnaturally up the roof slope.
- d) Flat roofs on box dormers should be a reasonable distance below the ridge;
- e) Windows should be located at both ends of box dormers;
- f) A small apron may be permitted below a rear window; and
- g) Solid panels between windows in box dormers may be permitted but should not dominate the dormer elevation.



Flat roofed box dormer (normally only acceptable on rear elevations)

### Dormer Windows: Modern Properties

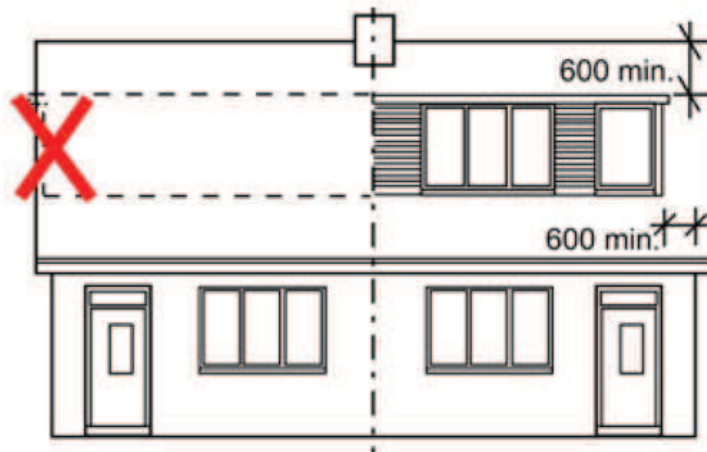
- a) Dormers and box dormer extensions have become common features in many modern housing areas, and the wide variety of designs of modern dwellings necessitates a greater flexibility in terms of design guidance. The amenity of other properties and the residential neighbourhood must however, still be protected, with the integrity of the building being retained after alteration. The following basic principles may be used to guide the design and scale of any new dormer extension:
- b) The dormer extension should not appear to dominate the original roofspace.
- c) The dormer extension should not be built directly off the front of the wallhead as the roof will then have the appearance of a full storey. On public elevations there should be no apron below the window, although a small apron may be acceptable on the rear or non-public elevations. Such an apron would be no more than three slates high or 300mm, whichever is the lesser;



Dormer extension should not extend to or breach ridge (roof too shallow)

Dormer extensions should not be built off front of wall head or include apron

- d) The roof of the proposed extension should not extend to, or beyond the ridge of the existing roof, nor should it breach any hip. Dormer extensions cannot easily be formed in hipped roofs. Flat roofed extensions should generally be a minimum of 600mm below the existing ridge;
- e) The dormer extension should be a minimum of 600mm in from the gable. The dormer haffit should never be built off the gable or party walls, except perhaps in the situation of a small semi-detached house where the dormer extension may sometimes be built off the common boundary. In terrace situations, or where a detached or semi-detached bungalow is very long, dormer extensions should be kept about 1500mm apart (i.e. dormer haffits should be 750mm back from the mutual boundary) so as not to make the dormer appear continuous or near continuous;

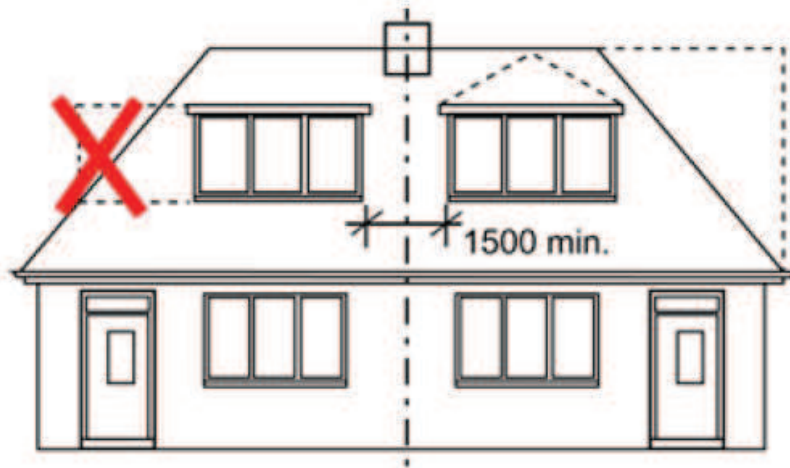


Box dormer extension on small semi-detached house (in this case it is permissible to build up to the party wall). Dormers should not extend out to verge / roof edge.

- f) The outermost windows in dormer extensions should be positioned at the extremities of the dormer. Slated or other forms of solid panel will not normally be acceptable in these locations. In the exception to this situation, a dormer on a semi-detached house may have a solid panel adjacent to the common boundary when there is the possibility that the other half of the house may eventually be similarly extended in the foreseeable future. In this case the first part of the extension should be so designed as to ensure that the completed extension will eventually read as a single entity;
- g) There should be more glazing than solid on the face of any dormer extension.
- h) Box dormer extensions should generally have a horizontal proportion. This need not apply however, to flat roofed individual dormer windows which are fully glazed on the front;



- i) Finishes should match those of the original building and wherever possible the window proportion and arrangement should echo those on the floor below:
- j) The design of any new dormer extension should take account of the design of any adjoining dormer extension.

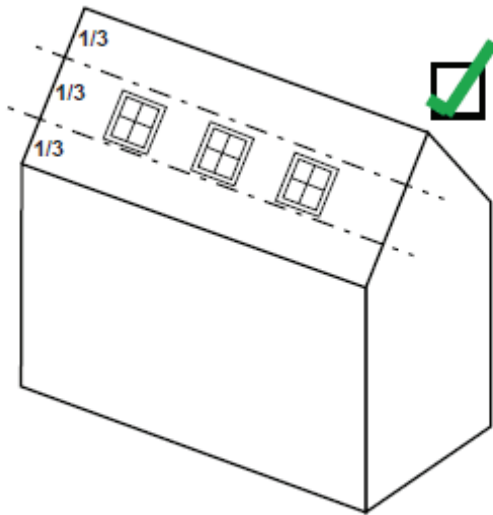


Flat roofed dormers on more traditional hipped roof house (Dormers should not breach hips. A pitched roof on this kind of dormer greatly increases its bulk). Extending roof to the gable on one side only is best avoided.

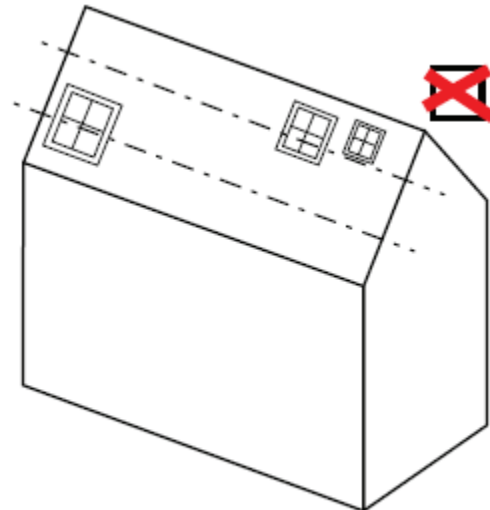
## ▪ ROOFLIGHTS

The installation of rooflights is a simple and cost effective method of allowing additional natural light and ventilation into an attic or roofspace. An excessive use of these rooflights can however, create visual clutter on a roof. Planning Permission is required for the installation of such rooflights on buildings in conservation areas and Listed Building Consent is required for proposals involving alteration of a listed building. When considering the installation of a rooflight, account should be taken of the following:-

- a) A rooflight provides considerably more light than a normal vertical window of the same dimension. Many rooflights installed are consequently, larger and more numerous than is really necessary. In a roofspace used only for storage, the smallest rooflight will generally be adequate;



Small rooflights in the middle third of roof space and evenly spaced.

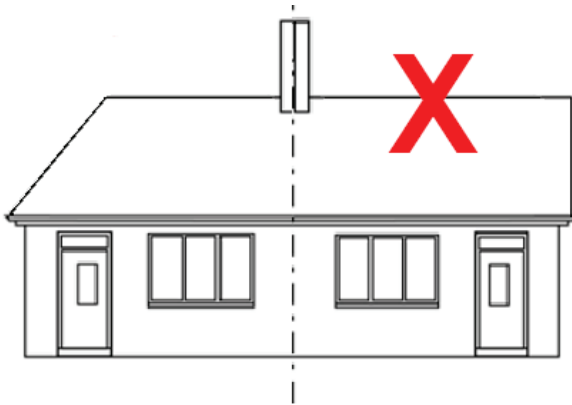


Rooflights too large and too close to eaves and verge. A variety of sizes, spacing and levels.

- b) Rooflights should have a conspicuously vertical proportion. Seen from ground level, the foreshortening effect will tend to reduce the apparent height of the window, giving it a more squat appearance;
- c) On older buildings, and particularly on listed buildings and buildings in conservation areas, a 'heritage' type of rooflight will be expected. This is of particular importance on public elevations. Even the addition of a central glazing bar to a rooflight can provide a more authentic appearance in such instances;
- d) Large timber or cast iron rooflights divided into several sections were frequently provided above stairwells. It is not ideal to replace these with a single-pane modern rooflight. If the original rooflight cannot be repaired, aluminum or steel patent glazing is a more satisfactory option; and

- e) For rooflights fitted into slated roofs, manufacturers can provide a special flashing with their rooflights to keep the projection of the rooflight above the plane of the slates to a minimum.
- f) There are available metal roof windows which have an authentic traditional appearance whilst meeting current standards for insulation and draught exclusion.

▪ **OTHER FORMS OF DORMER WINDOW AND ROOF EXTENSION**



**Hipped roof extensions**

Modifying only one half of a hipped roof is likely to result in the roof having an unbalanced appearance. The practice of extending a hipped roof on one half of a pair of semi-detached houses to terminate at a raised gable will not generally be accepted unless;

- The other half of the building has already been altered in this way; **or**
- Such a proposal would not, as a

result of the existing streetscape and character of the buildings therein, result in any adverse impact on the character or visual amenity of the wider area.

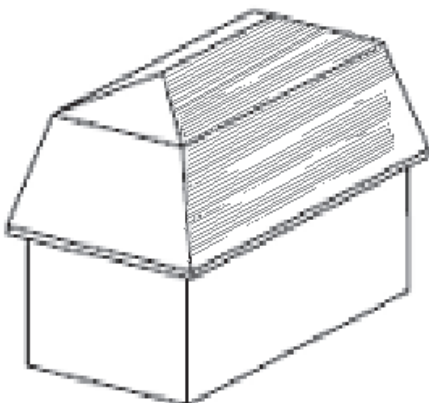
**Half dormer windows**

Half dormer windows have the lower part of the window within the masonry wall, with the part in the roof space surrounded by masonry or timberwork. This type of window is usually quite narrow, vertical in proportion, and is appropriate when the floor is below the wall-head level.



**Wall-head gables**

A wall-head gable commonly has a centre window, with flues passing each side within the masonry to a common central chimney. It would be essential for any such feature to be constructed in the same material as the wall below. (Both half dormer window and wall-head gables have a strong visual impact which could substantially alter the character of a building. They are therefore, unlikely to be acceptable on listed buildings, but might be accepted in conservation areas or on other older buildings of a traditional character.)



**Mansard Roofs**

Mansard roofs are a common, even a somewhat overused method of obtaining additional attic floorspace having standard headroom overall. Mansard roofs tend to have a top heavy appearance on buildings which have only a single storey of masonry, and should be restricted to buildings of two or more masonry storeys. They will not normally be acceptable in semi-detached or terraced situations unless all the other properties in the

group are to be similarly altered at the same time. In effect, few situations will arise where an existing roof can readily be converted to a mansard roof.

On the occasions when a mansard roof solution is acceptable, considerable attention to detail is required to ensure that the altered roof is visually authentic. The following points should be observed:

- a) There should be no fascia at the eaves, nor should the mansard project forward of the masonry line;
- b) The mansard should be taken down to either a concealed lead gutter behind a masonry parapet, or to an "ogee" or half round cast iron gutter in line with the face of the masonry;
- c) The gables of the building should be extended up in the same material as the original gables, and should terminate at a masonry skew in the same profile as the mansard roof. It will not normally be acceptable to return the mansard roof across the gable with hipped corners;
- d) The lower slope of the roof should be inclined at no greater than 75° to the horizontal.

## ▪ OTHER DOMESTIC ALTERATIONS

### **Replacement Windows and Doors**

Windows and doors are important features of a building that contribute greatly to the character of the building and of the street in which the building stands. They are also increasingly subject to alteration or replacement. Householders are referred to the council's Supplementary Guidance entitled '*Guidance on the Repair and Replacement of Windows and Doors*'.

### **Satellite Dishes**

In all cases, microwave antennas should, as far as is practicable, be sited so as to minimise their visual impact and effect on the external appearance of a building. The cumulative effects of such seemingly minor additions can be significant, particularly within conservation areas and where installed on listed buildings. Permitted development rights exist for the installation of satellite dishes on dwellinghouses outwith Conservation Areas, provided any dish installed would not project more than 1m from the outer surface of an external wall, roof plane, roof ridge or chimney of the dwellinghouse.

For buildings containing flats, satellite dishes may only be installed without planning permission where the site;

1. Lies outwith any Conservation Area
2. Is not within the curtilage of a Listed Building
3. Would not protrude more than 1m from the outer surface of any wall, roof place, roof ridge or chimney.

Where planning permission is required for such works, the Council's duties in relation to listed buildings and conservation areas will be of relevance. Householders should also be aware that, irrespective of the Permitted Development rights set out above, a separate application for Listed Building Consent is likely to be required where installation is proposed within the curtilage of a listed building.

### **Decking**

Homeowners are often unaware that the formation of decking may require planning permission. It is therefore important to discuss any such proposals with the planning authority at an early stage to determine what consents may be necessary and to identify any potential issues with a proposal. The formation of decking will require planning permission in the following instances;

- Any part of the deck would be forward of a wall forming part of the principal elevation, or side elevation where that elevation fronts a road;
- The floor level of any deck or platform would exceed 0.5m in height;
- The combined height of the deck and any wall, fence, handrail or other structure attached to it, would exceed 2.5m;
- If located within a Conservation Area or within the curtilage of a Listed Building, the deck or platform would have a footprint exceeding 4 square metres

Raised decking can in many cases provide a desirable outdoor amenity space, but the impact upon adjacent properties should be given careful consideration. The raised surface of a deck may result in overlooking into neighbouring gardens and a consequent loss of privacy. Equally, enclosing raised decks with additional fencing can result in neighbours being faced with excessively tall boundary enclosures which can affect light in neighbouring gardens.

The following guidelines will be relevant to the assessment of proposals involving raised decking areas;

- a) Proposals should not result in an unacceptable loss of privacy for neighbouring residents.
- b) Proposals should not result in an adverse impact upon the amenity of adjacent dwellings, including both internal accommodation and external private amenity space.
- c) There will be a presumption against the formation of decking to the front of any property, or on any other prominent elevation where such works would adversely affect the visual amenity of the street scene.



## **Fences, Walls and Other Boundary Enclosures**

Boundary enclosures such as fences, gates and walls may not require planning permission, due to the permitted development rights which exist.

- a) Planning permission will always be required for such works to a listed building, or within the curtilage of a listed building.
- b) Planning permission will always be required for such works within a Conservation Area.
- c) Conservation Area Consent may be necessary for the demolition of boundary walls with conservation areas.
- d) In all instances, the scale and form of boundary enclosures should be appropriate to their context and should not detract from the street scene as a result of inappropriate visual impact.
- e) In all instances, proposals for boundary enclosures should not result in an unacceptable impact upon the amenity of neighbouring dwellings.

## **Driveways**

The Council's Supplementary Guidance on '*Transport and Accessibility*' provides guidance on situations where planning permission will be required for such works. This guidance also sets out criteria by which applications for parking areas in Conservation Areas and within the curtilage of Listed Buildings will be assessed.

Planning permission will be required in the following circumstances;

- The property is a flat;
- Construction work involves over 0.5 metres of earthworks (excavation or raising of ground level);
- The verge to the footway has grass over 2.5 metres wide;
- The driveway accesses on to a classified road;
- The property is a listed building or is situated in a conservation area.

Permission will not be granted for a driveway across an amenity area or roadside verge unless it would have no detrimental impact in road safety and would have no adverse effect on the amenity of the area (e.g. involves the loss of mature or semi-mature trees).

For more detailed guidance on proposals involving the formation of a driveway, please consult sections 8 and 9 of the Council's '*Transport and Accessibility*' Supplementary Guidance.

## **Microrenewables**

The term 'micro-renewables' refers to all forms of domestic micro-generation utilising a renewable form of energy. These come in a number of forms, and are increasingly common as the relevant technology evolves and becomes more widely available, efficient, and reliable.

The planning authority aims to encourage the use of micro-renewable technologies within the curtilage of domestic dwellinghouses. Careful consideration is required in relation to their positioning, however, in order to avoid undue prominence within the street scene, particularly within conservation areas and where proposals may affect the setting of a listed building. Installation of such equipment can in many cases be carried out by virtue of Permitted Development rights, which allow for improvements and alterations to dwellinghouses and other works within the curtilage of a dwellinghouse, provided the site is located outwith any designated Conservation Area and does not involve works within the curtilage of a Listed Building. At present there are no permitted development rights available for domestic microgeneration via the installation of wind turbines on a dwellinghouse. In most circumstances, planning permission will be required for the installation of wind turbines elsewhere within the curtilage of a domestic property.

#### ▪ **CHANGE OF USE FROM AMENITY SPACE TO GARDEN GROUND**

Amenity space and landscaping are valued assets within residential areas. They are common features in most housing developments and are provided for a number of reasons including –

- to improve the appearance of the area;
- to provide wildlife habitats, enhance ecology and often form part of sustainable urban drainage systems;
- to act as pedestrian routes through developments;
- to provide informal recreation areas;
- to provide good safety standards for drivers, cyclists and pedestrians in terms of road verges or visibility splays.

Many homeowners seek to purchase areas of such land from either the Council or a housing developer to enlarge their own gardens. In all circumstances this requires planning permission for a change of use from amenity ground to garden ground.

Prior to submitting a planning application it is advisable to contact the landowner to see if they would be willing to sell the particular piece of land. In the case of the Council land you should contact –

Asset Management  
Enterprise, Planning and Infrastructure

Business Hub 10  
Second Floor South  
Marischal College  
Broad Street  
AB10 1AB

It is also advisable to contact Planning and Sustainable Development prior to submitting your application for planning advice on acceptability of your proposal.

Planning applications will be assessed in the context of Policy H1 (Residential Areas) of the Aberdeen Local Development Plan which states that proposals for householder development will only be approved if they do not result in the loss of valuable open space. Each planning application for change of use is dealt with on its own individual merits, however in considering whether an application is acceptable the Council will assess the proposal against the following criteria –

- The proposal should not adversely affect amenity space which makes a worthwhile contribution to the character and amenity of the area or contains mature trees that make a significant contribution to the visual amenity of the wider neighbourhood. In most circumstances the amenity ground will make a contribution, however sometimes small incidental areas of ground make little contribution to the appearance of the neighbourhood. For instance it may be acceptable to include within garden ground secluded areas that are not visible from footpaths or roads and that do not make a contribution to the wider visual amenity of the area. Similarly it may be acceptable to include small corners of space that can be logically incorporated into garden ground by continuing existing fence lines.
- The proposal should not fragment or, if replicated, be likely to incrementally erode larger areas of public open space or landscaping.
- The proposal should not worsen or create a deficiency in recreational public open space in the area. The less amenity space there is in an area the more value is likely to be placed on the existing amenity space. The Open Space Audit identifies areas of the city where there is a deficiency and should this be the case there will be a presumption against the granting of planning permission.
- The proposal should not result in any loss of visual amenity including incorporating established landscaping features such as mature trees or trees that make a significant contribution to the area. It is unlikely the Council would support the incorporation and likely loss of such features, however in circumstances where it is acceptable replacement planting to compensate will normally be required.
- The proposal should not result in an irregular boundary layout that would be out of keeping with the otherwise uniform character of the area.

- The proposal should not result in the narrowing of footpath corridors or lead to a loss of important views along such footpaths, making them less inviting or safe to use.
  - The proposal should not prejudice road or pedestrian safety. Areas of amenity space often function as visibility splays for roads and junctions.
  - The proposal should not give rise to the setting of a precedent that would make it difficult to resist similar proposals in the future. Over time the cumulative impact of the loss of separate areas of ground can lead to the gradual erosion of amenity space, which is not in the public interest and can affect the overall amenity and appearance of the area.
- **HOUSES IN MULTIPLE OCCUPATION (HMOs)**

Presently the term House in Multiple Occupation (HMO) is not one commonly associated with the planning system in Scotland. The term is not defined in planning legislation, though Scottish Government Circular 8/2009 does provide some advice on HMOs, suggesting that there may be a role for the planning system in managing HMOs where a material change in the use of a house or flat has taken place. Multiple occupancy can intensify pressure on amenity, particularly with regards to shared/mutual areas and car parking. It is therefore appropriate to ensure that appropriate provision is made prior to granting planning permission for an HMO.

A useful starting point is to clearly identify what constitutes an HMO for the purposes of this Supplementary Guidance. The planning system defines 'dwellinghouse' and 'flat' as detailed below;

*Flat "means a separate and self contained set of premises whether or not on the same floor and forming part of a building from some other part which it is divided horizontally."* Part 1 (2) Town and Country Planning (General Permitted Development) (Scotland) Order 1992)

A house is defined within class 9 (houses) under the Town and Country Planning (Use Classes) (Scotland) Order 1997. This allows for use as;

- a) *A house, other than a flat, whether or not as a sole or main residence, by-*
  - (i) *A single person or by people living together as a family; or*
  - (ii) *Not more than 5 residents living together including a household where care is provided for residents*
- b) *as a bed and breakfast establishment or guesthouse, where at any one time not more than 2 bedrooms are, or in the case of premises having less than 4 bedrooms, 1 bedroom is, used for that purpose.*

This means that, where more than 5 persons are living together, other than as a family, the premises would not fall within the definition of a 'dwellinghouse' for planning purposes. It is reasonable to use this same threshold as the point at which a material change in the use of premises has occurred, and an application for change of use to form an HMO would be necessary.

Where flats are concerned, planning legislation does not specify any number of residents above which premises will no longer be considered a 'flat' for planning purposes. Given the potential for increased pressure on amenity, particularly in shared/mutual areas and car parking, it is necessary for this guidance to set a threshold above which use will no longer be considered as a 'flat'. HMOs account for a significant proportion of the available rental accommodation in Aberdeen, and are particularly important in supporting the City's sizeable student population. In setting a threshold above which planning permission will be necessary, it is noted that any number of people may live together in a single property, provided they are part of the same family unit. Taking this into account, it is considered that 6 or more unrelated people living together in a flat would be materially different from family use. This will be the threshold used for the purposes of this guidance.

Planning permission will be required for change of use to a House in Multiple Occupation in the following instances;

- 1. The occupation of a house by 6 or more unrelated persons**
- 2. The occupation of a flat by 6 or more unrelated persons**

It is important to note that separate licensing requirements exist for the establishment of an HMO, irrespective of the planning-specific guidance set out in this document. The granting of planning permission does not remove any requirement to obtain the appropriate licence and vice versa. Furthermore, success in obtaining planning permission for use of premises as an HMO does not guarantee a successful license application. It should be noted that, while the term 'HMO' is common to both systems, it has a different meaning depending on the context in which it is used. For licensing purposes, an HMO is defined as any house or flat which is the principal residence of three or more people who are members of three or more families.

This guidance is intended to set the thresholds at which a house or flat will no longer be considered to be in domestic use and will be treated as a House in Multiple Occupation for planning purposes. Having identified where such changes of use take place, it is then necessary to set out the factors which will be considered in assessing any such application.

Proposals involving formation of an HMO as defined in this guidance will be assessed with regard to matters including, but not limited to, the following;

1. Any adverse impact upon pedestrian or road traffic safety as a result of increased pressure on car parking;
2. Significantly adverse impact upon residential amenity for any reason. This may include, but not be limited to, adequate provision of refuse storage space, appropriate provision of garden ground/amenity space, and an appropriate level of car parking.
3. An excessive concentration of HMOs in a given locality, cumulatively resulting in a material change in the character of that area. This will be assessed in consultation with the Council's HMO Unit within the Housing & Environment service, who hold relevant information on the location of existing licensed HMO properties.

Where it is not practicable for dedicated car parking to be provided alongside the development, a proposal must not exacerbate existing parking problems in the local area.



## APPENDIX A: GLOSSARY OF TERMS

**Amenity** - The attributes which create and influence the quality of life of individuals or communities.

**Amenity space** - Areas of open space such as gardens, balconies and roof terraces.

**Article 4 direction** – Some types of development do not need planning permission by virtue of permitted development rights. An Article 4 Direction is an order made by Scottish Ministers which suspends (for specified types of development) the general permission granted under the Town and Country (General Permitted Development) (Scotland) Order 1992 (as amended), thereby removing permitted development rights.

**Bay window** - a window or series of windows forming a bay in a room and projecting outward from the wall externally

**Boundary enclosure** – Boundary treatment such as a fence, wall, hedge, ditch or other physical feature which demonstrates the edges of a site or otherwise encloses parts of that site

**Building line** - The line formed by the frontages of buildings along a street. For the purposes of this guidance, this shall not generally include elements such as the front of any porches, canopies, garages or bay windows.

**Common boundary** – A boundary which is shared by residential properties on either side

**Conditions** – Planning conditions are applied to the grant of planning permission and limit and control the way in which a planning consent may be implemented. Such conditions can require works to be carried out in a certain way (e.g. restriction on opening hours or adherence to an approved tree management plan) or can require submission of further information in order to demonstrate the suitability of technical details (e.g. drainage or landscaping schemes for a new development)

**Conservation Area** – Conservation Areas are areas of special architectural or historical interest, the character or appearance of which it is desirable to preserve or enhance. Such areas are designated by the local planning authority. Details of the Conservation Areas in Aberdeen can be found on the Council's website, [www.aberdeencity.gov.uk](http://www.aberdeencity.gov.uk).

**Conservation Area Consent** – Conservation Area Consent is required for proposals which involve the whole or substantial demolition of any unlisted building or structure in a Conservation Area. Conservation Area Consent is not required for the demolition of a building which has a volume of less than 115 cubic metres, or for the partial demolition of a building, or for minor alterations to gates, walls and fences within a Conservation Area. Demolition

works may, however, require planning permission, and so confirmation should be sought from the planning authority.

**Curtilage** - The land around, and belonging to, a house.

**Daylight** – Diffuse level of background light, distinct from direct sunlight

**Development Plan** – The “Development Plan” is a term used to incorporate both the current Local Plan/Local Development Plan and the current Structure Plan/Strategic Development Plan.

**Dormer Window** – Dormer windows are a means of creating useable space in the roof of a building by providing additional headroom.

**Dwellinghouse** – For the purposes of this guidance, the term “dwellinghouse” does not include a building containing one or more flats, or a flat contained within such a building

**Fenestration** - The arrangement of the windows in a building.

**Gable** - The part of a wall that encloses the end of a pitched roof.

**Habitable rooms** - Includes bedrooms and living rooms, but does not include bathrooms, utility rooms, WCs or kitchens when not accompanied by dining facilities.

**Haffit** – The sides or ‘cheeks’ of a dormer window.

**Hipped Roof** – A four-sided roof having sloping ends as well as sloping sides

**Listed Building** – Working on behalf of Scottish Ministers, Historic Scotland inspectors identify buildings which are worthy of statutory protection. These are ‘Listed Buildings’. The criteria by which the Scottish Ministers define the necessary quality and character under the relevant legislation are broadly; Age and Rarity; Architectural Interest; and Close Historical Association

**Listed building Consent** – Listed Building Consent is obtained through an application process which is separate from, but runs parallel to, that by which planning permission is obtained. This separate regulatory mechanism allows planning authorities to ensure that changes to listed buildings are appropriate and sympathetic to the character of the building. Listed Building Consent must be obtained from the planning authority if you wish to demolish, alter or extend, either internally or externally, a listed building.

**Mansard Roof** – A four-sided roof having a double slope on all sides, with the lower slope much steeper than the upper.

**Material Consideration** - Any issue which relates to the use and development of land and is relevant to the planning process.

**Permitted Development** - an aspect of the planning system which allows people to undertake specified forms of minor development under a deemed grant of planning permission, therefore removing the need to submit a planning application.

**Piended** – scots term for hipped (pronounced peended)

**Planning Authority** – This is the term given to the Council in its role exercising statutory functions under Planning legislation. Authorities have three main planning duties: Development Management (assessing and determining planning applications); Development Planning (preparing, updating and monitoring the authority's Local Plan/Local Development Plan); and Enforcement (seeking to investigate and resolve breaches of planning control)

**Porch** - A covered shelter projecting in front of the entrance of a building.

**Roads Authority** - This is the term given to the Council in its role exercising statutory functions under Roads legislation. Where trunk roads are concerned, Transport Scotland is the relevant roads authority.

**Sunlight** – The sun's direct rays, as opposed to the background level of daylight

**Supplementary Guidance** – Supplementary Guidance is prepared by the planning authority in support of its Local Plan/Local Development Plan. These documents are generally intended to provide greater detail or more specific and focused guidance than might be practicable within the Plan itself.

**Tabling** – A raised horizontal surface or continuous band on an exterior wall; a stringcourse

**Tree Preservation Order** – The planning authority has the powers to make Tree Preservation Orders if it appears to them to be a) expedient in the interest of amenity and/or b) that the trees, groups of trees or woodlands are of a cultural or historical significance. The authority has duties to a) make such TPOs as appear to the authority to be necessary with any grant of planning permission; and b) from time to time to review any TPO and consider whether it is requisite to vary or revoke the TPO.

**Wallhead** – The uppermost section of an external wall.

**APPENDIX B: APPLICATION CHECKLIST GUIDE**

<b>Have you discussed the proposed works with your neighbours?</b>	
<b>Is planning permission required?</b> Remember, some works can be carried out as 'Permitted Development'	
<b>Is any other form of consent required for the works?</b>	
<b>Have you considered the appointment of an architect, planning consultant or other agent to act on your behalf?</b> Though not mandatory, this can be worthwhile as agents will be familiar with the planning system and should be able to provide the drawings and supporting information to the necessary standards.	
<b>Will any supporting information be necessary to enable the planning authority to make a full assessment of issues relevant to the proposal?</b> For example, are there trees or protected species within the site?	
<b>Is the building a Listed Building or within a Conservation Area?</b> If so, it is recommended that advice is sought from the planning authority prior to submission in order to gauge the potential impact on these designations.	
<b>Have you considered your proposal in relation to the guidance contained within the Householder Development Guide?</b> Any proposal for householder development will be assessed against this Supplementary Guidance	
<b>Is the proposed design consistent with the character of the property and the surrounding area?</b>	
<b>Would the development proposed result in any significant adverse impact on your neighbours in terms of loss of light, overshadowing and/or privacy?</b>	
<b>Would the proposed development result in an insufficient provision of amenity space/private garden?</b>	
<b>Have any changes to access and/or parking requirements been discussed with the Council in its role as Roads Authority?</b>	

## APPENDIX C: DAYLIGHT AND SUNLIGHT

### Daylight

It is appropriate to expect that new development will not adversely affect the daylighting of existing development. Residents should reasonably be able to expect good levels of daylighting within existing and proposed residential property.

A useful tool in assessing the potential impact of proposed development upon existing dwellings is the BRE Information Paper on 'Site Layout Planning for Daylight'. This document sets out techniques which can be applied as a means of assessing the impact of new development upon daylighting. These techniques should only be applied to "habitable rooms", which for the purposes of this guidance shall mean all rooms designed for living, eating or sleeping eg. lounges, bedrooms and dining rooms/areas. Kitchens without dining areas are not considered as habitable rooms.

For domestic extensions which adjoin the front or rear of a house, the 45° method will be applied in situations where the nearest side of the extension is perpendicular (at right-angles to) the window to be assessed. The 45° method is not valid for windows which directly face the proposed extension, or for buildings or extensions proposed opposite the window to be assessed. In such instances, the 25° method, also detailed below, may be appropriate.

It should be noted that these guidelines can only reasonably be applied to those buildings which themselves are good neighbours, standing a reasonable distance from the boundary and taking only their fair share of light. Existing windows which do not meet these criteria cannot normally expect the full level of protection. It is important to note that these tools will be used as and when the planning authority deems it appropriate due to a potential impact on daylight to an existing dwelling. The results of the relevant daylighting assessment will be a material consideration in the determination of an application, and should not be viewed in isolation as the sole determining factor.

#### **The 45° Method for daylight**

This method involves drawing 45° lines from the corner of a proposed building or extension in both plan and section views. If the shape formed by **both** of these lines would enclose the centre point of a window on an adjacent property, the daylighting to that window will be adversely affected.

### DIAGRAM 1: 45° METHOD

The line drawn at 45° would pass through the mid-point of the window on elevation drawing, but not on the plan. This extension would therefore satisfy the 45° method for daylighting assessment. Were the proposal to fail on both diagrams, it is likely there would be an adverse affect on daylight to the adjacent window of the neighbouring property.

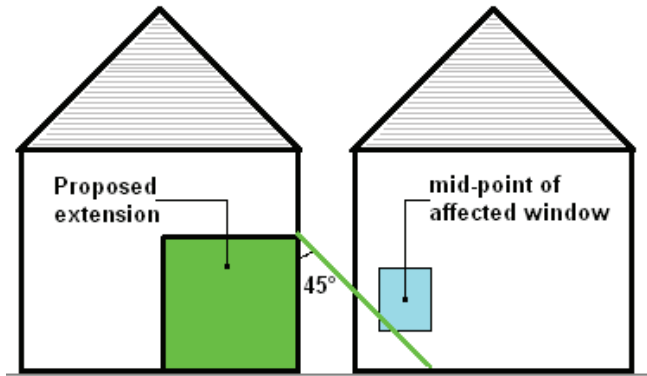


Fig A: Elevation view

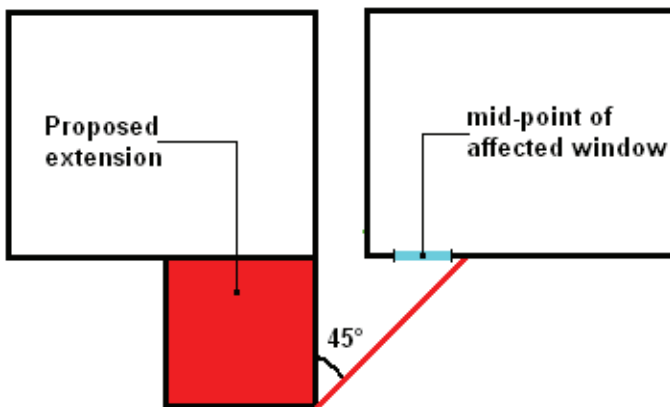


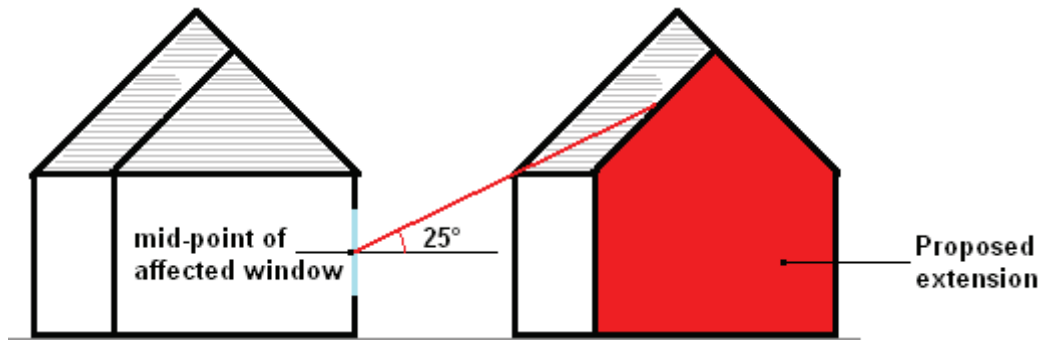
Fig B: Plan view

### The 25° Method

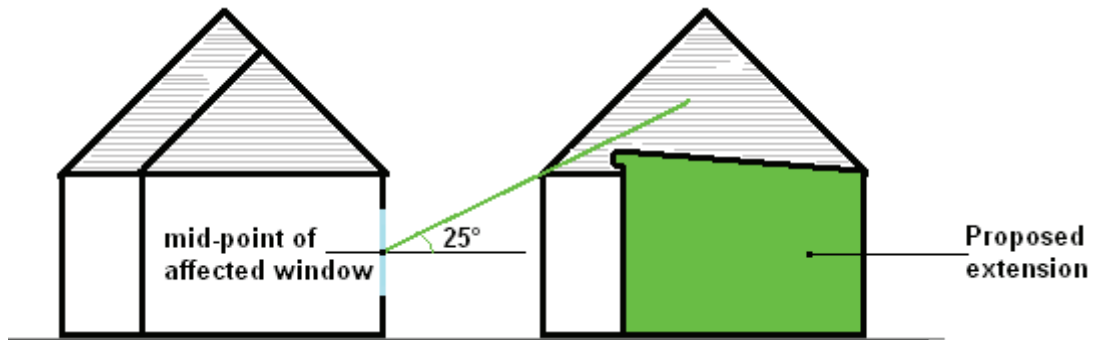
The 25° method should be applied in situations where existing windows would directly face the proposed building or extension. Firstly, a section should be drawn, taken from a view at right angles to the direction faced by the windows in question. On this section, a line should be drawn from the mid-point of the lowest window, 25° to the horizontal, towards the obstructing building or extension. If the proposed building or extension is entirely below this line, it is unlikely to have a substantial effect on the diffuse daylighting of the existing building. Where the 25 degree approach is not satisfied, it will be for the planning authority to make a judgement on the degree of impact upon an adjacent dwelling.



**DIAGRAM 2: 25° METHOD**



**Fig A: Proposed extension may result in loss of daylight to adjacent window of a habitable room**



**Fig B: Proposed extension would not result in loss of daylight to adjacent window of a habitable room**

Both diagrams show line drawn from mid-point of affected window, at 25° to the horizontal.

**Sunlight**

In many instances, extensions to residential property will have at least some effect on the level of direct sunlight which falls on adjacent land or buildings. Where such overshadowing is excessive, substantial areas of land or buildings may be in shade for large parts of the day, resulting in a significant impact on the level of amenity enjoyed by residents. It is therefore helpful to have some means by which an assessment of any potential overshadowing can be made.

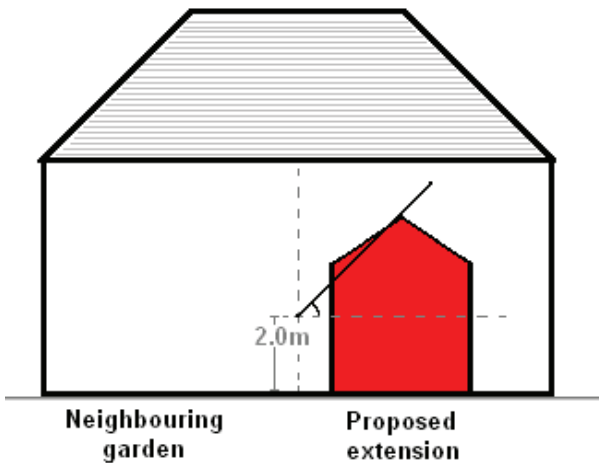
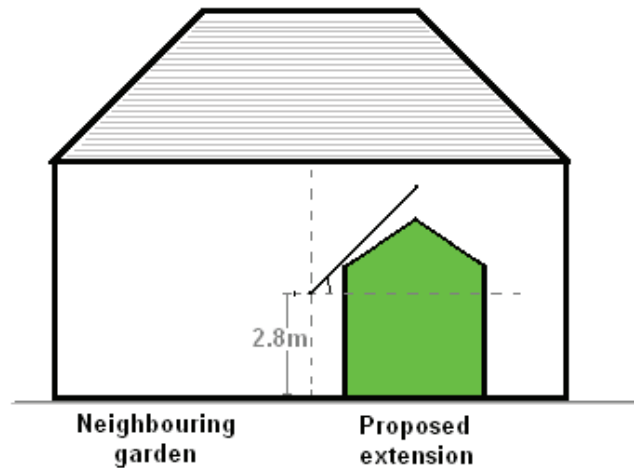
The method used involves drawing a line at 45 degrees to the horizontal. This line will begin at a point above ground level on the relevant boundary. The height above ground level will be determined by the orientation of the proposed building or structure relative to the affected space, as shown in the table opposite;

Orientation of extension relative to affected space	Height from which 45 degree line should be taken
N	4m
NE	3.5m
E	2.8m
SE	2.3m
S	2m
SW	2m
W	2.4m
NW	3.3m

This method is intended as a tool to assist case officers in their assessment of potential overshadowing, and it is important that this be applied sensibly and with due regard for the context of a particular site. Where a proposal is not able to satisfy the requirements of the relevant test, it will then be appropriate for officers to consider other factors relevant to the likely impact on amenity. These will include, but will not be limited to: the proportion of amenity space/garden affected; the position of the overshadowed area relative to windows (of habitable rooms) of an adjacent property; and the nature of the space affected (e.g. overshadowed driveway).

**Example 1:** In this example (right), the proposed extension would be located to the East of the neighbouring garden ground. A point 2.8m above ground level, on the site boundary, is found. From this point, a line is drawn at 45 degrees to the horizontal.

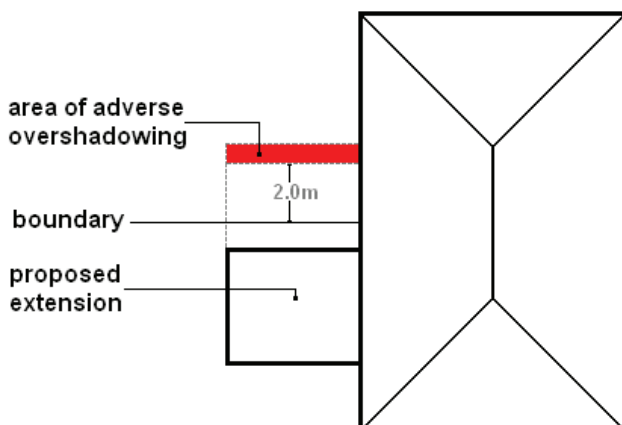
The diagram in Example 1 shows that the line drawn would not strike any part of the proposed extension, and therefore for the purposes of this test there would be no adverse affect on sunlight to the neighbouring garden.



**Example 2:** In this second example (left), the proposed extension would be constructed to the south of the adjacent garden ground. The same process is followed, but in this instance the line is drawn from a point 2m above ground level.

As the first diagram shows, the proposed extension would intersect the 45 degree line drawn. This suggests that there would be an area of adverse overshadowing in the neighbouring garden as a result of this proposal.

The second diagram demonstrates the area of adjacent garden ground which would be affected in plan view. This allows the case officer to make an assessment of the proportion of garden affected relative to the total useable garden area. As mentioned previously, the nature of the affected area will also be of relevance in



determining whether there is justification in allowing a proposal which does not satisfy the 45 degree test for sunlight. There will be instances where proposals will be approved on this basis.

## **Appendix D: Privacy**

New development should not result in significant adverse impact upon the privacy afforded to neighbouring residents, both within dwellings and in any private garden ground/amenity space. What constitutes an acceptable level of privacy will depend on a number of factors. The purpose of this guide is not to create a rigid standard which must be applied in all instances, but rather to set out the criteria which will be taken into account in determining the impact of a particular development.

It is common practice for new-build residential development to ensure a separation distance of 18m between windows where dwellings would be directly opposite one another. Given the application of this distance in designing the layout of new residential development, it would appear unreasonable to then apply this to residential extensions to those same properties.

Assessment of privacy within adjacent dwellings will therefore focus upon the context of a particular development site, taking into account the following factors:

- existing window-to-window distances and those characteristic of the surrounding area;
- any existing screening between the respective windows;
- appropriate additional screening proposed
- respective site levels
- the nature of the respective rooms (i.e. are windows to habitable rooms); and
- orientation of the respective buildings and windows.

Any windows at a distance of 18m or more will not be considered to be adversely affected through loss of privacy. At lesser distances, the factors stated above will be considered in order to determine the likely degree of impact on privacy. For the purposes of this guidance, habitable rooms constitute all rooms designed for living, eating or sleeping eg. lounges, bedrooms and dining rooms/areas.

Any windows to habitable rooms should not look out directly over, or down into, areas used as private amenity space by residents of adjoining dwellings. In these circumstances the windows of non-habitable rooms should be fitted with obscure glass.

The addition of balconies to existing residential dwellings will require careful consideration of their potential impact upon privacy. Such additions, if poorly considered, can result in significant overlooking into adjacent gardens. Any

proposed balcony which would result in direct overlooking of the private garden/amenity space of a neighbouring dwelling, to the detriment of neighbours' privacy, will not be supported by the planning authority.

## **Policy D1- Quality Placemaking by Design**

All development must ensure high standards of design and have a strong and distinctive sense of place which is a result of context appraisal, detailed planning, quality architecture, craftsmanship and materials.

Well considered landscaping and a range of transportation opportunities ensuring connectivity are required to be compatible with the scale and character of the developments.

Places that are distinctive and designed with a real understanding of context will sustain and enhance the social, economic, environmental and cultural attractiveness of the city. Proposals will be considered against the following six essential qualities;

- **distinctive**
- **welcoming**
- **safe and pleasant**
- **easy to move around**
- **adaptable**
- **resource efficient**

How a development meets these qualities must be demonstrated in a design strategy whose scope and content will be appropriate with the scale and/or importance of the proposal.

To further ensure there is a consistent approach to placemaking throughout the city, the Aberdeen Masterplan Process will be applied to larger sites within the city.

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## **Policy H1 Residential Areas**

Within existing residential areas (H1 on the Proposals Map) and within new residential developments, proposals for new development and householder development will be approved in principle if it:

- 1 does not constitute over development;
- 2 does not have an unacceptable impact on the character and amenity of the surrounding area;
- 3 does not result in the loss of valuable and valued areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010; and
- 4 complies with Supplementary Guidance.

Within existing residential areas, proposals for non-residential uses will be refused unless:

- 1 they are considered complementary to residential use; or
- 2 it can be demonstrated that the use would cause no conflict with, or any nuisance to, the enjoyment of existing residential amenity.

Any proposed loss of Local Shops or Community facilities would need to comply with the relevant policies Policy CF1 Existing Community Sites and Facilities and Policy NC7 Local Shop Units.

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## 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 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**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:

Yes  No

\* 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:

*We reserve the right to respond to any submissions by the Planning Officer or third parties.*

**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 checked="" type="checkbox"/> | <input 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:

*None.*

**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.

*PLEASE REFER TO ATTACHED STATEMENT.*

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.

*N/A*



**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.

PLEASE REFER TO ATTACHED STATEMENT

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.

**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

[Redacted signature box]

Date

26th February 2016



# REVIEW STATEMENT

**P151426 - STRAIGHTEN EXISTING HIPPED GABLE AND ERECT DORMER TO  
FRONT AND REAR ELEVATIONS**

At

***24 Morgan Road  
Aberdeen  
AB16 5JY***

Prepared by

**Derek Scott Planning  
Planning and Development Consultants**



**21 Lansdowne Crescent  
Edinburgh  
EH12 5EH  
Tel No: 0131 535 1103  
Fax No: 0131 535 1104  
E-Mail: [enquiries@derekscottplanning.com](mailto:enquiries@derekscottplanning.com)**

On behalf of

**Mr. Stuart Hale**

# Executive Summary

**P151426 - STRAIGHTEN EXISTING HIPPED GABLE AND ERECT DORMER TO FRONT AND REAR ELEVATIONS AT 24 MORGAN ROAD, ABERDEEN AB16 5JY**

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- **The application site is located at 24 Morgan Drive, Aberdeen which is a single storey, two bedroom semi-detached dwelling house with a hipped gable end.**
- **The application submitted to the Council sought detailed planning permission to straighten the existing hipped gable and to erect a dormer at the front and rear of the property creating a second floor of accommodation with three bedrooms and a bathroom. The existing bedrooms on the ground floor would be used as a family and dining room.**
- **The application was refused permission by the appointed Planning Officer who was of the opinion that the alterations proposed failed to demonstrate due regard to the design and context of the streetscape and as a result would appear out of context and would impose a negative design on the surrounding area. For the reasons mentioned the proposal was considered to be contrary to the terms of the Council's Supplementary Guidance on Householder Development and the Development Plan.**
- **The reasons for the refusal of the planning application are challenged on the following grounds:**
  - **In general terms Morgan Road is characterised by a mix of single and two-storey semi detached dwelling houses. The addition of dormers to create a second level of accommodation is a common feature along the road.**
  - **There exists on the opposite side of the road at No. 19 Morgan Drive an almost identical extension involving the straightening of a hipped gable and the erection of front and rear dormers to that proposed by our client at No. 24 Morgan Drive. Numerous other properties within the wider locale have also had similar alterations carried out.**
  - **The examples referred to above, all of which were approved by the Council and considered acceptable in design terms in the recent past provide strong precedents in support of our client's current proposal. They have become established and accepted in the street scene and do not impact adversely on character or amenity.**
  - **There have been no objections to the planning application either from consultees or from third parties.**

# REVIEW STATEMENT

**P151426 - STRAIGHTEN EXISTING HIPPED GABLE AND ERECT DORMER TO FRONT AND REAR  
ELEVATIONS AT 24 MORGAN ROAD, ABERDEEN AB16 5JY**

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3.	Description of Proposed Development	4
4.	Planning Policy	9
5.	Comment on Reasons for Refusal	13
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**Appendix 1 -** Copy of planning application drawings submitted to and determined by Aberdeen City Council.

**Appendix 2 -** Decision Notice

**Appendix 3 -** Report of Handling

**Appendix 4 -** Photographs of similar alterations/extensions in wider locale

# Review Statement

**P151426 - STRAIGHTEN EXISTING HIPPED GABLE AND ERECT DORMER TO FRONT AND REAR ELEVATIONS AT 24 MORGAN ROAD, ABERDEEN AB16 5JY**

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## **1. INTRODUCTION**

- 1.1 This statement has been prepared by Derek Scott Planning, Chartered Town Planning and Development Consultants on behalf of our client, Mr. Stuart Hale. We dispute, on behalf of Mr. Hale, the appointed officer's reasons for refusing the above-mentioned application, which sought detailed planning permission to straighten an existing hipped gable and to erect a dormer to the front and rear elevations at 24 Morgan Road, Aberdeen.
- 1.2 A copy of the planning application submitted to and refused by the Council is contained in **Appendix 1**.



*Application Site – 24 Morgan Road*





- 2.2 Morgan Road itself is characterised by similarly designed properties although many have had dormers added to create a second floor of accommodation. One property at No. 19 on the opposite side of the road has had an almost identical extension added approximately ten years ago following approval by the Council's Planning Department.



*Morgan Road from Cairncry Terrace*



*Morgan Road from Cairnview Crescent*



*Similar extension to that proposed at No. 19 Morgan Road*

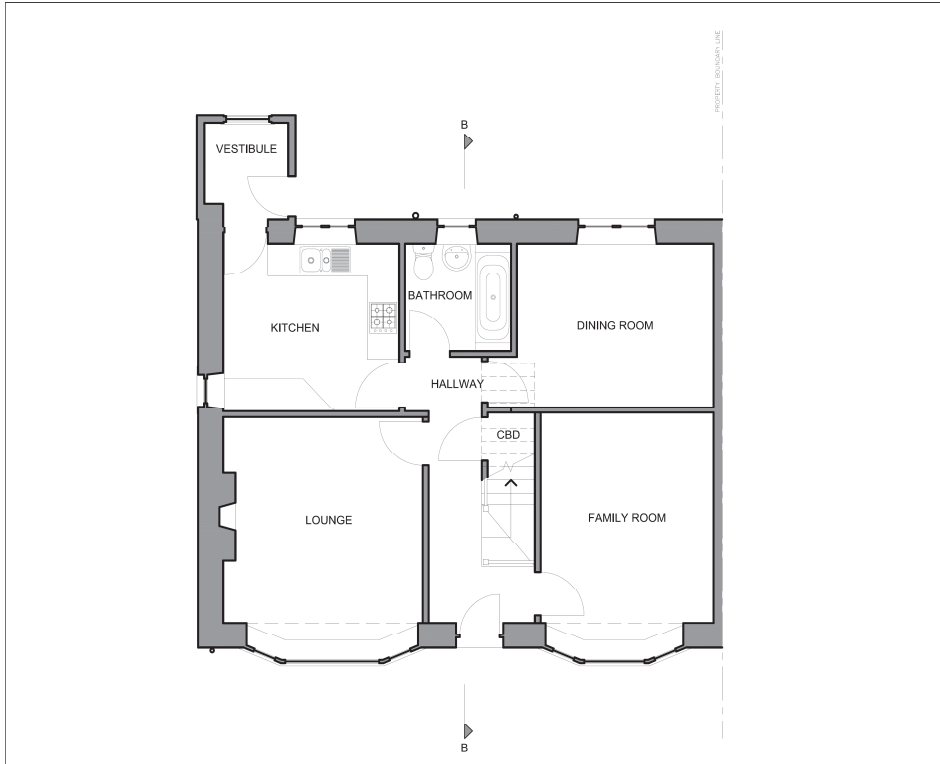


### **3. DESCRIPTION OF PROPOSED DEVELOPMENT**

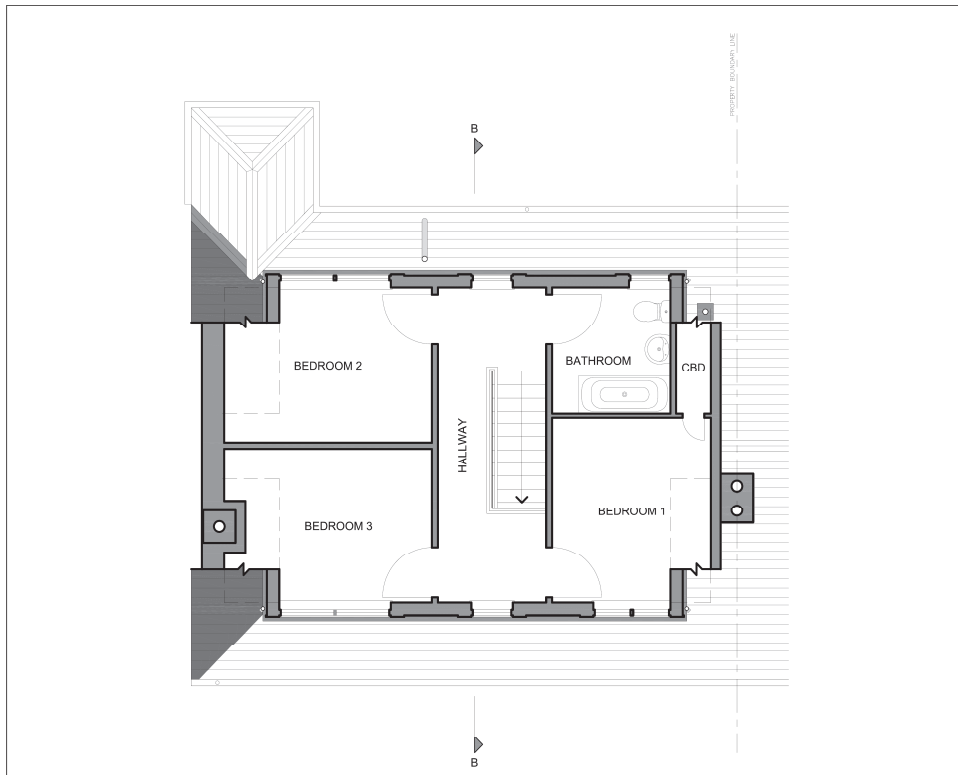
- 3.1 The application submitted seeks detailed planning permission for straightening the existing hipped gable and erecting dormer windows to the front and rear elevations. The proposal will accommodate 3 no. additional bedrooms and a bathroom on the first floor. The existing bedrooms on the ground floor would be used, following alteration to facilitate the introduction of a stairwell, as a family room and dining room.
- 3.2 The proposed dormers would have an overall width of 8.1 metres, overall height of 1.8 metres and would sit approximately 300 mm below the existing ridge, 800 mm from the eaves and 1.3 metres from the proposed gable end. The proposed extension and dormers would be finished in natural slates, light grey render and white UPVC window frames, rainwater goods and facings – all to match the existing house.
- 3.3 Our client and his partner who presently reside in the application property, acquired it with a view to extending it to create a three bedroom home in 2015. They envisaged no difficulties in doing so given the existence of an almost identical extension on the opposite side of the road as described above in Section 2.



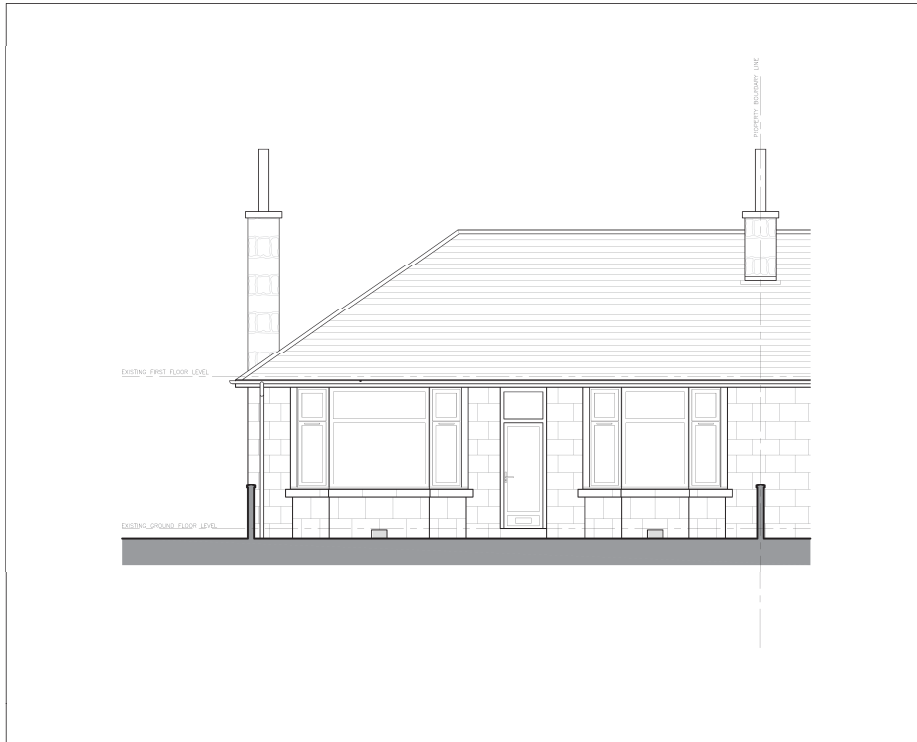
*24 Morgan Road*



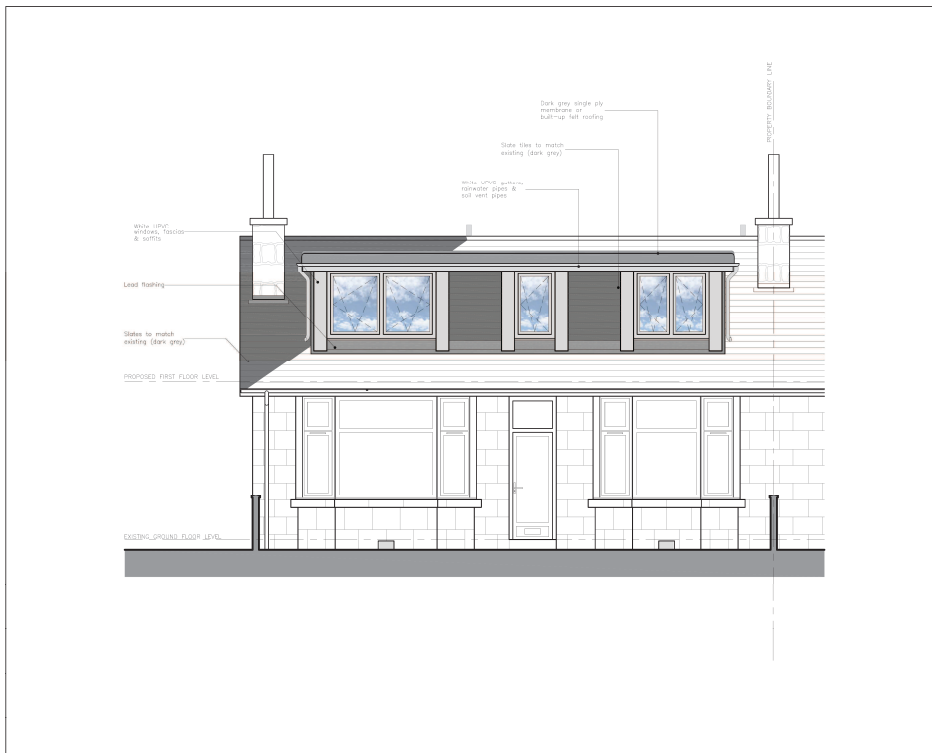
*Proposed Ground Floor Plan*



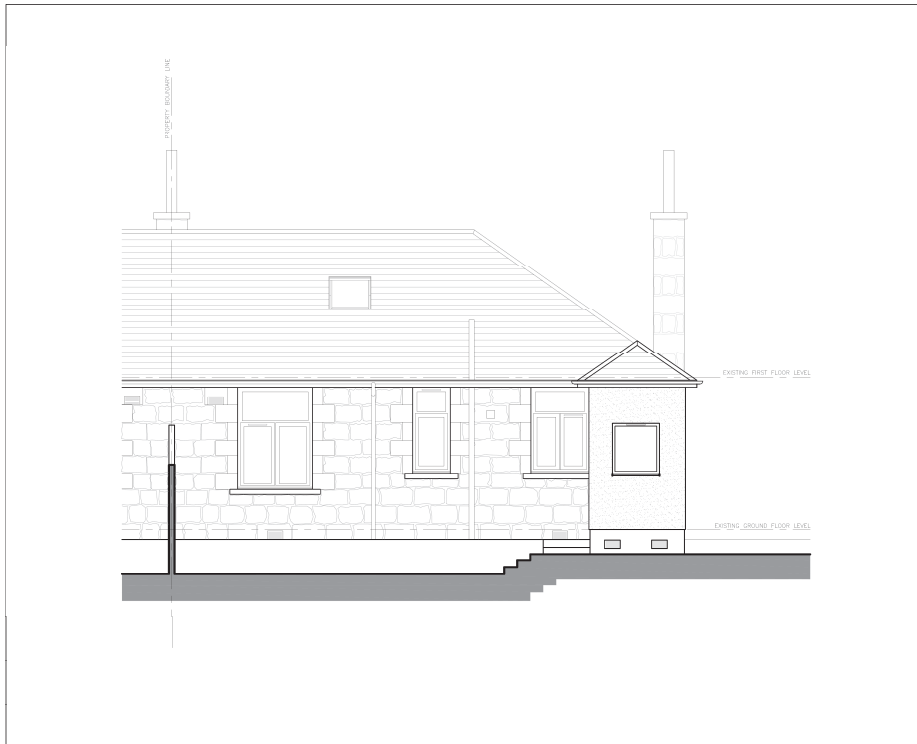
*Proposed First Floor Plan*



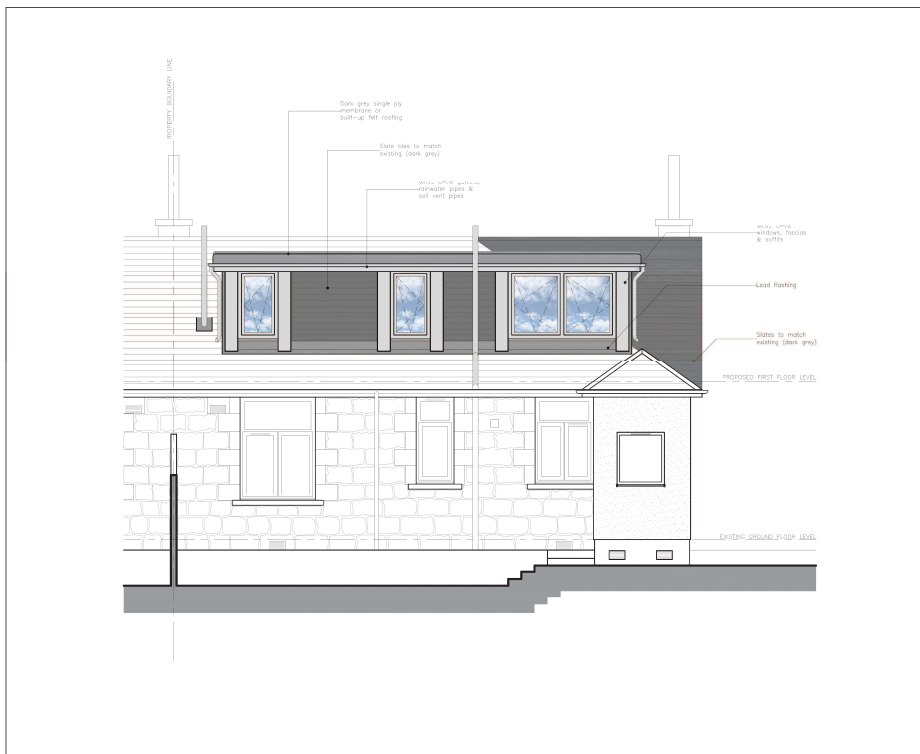
*Existing Front Elevation*



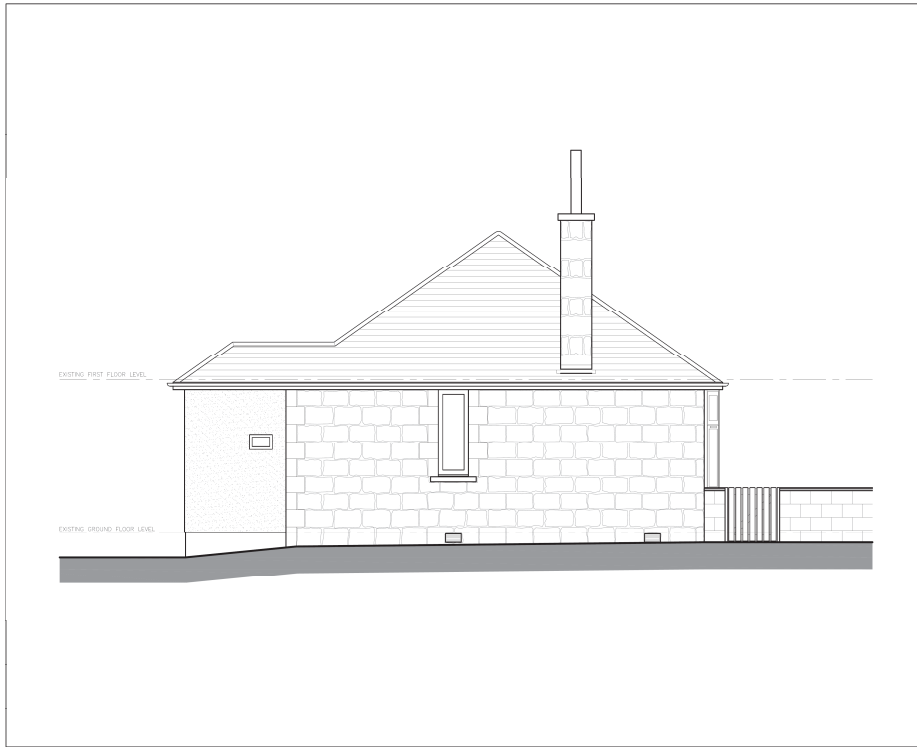
*Proposed Front Elevation*



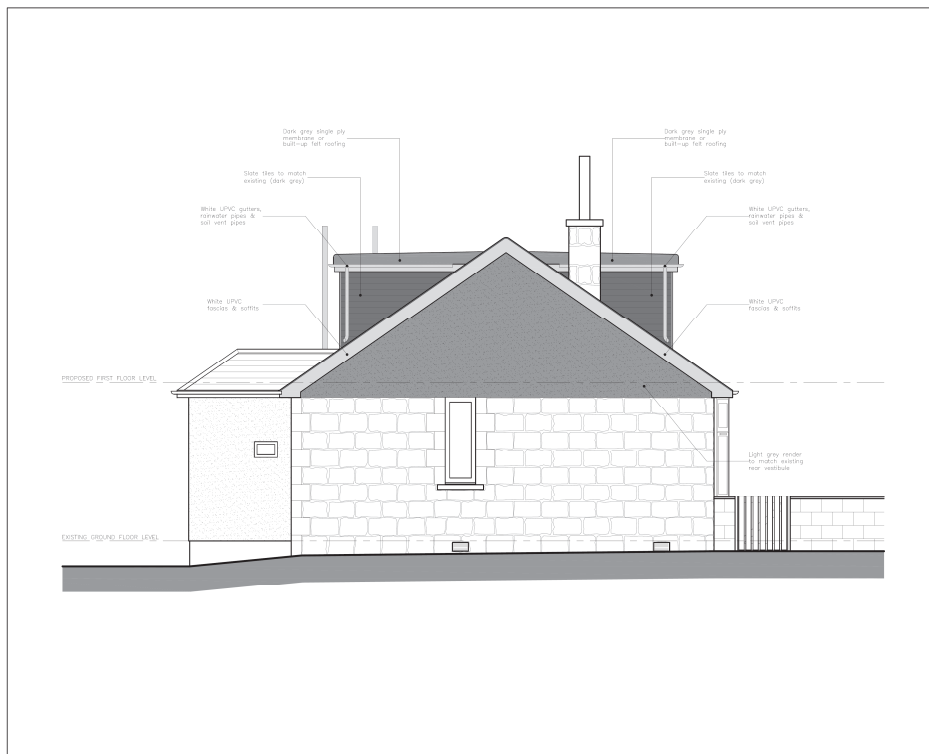
*Existing Rear Elevation*



*Proposed Rear Elevation*



*Existing Side Elevation*



*Proposed Side Elevation*

## 4. PLANNING POLICY

4.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) states that:

*‘where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the development plan unless material considerations indicate otherwise.’*

4.2 In the context of the above it is worth making reference to the House of Lord’s Judgement on the case of the City of Edinburgh Council v the Secretary of State for Scotland 1998 SLT120. It sets out the following approach to deciding an application under the Planning Acts:

- identify any provisions of the development plan which are relevant to the decision;
- interpret them carefully, looking at the aims and objectives of the plan as well as detailed wording of policies;
- consider whether or not the proposal accords with the development plan;
- identify and consider relevant material considerations, for and against the proposal; and
- assess whether these considerations warrant a departure from the development plan.

4.3 The relevant development plan for the area comprises the Aberdeen City and Shire Structure Plan 2014 and the Aberdeen Local Development Plan 2012. Other material considerations in the determination of the application include, the Council’s non-statutory guidelines on *‘Householder Development’*, the emerging Aberdeen City Local Development Plan, Consultation Responses and Third Party Representations.

### **Aberdeen City and Shire Structure Plan**

4.4 The Aberdeen City and Shire Structure Plan was approved by Scottish Ministers in March 2014. It provides the strategic framework for the determination of planning applications and the preparation of local plans. However it contains no specific policies or proposals of direct relevance to either the site or the proposed development.

### **Aberdeen Local Development Plan**

4.5 Aberdeen City Council adopted the Aberdeen Local Development Plan on 29<sup>th</sup> February 2012. Policies contained in the Plan which are considered to be of relevance to the proposed development include the following:

Policy D1 – Architecture and Place Making  
Policy H1 – Residential Areas

4.6 Policy D1 on *‘Architecture and Place Making’* states the following:

*‘To ensure high standards of design, new development must be designed with due consideration for its context and make a positive contribution to its setting. Factors such as siting, scale, massing, colour, materials, orientation, details, the proportions of building elements, together with the spaces around buildings, including streets, squares,*



*open space, landscaping and boundary treatments, will be considered in assessing that contribution. To ensure that there is a consistent approach to high quality development throughout the City with an emphasis on creating quality places, the Aberdeen Master Planning Process Supplementary Guidance will be applied. The level of detail required will be appropriate to the scale and sensitivity of the site. The full scope will be agreed with us prior to commencement. Landmark or high buildings should respect the height and scale of their surroundings, the urban topography, the City's skyline and aim to preserve or enhance important views.'*

4.7 Morgan Road, within which the application site is located, is characterised by a series of predominantly hip ended semi-detached dwelling houses, some of which are single storey and others to which first floor accommodation has been added through the introduction of dormer windows. As noted previously, one property, at No. 19 Morgan Road has a straightened hip end and dormers almost identical to that proposed in the current application. It is considered that the proposed extension contained within the current application is therefore in keeping with the general pattern of single and one and a half storey dwellings in the area and does not conflict in any material manner with the terms of Policy D1.

4.8 Policy H1 on 'Residential Areas' states the following:

*'Within existing residential areas (H1 on the Proposals Map) and within new residential developments, proposals for new residential development and householder development will be approved in principle if it:*

- 1. does not constitute over development;*
- 2. does not have an unacceptable impact on the character or amenity of the surrounding area;*
- 3. does not result in the loss of valuable and valued areas of open space. Open space is defined in the Aberdeen Open Space Audit 2010;*
- 4. complies with Supplementary Guidance on Curtilage Splits; and*
- 5. complies with Supplementary Guidance on House Extensions.'*

4.9 We would wish to respond to the criteria contained in Policy H1 as follows:

1. The proposed extension is positioned above the footprint of the existing dwelling house and as such the relationship of that footprint to the plot within which it is located will remain the same following the construction of the extension.
2. As noted previously Morgan Road is characterised by a series of semidetached dwelling houses some of which are single storey in height and some of which are one and a half storey as a result of dormers being introduced. A property on the opposite side of the road has previously been extended through the straightening of its hip and the introduction of dormer windows in a similar manner to that proposed in the current application. Further properties have been extended in a similar fashion in the wider area including the following:
  - 9 Cairncry Crescent
  - 12 Rosehill Drive
  - 24 Rosehill Drive
  - 1 Hayfield Crescent

- 6 Hayfield Crescent
- 16 Rosehill Crescent
- 74 Hilton Drive
- 86 Hilton Drive

(Refer to **Appendix 4** for images) The works undertaken to these properties are now an established part of their respective street scenes and clearly do not have an unacceptable impact on the character or amenity of the area. In a similar vein the works proposed to our client's property will not have an unacceptable impact.

As far as amenity considerations are concerned the proposed alterations will not impact adversely on neighbouring properties in terms of loss of light, overshadowing or loss of privacy as they are located on the existing building's footprint.

3. The proposal does not result in the loss of Open Space.
4. This criterion is not relevant to the current planning application.
5. Our comments on the Council's Supplementary Guidelines on House Extensions or Householder Development are outlined below.

**Other material considerations**

- 4.10 As noted previously in addition to the development plan due cognisance must also be given in the determination of planning applications to other material considerations. These are addressed below and include, in this particular instance, the emerging Aberdeen City Local Development Plan, the Council's non-statutory guidelines on 'Householder Development', Consultation Responses and Third Party Representations.

***Aberdeen City Local Plan***

- 4.11 The policies in the Proposed Aberdeen City Local Development Plan, insofar as the current proposal is concerned, essentially replicate the policies in the existing local development plan and as such require no further assessment.

***Supplementary Guidance – Householder Development***

- 4.12 The Council's Supplementary Guidance on 'Householder Development' which was published by the Council in 2012 introduced specific guidance on the straightening of hipped roofs. Specifically the Guidance states the following:

*'Modifying only one half of a hipped roof is likely to result in the roof having an unbalanced appearance. The practice of extending a hipped roof on one half of a pair of semi-detached houses to terminate at a raised gable will not generally be accepted unless;*

- *The other half of the building has already been altered in this way; or*
- *Such a proposal would not, as a result of the existing streetscape and character of the buildings therein, result in any adverse impact on the character or visual amenity of the wider area.'*

- 4.13 As the proposal fails to meet the terms of the first criterion outlined above it falls to be assessed against the second criterion. As noted on a number of occasions previously

Morgan Road is characterised by single and one and a half storey dwelling houses (with dormers). Whilst most of the roofs are hipped there is an exception to this on the opposite side of the road at No. 19 which has been straightened and a dormer introduced in an almost identical fashion to that proposed by our client. It is incorrect in law to suggest that this previously approved alteration cannot be cited as a precedent in support of the current application simply because it was approved prior to the introduction of the current Supplementary Guidance. From a design perspective it must be recognised and accepted that if such alterations were considered acceptable by the Council in 2005 there are no sound grounds for considering them to be unacceptable in 2016. As a consequence of these considerations we do not consider that the straightening of the hipped end will have an adverse effect on the character and amenity of the area.

4.14 The Council's Guidance on Householder Development also contains guidelines on dormer extensions to properties. As far as the dormers that are proposed to the front and rear are concerned we would offer the following comments:

- The dormers which are set down from the ridge line, up from the wall head and in from the gable are clearly subservient in scale to and would not dominate the roof space.
- The materials proposed are in keeping with the existing dwelling house and in character with the property on the opposite side of the road at No. 19 Morgan Road.

#### **Third Party Representations**

4.15 It is our understanding that there have been no objections to the application from third parties which in itself is a very significant material consideration in support of the proposal.

#### **Consultation Responses**

4.16 Consultations have been undertaken with the Council's Roads, Environmental Health and Communities, Infrastructure (Flooding) and Housing Departments and with the Local Community Council.

**Roads Department** – The Council's Roads Department has advised that it has no objections to the proposed development as there is space for the storage of up to three cars within the curtilage of the property.

**Environmental Health Department** – The Council's Environmental Health Department had no observations to make on the application.

**Communities, Housing and Infrastructure (Flooding Department)** – The Council's Communities, Housing and Infrastructure Department had no observations to make on the application.

**Community Council** – The Community Council provided no comments on the application.

4.17 Having considered the proposed development against the terms of the development plan and all other material considerations as required under the terms of the Planning Act we are firmly of the opinion that there are no grounds for refusing our client's planning application.

## 5. COMMENTS ON REASONS FOR REFUSAL

5.1 The decision notice issued by the Council cited two reasons for the refusal of the application. Copies of the decision notice and the Council's Committee Report are contained in **Appendices 2 and 3** respectively. The reasons for refusal and our responses to them are outlined below.

- 1. The proposed hip to gable extension and subsequent dormers relate to an existing residential use and are in compliance with Policy H1 (Residential Areas) of the Aberdeen Local Development Plan 2012, however the proposal does not comply with Policy D1 (Architecture and Placemaking) of ALDP and the associated 'Householder Development Guide' Supplementary Guidance in that the proposal does not demonstrate due regards for the design and context of the streetscape, and as a result the proposed development would appear out of context and would impose a negative design on the surrounding area. On the basis of the above, and following on from the evaluation under policy and guidance, it is considered that the proposal does not accord with the provisions of the Development Plan and that there are no material planning considerations - including the Proposed Aberdeen Local Development Plan - that would warrant approval of the application.*

**Response** – Given the presence of dormer windows throughout Morgan Road and the existence of an almost identical extension to No. 19 on the opposite side of the road as proposed by our client at No. 24 we fundamentally disagree with the Planning Officer's views that the proposal, if approved, would appear out of context and would impose a negative design on the surrounding area. Irrespective of the relationship between the publication of the Council's Guidelines and the development of previously approved extension at No. 19, that extension must, in law, be regarded as a precedent in the consideration and support of the current application. If such extensions were considered to be acceptable in design terms by the Council previously they should continue to be so considered.

## **6. SUMMARY AND CONCLUSIONS**

6.1 Having considered the proposed development against the terms of both the development plan and other material considerations we are firmly of the opinion that the application/appeal should be granted planning permission. Our position is summarised as follows:

- **The application site is located at 24 Morgan Drive, Aberdeen which is a single storey, two bedroom semi-detached dwelling house with a hipped gable end.**
- **The application submitted to the Council sought detailed planning permission to straighten the existing hipped gable and to erect a dormer at the front and rear of the property creating a second floor of accommodation with three bedrooms and a bathroom. The existing bedrooms on the ground floor would be used as a family and dining room.**
- **The application was refused permission by the appointed Planning Officer who was of the opinion that the alterations proposed failed to demonstrate due regard to the design and context of the streetscape and as a result would appear out of context and would impose a negative design on the surrounding area. For the reasons mentioned the proposal was considered to be contrary to the terms of the Council's Supplementary Guidance on Householder Development and the Development Plan.**
- **The reasons for the refusal of the planning application are challenged on the following grounds:**
  - **In general terms Morgan Road is characterised by a mix of single and two-storey semidetached dwelling houses. The addition of dormers to create a second level of accommodation is a common feature along the road.**
  - **There exists on the opposite side of the road at No. 19 Morgan Drive an almost identical extension involving the straightening of a hipped gable and the erection of front and rear dormers to that proposed by our client at No. 24 Morgan Drive. Numerous other properties within the wider locale have also had similar alterations carried out.**
  - **The examples referred to above, all of which were approved by the Council and considered acceptable in design terms in the recent past, provide and should be regarded as strong precedents in support of our client's current proposal. They have become established and accepted in the street scene and do not impact adversely on character or amenity.**
  - **There have been no objections to the planning application either from consultees or from third parties.**

6.2 In summary we do not consider that there are any justifiable reasons for refusing our client's application and having regard to the above, it is respectfully requested that this review request be upheld and that planning permission be granted for the straightening of the gable end and for the erection of dormers to the front and rear of the dwelling house. We reserve the right to expand on these Grounds of Appeal should the Planning Officer provide additional submissions

Signed

A solid black rectangular box redacting the signature of Derek Scott.

Derek Scott

Date

26<sup>th</sup> February 2016





Our Ref: ep484/let001/DS

26<sup>th</sup> February 2016

Planning & Sustainable Development  
Communities, Housing and Infrastructure  
Aberdeen City Council  
Business Hub 4  
Ground Floor North  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

Dear Sirs

**REVIEW REQUEST**

**P151426 - STRAIGHTEN EXISTING HIPPED GABLE AND ERECT DORMER TO FRONT AND REAR  
ELEVATIONS AT 24 MORGAN ROAD, ABERDEEN AB16 5JY**

We write on behalf of client, Mr. Stuart Hale, to respectfully request that your Council's Planning Review Body undertakes a review of the decision made by the Appointed Officer, to refuse the planning application described above for the straighten of an existing hipped gable and the erection of dormers to the front and rear elevations at 24 Morgan Road, Aberdeen AB16 5JY

Please acknowledge receipt and registration of this Review Request at your earliest convenience.

Yours faithfully

  
Derek Scott

enc.

cc. S Hale

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# Appendix 4

*Derek Scott Planning*



## Appendix 4



*19 Morgan Road*



*9 Cairncry Crescent*



*12 Rosehill Drive*





*24 Rosehill Drive*



*1 Hayfield Crescent*



*6 Hayfield Crescent*





*16 Rosehill Crescent*



*74 Hilton Drive*



*86 Hilton Drive*