

Scottish Planning Review

A principal objective of the Architectural Heritage Society of Scotland (AHSS) is the protection of the built heritage of Scotland. This is fulfilled by the examination of applications for listed building consent and applications for planning permission within conservation areas. This work is carried out throughout Scotland on a **voluntary basis** by local group Cases Panel members with relevant experience or expertise in architecture and related fields. In preparing this written evidence on the planning system we draw on our Panels' experience across the whole of Scotland.

Current planning system strengths

In Scotland the reference documents to which planning authorities are directed in relation to applications for listed building consent, applications for conservation area consent and the consideration of planning applications affecting the historic environment and the setting of individual elements of the historic environment are the 'National Planning Framework 3', 'Scottish Planning Policy 2014', 'The Scottish Historic Environment Policy' (SHEP), 2011, and Historic Scotland's 'Managing Change in the Historic Environment' guidance notes plus recent changes set out in Historic Environment Circular 1. These are all available through Historic Scotland's website www.historic-scotland.gov.uk or the Scottish Government website www.scotland.gov.uk. In addition local authorities have prepared guidance as part of development management and conservation areas may have conservation area appraisals. The impact of planning proposals upon the historic environment is recognised as a material consideration and the guidance, policy documents and Historic Environment Strategy ought to provide a firm basis for the management and protection of the historic environment.

Current planning system weaknesses

The main weaknesses are insufficient suitably qualified conservation officers: an effective planning system needs to be adequately resourced and the delegation of decisions on applications to officers lacking competence in building conservation – membership of IHBC should be required at recruitment - for those to be dealing with listed buildings and buildings in conservation areas is damaging to the historic environment.

A lack of support from local councillors on planning committees for the historic environment: This is evident where demand for economic development has been allowed to over-ride planning policies and social, cultural and environmental considerations. This has become a concern in Edinburgh's World Heritage Site, for example, where the planning committee recently approved the St James Quarter Hotel. Outline Consent was granted in 2009 and the reserved matters approval related to condition 23 of that consent. With hindsight it is clear that the conditions were worded in such a way as to allow a great deal of latitude in relation to the reserved matters applications. The Society raises this as we consider that the hotel should have been dealt with as a full application, not as a reserved matters approval, and the increased footprint, mass and skyline impact of the hotel should have been picked up when the application was received and screened. It is also important to the fair operation of the planning system that a Council cannot fetter its discretion as planning authority by virtue of having entered into contractual agreements in some other capacity. It has to deal fairly on each application in the planning process.

Retrospective applications, while being helpful to testators by legally confirming established uses, are used by rogue developers or builders, to commit the offence of unauthorised works to listed buildings or to buildings in conservation areas. They rely on the known reluctance of Local Planning Authorities (LPA) to prosecute this offence, or to require demolition and reinstatement as before; they apparently blackmail the LPA to legalise the damage done, by rubber-stamping a 'Retrospective' application. It may curb some of this abuse if any 'Retrospective' application attracted full reimbursement to the Council of all the administrative costs involved in handling and determining the application, (regardless of the result), including those of LBC applications normally free.

Enabling development has become another patent abuse of the planning system, where the development of settlements must be closely matched by extension of public services and infrastructure to support them, and conversely houses built in the open countryside, where the increased cost of their servicing is subsidised by ratepayers elsewhere, should be restricted to proven operational needs; a country landowner seeking to diversify into say a golf course, can now expect to rely on the substantial backing of the LPA in the form of planning permission for a group of new houses on his own countryside land, regardless of that site's distance from other settlements, its corresponding lack of existing infrastructure, and its complete lack of connection with the planned project, other than to provide capital from its sale to the highest bidding developer. The result is the antithesis of rational sustainable planning: a misplaced isolated group of houses, where development should never have been authorised, having to be subsidised to support its continued existence over the next 50 to 60 years, at least.

'**From a public place**' is a term which urgently needs to be defined for the special context of Scotland, with her 'Right to Roam' legislation. The narrow restrictive interpretation by many LPAs has in time, hollowed out the all-embracing concept of a Conservation Area, to a mere film set of preserved frontages of buildings, visible to the passing motorist, but abandoning any planning control over aspects of the built environment seen every day by the people who live or work in the extensive but less exposed parts of a designated conservation area. A small flat may have both wood-framed traditional windows facing the street and non-traditional uPVC-framed windows at the back (but visible to neighbours). Any new planning act for Scotland needs to give a legal definition to the phrase, so that in future a consistent control of all visual aspects within the designated area is the duty of the LPA, and in time the damage now allowed to the character of the designated area, can be healed.

'**Like for like**' replacement of elements, and the mere repair of historic buildings, are usually held to not require prior PP or LBC, by planners who lack any competence in this specialised aspect of historic building conservation. The result has been that there are many fewer old irregular red pantile roofs in Lothian, which artists in the past painted in their multiplicity of shades, because they have been supplanted by the regimented red clay products of a single manufacturer, while destroying the endearing visual diversity of the county. Similarly the presumption that one sash and case wood window is a satisfactory replacement 'like for like' for any other wood sash and case window of the same size, has led to the spread even to listed buildings, of a non-traditional wood-framed type of English modern design of sash and case window hung on spiral springs, with thicker sash frames designed to hold a now obsolescent type of large thick double glazing unit (one to each sash) secured in place by wood external beads, not putty, and to the outer faces of which, wood battens can be stuck to represent real glazing bars. This travesty of the excellent traditional vertically sliding wooden window continues to spread through the lack of enlightened control. It is time that all changes to historic buildings were brought within the scope of planning control.

Responsibility for checking that works have been duly authorised must be made part of the contractor's and the workmen's preparations and due diligence, in the contract between them and the owner of a listed building or a building in a conservation area. For any harm to a listed building or to the character of a conservation area, from unauthorised works, the contractor and his operatives should be prosecuted, until no contractor will choose to do any such work unless appropriate documents showing consent/approval has been obtained, and are produced for inspection.

Suggested Solutions for consideration in the planning review

1. Councils should include communities (both of place and of interest) in the development of briefs for sites and should be bolder about specifying what developers must do at pre-application stage.
2. Local Authorities should keep an opt-in register of organisations and people that wish to be involved in pre-application consultations and developers should be required to contact those on the register.
3. All applications should include a written justification for development/design statement explaining clearly the purpose and necessity of the proposed works.
4. Applications should be published on line with accessible realistic images, showing 'before' and 'after' views from the same position.

5. All public comments and documents should be published on line prior to the application being determined.
6. Planning applications should not change after the public consultation process is over.
7. Objectors should also be able to appeal a decision by a planning committee to approve a scheme and request that the decision be reviewed by the Scottish Government.
8. A presumption in favour of residential development for all brownfield land within settlement boundaries might encourage housebuilders to bring forward more brownfield sites for housing. Existing buildings on brownfield sites should be reviewed for retention even if they are not at present listed.

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