

Historic Environment Scotland Bill : Call for Written Evidence

COMMENT BY THE ARCHITECTURAL HERITAGE SOCIETY OF SCOTLAND

April 2014

The Bill is worded as a description of the new body formed through the merging of Historic Scotland and RCAHMS and in a form greatly streamlined compared to each of their former entities. In the past HS has played a more active role in ensuring policy is met across all levels of society through to and including local authorities. We have noted that such involvement has been less evident recently and see that while HES may formulate such policy in the future and be asked to comment on cases, there is no provision for it to actively monitor proposals to change our built environment to ensure compliance. That role in principle is being seen as met through delegation of powers to local authorities, but we see few being able to suitably meet those expectations. It is also Scottish Government policy to involve local community groups through more active roles.

The historic environment has not been immune to the financial challenges of the past years and many of the problems that have ensued have been due to drastic budget cuts. This notwithstanding, it remains extremely important to the country in terms of identity, quality of life and as an industry. Whenever funding is limited, alternative means of support need to be considered to meet the basic objectives.

Without evidence that such concerns are not being addressed in other ways, e.g. direct from government, we see Historic Environment Scotland as being the body to which such issues need to be referred. Our comments are therefore worded accordingly.

The creation of Historic Environment Scotland as a means of streamlining the administration and processes is seen by the AHSS as a positive step.

HES needs to be seen as playing the lead role in a vast spectrum of bodies and activities across Scotland active in the historic environment, and this informs the way it should be structured. Its creation provides great opportunities to address the challenges in a changing world and we trust these comments are seen as constructive.

1. How will the creation of Historic Environment Scotland help to improve the overall management and promotion of Scotland's historic environment? Will it help to make Scotland's historic environment more attractive to communities, families and tourists?

The creation of Historic Environment Scotland will streamline the promotion of Scotland's historic environment and make management of that aspect more efficient. Those features so promoted will become more consciously part of the experience of communities, families and tourists.

The Bill currently does not ensure proactive review of the built environment through its immediate agents such as local authorities.

Stronger relationships between HES, local authorities and, more specifically, their planning departments, need to be enshrined in the Bill. Local authorities need to answer to HES in

respect of the proactive review of built heritage within their mandates. HES needs to monitor them and other public bodies handling built heritage to ensure that policy is effectively implemented. The Bill covers listed buildings and conservation areas to some extent, but not the framework for answerability, access to resources or monitoring.

We are pleased to see within the Memorandum greater support for local authorities and encouragement for partnership working, but this is not specific, and needs to be detailed. The Bill must enshrine requirement and delivery mechanisms.

The Bill should ensure greater focus on category A and B listed buildings on the Buildings at Risk Register. This could be achieved through local authorities, but should be monitored and audited, e.g. through review of local development plan provisions. There is already suitable guidance on maintenance and new-use adaptation and there is policy regarding the obligations on property owners for suitable maintenance. What is missing is a mechanism for ensuring that local authorities play an active part in such protection.

The Bill does not cover the obligations of its agents to consult with communities.

We recognise that this legislation is geared to streamlining and increased efficiency, but we have grave concerns that there may be an underlying objective of cost savings to the detriment of the historic environment. We seek an increase of investment in our matchless cultural heritage, for the benefit of future generations. We feel it is our duty to pass on to future generations a designed environment that is in good condition, well maintained, and at the heart of a vibrant sustainable country. We seek reassurance that grants in all the existing categories, will remain, with no reduction in resources. We are concerned that there is no mention of the Dictionary of Scottish Architects, an invaluable and growing resource for researchers, practitioners, academics and individuals.

2. Are the functions proposed for Historic Environment Scotland the correct ones or are there any omissions? Are the outcomes expected of the new body ambitious enough or could they be strengthened?

The functions set out in the Bill are broadly correct, but only cover those traditionally fulfilled by Historic Scotland and RCAHMS. The wording is fairly broad and, as such, provides for the development of wider roles.

The role of Historic Scotland used to include a greater degree of monitoring of changes to the historic environment; a role we have seen already reduced, if not in principle, at least in practice. The delegation of such powers and roles to local authorities is acceptable where such authorities have suitable and sufficient in-house resources, but this is rarely the case. HES therefore needs to at least audit the capacities of those to which it delegates such powers and ensure that they are met by increasing their resources, sharing or buying in services as the needs arise.

The draft Bill mentions delegation, but does not establish how the links would be maintained down to local level, how the standards would be met and how legislation could be monitored. This needs to be described in full in the Bill or a commitment made to secondary detailed legislation.

3. Does the Bill establish a clear and appropriate relationship between Historic

Environment Scotland and all other public and private bodies with an interest in Scotland's historic environment?

No. The Bill is relatively clear on responsibilities being adopted from Historic Scotland. Other relationships are alluded to, but not described. As we note above, the most important relationship, with local authorities responsible for implementing delegated powers, is not fully defined.

We also note above how societies such as ours, the Architectural Heritage Society of Scotland, can take a more direct role in influencing and promoting policies, from community participation to conservation. As the Society's role as an element in community participation takes on increasing weight, there is a need for such relationships to be better defined where formal and statutory issues are concerned. The Society actively and consistently participates in the review of planning applications, through our cases panels, and country-wide National Conservation Committee. We actively promote conservation through lectures, study days, publications and through the media. We have received financial support for this in the past from Historic Scotland and, with the increase in such roles in the future, would hope for similar support from the new body.

The relationship between such groups as this Society and HES should of course extend beyond the purely financial, and we would welcome further interaction and contact. BEFS' expertise in arranging conferences and workshops for the sector is extremely valuable and could facilitate future positive relations.

4. In what ways will the Bill help you / your organisation to better manage and promote Scotland's historic environment?

The Bill does little to enable us as a Society to better manage Scotland's historic environment, although there are great opportunities for our sector to play an increasing and more formal role. Our role in community participation and recognition of its formal place in the processes of change, e.g. planning applications and the promotion of conservation, must be defined.

As a society for the promotion of our built heritage, we endeavour to relate our comments and critiques of conservation-related policy and planning applications to established principles. It is essential that the Bill clarifies how HES communicates and monitors good conservation practice and policy to those actively implementing it.

The contribution of our society and similar bodies needs to be recognised in an evolving planning and conservation context. The Scottish Government already encourages greater community participation, and our society's expertise continues to be recognised and supported.

5. Are there any areas of the Bill that you consider could be strengthened or improved?

We reiterate our concerns that there is poor definition of the relationship between the new HES body and local authorities, or of how local authorities and their delegated powers will be audited in terms of resources. Local authorities must be accountable for the powers

delegated to them and demonstrate appropriate resourcing of skills and expertise, and at least outline provisions and objectives need to be contained in this Bill.

Our built heritage at risk through inappropriate development and the widespread lack of resources in local authorities, particularly in heritage care and planning, needs to be addressed.

The Institute of Historic Building Conservators (IHBC) has produced two informative surveys in recent years that evidence shortfalls in resources across various councils. Their scoping report of 2010 indicates how resources are deployed.

[http://ihbc.org.uk/news/docs/IHBC%20Scotland%20-](http://ihbc.org.uk/news/docs/IHBC%20Scotland%20-%20Local%20Government%20Members%20Scoping%20Survey%2017%20Nov%202010%20071210.pdf)

[%20Local%20Government%20Members%20Scoping%20Survey%2017%20Nov%202010%20071210.pdf](http://ihbc.org.uk/news/docs/IHBC%20Scotland%20-%20Local%20Government%20Members%20Scoping%20Survey%2017%20Nov%202010%20071210.pdf)

IHBC's more recent survey, Scotland's Local Authority Conservation Services: 2013 : First scoping report: 2013 – SUMMARY

<http://www.ihbc.org.uk/news/docs/Scotland's%20Local%20Authority%20Conservation%20Services%20-%20First%20Scoping%20Report%202013%20IHBC%20SUMMARY.pdf>

indicates the vast range of capacities across local authorities. While delegation of powers may work well in some, resources and expertise may be almost non-existent in others.

The Bill therefore needs to address how policy and good practice can be supported and monitored in this context. Conservation expertise has been contracting, and is expected to fall by a further 15% over the next two years. The Society hopes that HES will develop a strategy that addresses the reduction of services offered by local authorities.

Given ongoing contractions in conservation services, research is needed to specify how and when failing services threaten sustainable development and growth by undermining heritage investment, values and returns.

We reiterate our premise that established community bodies such as this society need to have roles recognised within the Bill. This detail may require separate documentation and description, but needs to be referred to within the document itself. This is in line with the Scottish Government's policy of greater community participation in environmental affairs.

The Society is concerned with the historic designed environment in its widest sense. Our primary interest is in architectural heritage, which encompasses buildings, designed landscapes, historic townscapes and features of the rural environment. The Bill needs to clarify and define what is meant by a historic environment.

We would wish to see provision in the remit of Historic Environment Scotland for strategic examination of issues such as the ecclesiastical heritage, including ecclesiastical exemption.

6. Do you consider that the Bill's Policy Memorandum adequately sets out: the Bill's policy objectives; whether alternative ways of meeting the objectives were considered; the consultation undertaken on the objectives; the Bill's effects on equal opportunities, human rights, island communities, local government and sustainable development?

The appreciation of RCAHMS' current role is well articulated in the Memorandum, however we would seek commitment that HES will sustain its functions in future. RCAHMS is an independent respected research and archive institution. While the roles of Historic Scotland and RCAHMS overlap and are symbiotic, they are not actually the same. We

have been supportive of the merger, but remain insistent that the distinctive roles be protected within the single body.

Protection of the built environment, through listing buildings and identifying conservation areas, is critical for the sustainability of the historic built environment. Robust processes to ensure that Listed Buildings and those in Conservation Areas are properly maintained and safe from threat of demolition, fundamental to ensuring that Scotland's historic environment continues to be a source of pride for its citizens, and a worldwide tourist destination. This can only be achieved with a countrywide resource, of skilled, experienced professionals, backed up by statutory powers and functions.

This premise flags up other issues that the Bill needs to enshrine :

Listing status, conservation areas and Article 4 directives are reached through established democratic processes that become statutory. Human rights include the right to challenge them, but community rights need to take precedence. This is an area we see weakened through politics, insufficient skills or resources within planning departments and competition from larger investors that needs greater support from HES.

7. The Scottish Government's newly published historic environment strategy also seeks to improve enjoyment and understanding of Scotland's historic environment. The Committee does not wish to repeat the extensive consultation undertaken on the strategy, but would welcome your views on whether it and the Bill together:

- Establish clearly who is responsible and accountable for delivering the strategy;
- Will involve appropriately all those public and private bodies with a role in improving the historic environment;
- Lead to demonstrably better access to, and enjoyment and management of, the historic environment.

The Bill does not establish clearly who is responsible and accountable for delivering the strategy beyond that currently effected through HS / RCAHMS. We have noted above that there is a lack of definition of the relationship between the new body and local authorities and of an appropriate level of definition of how policy is to be delegated or implemented.

We would like to see a more clearly defined relationship between HES, public and private bodies. There needs to be a strong connection with local planning departments and clarity on interaction with private bodies of different types, which are active in the historic environment, including the Architectural Heritage Society of Scotland.

Improved access to the historic environment includes access to information such as the technical resources currently provided by HS and research and archive material currently provided by RCAHMS. This includes advice and guidance on listed buildings, conservation areas, and practical guidance for householders. HES has responsibility for compiling or approving lists of buildings of special architectural or historic interest and those relating to conservation areas. We hope that these functions will be sustained and be proactive rather than reactive. Property owners, prospective developers of historic buildings and local authorities all need accessible guidance on the qualities of their built heritage. Suitable management of the historic environment includes review of the built environment. This can lead to identification of potential within local development plans such as for Townscape Heritage Initiative (THI) and Conservation Area Regeneration Schemes (CARS). Such

schemes have been proven to enhance local communities.

Targeted support for conservation services is needed to extend specialist skills and experience and to secure skills within local authority services in the longer term.

- The possible benefits and disadvantages of Historic Environment Scotland being granted charitable status

We have expressed concerns about implementation of legislation and policy across the various levels from private development to local authorities. Our concerns are based in part due to the expectation that HES will ensure implementation of policy on behalf of government. Charitable status would affect the ability to do that.

If HES is given charitable status it will be able to raise funds in different ways and from different sources. This, however, would bring it into direct competition with many smaller organisations already struggling to protect and enhance the built environment in Scotland, e.g. building preservation trusts.

- The implications for staff in Historic Scotland and RCAHMS of the creation of Historic Environment Scotland

The Bill needs to clarify and protect the valuable role that RCAHMS currently undertakes; while the lack of autonomy will affect the way it works, we see the literal proximity and links with HS operations as very positive.

- Whether the Bill will improve existing policy and practice

We see the Bill as it currently stands as weakening the links between authority at the highest level, Scottish Government, and at local authority level. The effectiveness of delegation of powers relating to our historic environment depends on many factors. We do not see provision articulated for financial and human resources or for a direct support structure.

We draw attention to the wording used in the text of the 1991 Act to create SNH:

SNH may, and if so requested by the Secretary of State or any general, regional or district planning authority, advise the Secretary of State or, as the case may be, the authority in relation to any matter arising under F1 The Town and Country Planning (Scotland) Act 1997, the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 and the planning (Hazardous Substances) (Scotland) Act 1997 which affects the natural heritage of Scotland.

We would have preferred to see statutory powers remain with Scottish Ministers. HS currently fulfils the role of Scottish Ministers in safeguarding cultural heritage that might be affected by development and we would expect the Bill to be amended to explicitly give the role of safeguarding cultural heritage to HES in the same way that SNH is named as the guardian of natural heritage.