

**15 February 2019**

## **HISTORIC ENVIRONMENT MANAGING CHANGE GUIDANCE - THE DEMOLITION AND THE USE AND ADAPTATION OF LISTED BUILDINGS**

### **Introduction**

1. The Scottish Property Federation (SPF) is the voice for the real estate industry in Scotland. We include among our members: property investors, including major institutional pension and life funds; developers; landlords of commercial and residential property; and professional property consultants and advisers.

### **Key Interest**

2. The SPF's main interest in the Policy is to assist Historic Environment Scotland (HES), through working effectively with the private sector, to remain in a position to support positive outcomes for the historic built environment. The private sector is the largest source of investment in the heritage sector and we are pleased to work ever more closely with HES, to drive the potential of the sector and its contribution towards sustainable economic growth.

### **Key Concerns**

- The key tenet of the SPF's policy on the historic environment is our belief that the best way to maintain historic properties is through their effective retention in use. However, difficult decisions will occasionally need to be made regarding the continued use and existence of some buildings where this is not feasible, for a variety of reasons.
- The industry would welcome the support of HES to address the growing complexity and legacy of managing historic assets, where challenging economic conditions have tested viability considerations and their regenerative potential.

### **General Comments**

3. We recognise and understand the need for preservation and note the assumption to conserve historic buildings. However, difficult decisions will occasionally need to be made regarding the continued existence of some buildings where this is not feasible. Clearly it will be preferable to adapt or manage buildings to alternative uses in order to preserve their existence, but it is important to recognise that sometimes historic buildings need to be adapted to fit modern requirements and standards, including regulatory requirements.
4. The SPF welcomes the opportunity to respond to this consultation and would be pleased to discuss our views and comments at HES's convenience. We are also happy for our comments to

be shared with other public bodies. Answers to specific questions within the consultation are set out below.

### **DEMOLITION OF LISTED BUILDINGS**

#### **To what extent do you agree or disagree with the specific considerations outlined under the heading 'what to consider first'?**

Our members welcome the inclusion of creative use and adaptation in the guidance. They also welcome the inclusion of enabling and funding but note with concern that economic viability is the last issue under what needs to be considered.

Our members are of the view that the terminology in these paragraphs is confusing and have suggested the removal of the second sentence of paragraph one. The first and second paragraphs suggest that 'full justification' is required for consent and will only be justified 'at the end of a process that has considered all other feasible options'. However, the third paragraph states that consent may be justified if 'one' of the following situations apply. Our members have suggested that clarification would be helpful and have assumed that the existing 'or' principle applies. Previous advice from HES indicated that a case should focus on one of the tests, rather than attempt to cover all of them.

More guidance on the definition of 'significant economic or community benefits' (as it applies to a demolition case) is required and our members have suggested that some broad headings/themes would be helpful here.

Our members have also suggested that in the case of 'significant loss of fabric or features of interest by deterioration'.... 'owners should ask our Designations Team to review the listing to determine if a building is still of special architectural or historic interest' the guidance should go on to state that HES may consider *de-listing* such a building.

It is possible that a local authority could have a building that is incapable of repair and in the short-term they may add it to their buildings at risk. But it is necessary to see past listing and be more explicit if it is considered that a building should no longer be listed. Applicants should be directed to the HES Designations Team in these cases. Our members are also of the view that when professional advice is sought, it should be necessary to separate listing from ability to demolish mainly due to extensive timescales.

Our members appreciate that while demolition should be viewed as a last resort for buildings of merit, the first point to be considered should always be if the building retains the merits it was listed for in the first instance. It is also important to understand whether an alternative use can be found. For example, many ecclesiastical buildings struggle to find an alternative use.

Under 'meaningful repair' it's worth noting that in some instances buildings may have been poorly detailed or designed in certain areas and have inherent faults. Our members are of the view that there should be an acknowledgement of such potential shortcomings and a preference to correct issues given the advancements in building technology.

**Does the text provide sufficient clarity over when consent to demolish a listed building should normally be granted or refused?**

The culture in organisations and how people work together is pivotal. There needs to be a positive attitude and consistent approach in local authorities and a corporate local authority view is vital. It is therefore critical that the definition of demolition is very clear.

Interpretation is a key issue particularly for local authorities. The definition of demolition can mean different things to different people. For example, lean-to or extension demolition can mean something different in construction terms when compared to policy.

Demolition of groups of buildings can also create different issues. Other terms that can be open to interpretation are minimising harm, which is a procedural matter. Previous harm and neglect causing dereliction is also a key factor which may lead to demolition

**Under the heading 'economic viability', the text says the demolition of a listed building should 'only be accepted where the application has demonstrated that all reasonable efforts have been made to find a scheme to retain the listed building. The efforts made should take into consideration the significance of the listed building.' To what extent do you agree or disagree with this wording?**

Economic viability is one of the four tests in the current guidance. However, in this draft it follows the other three tests and our members have questioned whether this suggests moving to considering economic viability if none of the other three apply. They are of the view that this needs clarifying as often economic viability evidence will underpin a demolition case.

Our members have questioned whether 'reasonable level of risk' is the right terminology and if so, are of the view that it needs to be better defined as it relates to an economic viability case for demolition. Clarification is required as to whether this means 'fair and reasonable developers profit' or similar. Reference to enabling development is helpful, however, more detail on the meaning of this is required so that the grounds for compiling such a case are clear enough for all parties involved. The definition of 'risk' is needs to be grounded in sound development appraisal principles.

At page 5 our members are firmly of the view that 6 months is too long a time period. If a property is marketed openly and transparently, including specific groups and individuals with a track record in restoration, then any interest is likely to emerge within a much shorter time-frame. Members have

suggested that the applicant could advance an application after perhaps 3 months and continue marketing during the determination period.

At page 5, our members have questioned if a developer has shown a significant 'conservation deficit' in their own appraisal (and which cannot be offset through other means) and offers to the market at £1, does a case for demolition fail on receipt of any credible bids at this level, because of the over-riding principle of retaining the listed building?

Our members are of the view that the detail in the adaptations guidance (page 11) should also be in the viability section of the demolition guidance.

A key issue is finding something meaningful for a building's future use, however, the term 'best use is what it was designed for' is a rather stark statement. Our members are firmly of the view that flexibility is required and that the purpose that a building was designed for may no longer be relevant e.g. economic and environmental drivers are important.

#### **Does the document leave out anything that should be included?**

Delisting often involves expensive case studies for the developer. Clarity is required on what is important and early engagement with HES would be helpful.

As stated above, more guidance on significant economic or community benefit and examples of what would achieve this would be helpful.

It would also be helpful to have guidance on cost headings to calculate conservation deficit and a minimum standard. This is currently open to wide interpretation. The SPF would be happy to assist in developing a calculator.

Our members are of the view that guidance on the demolition of unlisted buildings in conservation areas is required. In some cases, selective demolition may be justified if it helps deliver an overall conservation benefit, for example bringing a long-term collection of other derelict/vacant listed buildings back into use. They have suggested that some recognition of this would be helpful as demolition does not always equate heritage loss. A holistic approach should only apply in certain cases, involving multiple listed buildings.

It is critical to agree the grounds of any demolition case up-front with both the planning authority and HES. Our members are of the view that the language in the background section could go further to address this.

In the final paragraph of page 4, our members have noted that the text infers that the extent of possible physical intervention should be agreed before marketing commences.

Reviewing listed buildings and consideration of whether they can be delisted does not sit easily and, in the main, works counter to the development process and associated timescales. It would be helpful if the guidance could take account of this. Listing should be reviewed regularly and should be considered upfront in the guidance. Viability should be a key consideration and our members have suggested that the information at page 11 of the adaptations guidance could usefully be included in the viability section.

Members also agree that it would be helpful to have case studies including a library built over time, visual guidance would also be helpful.

**Does the document include anything you think is unhelpful or unnecessary?**

As stated above the SPF is firmly of the view that 6 months is too long for the marketing period. If the property is marketed openly and transparently, including specific groups and individuals with a track record in restoration, any interest is likely to emerge within a much shorter time-frame. Members have suggested that the applicant could advance an application after perhaps 3 months and continue marketing during the determination period.

**THE USE AND ADAPTATION OF LISTED BUILDINGS**

**Do you think that the document promotes a positive case for the active use of listed buildings?**

At page 2 of the guidance, there is a request that applicants should ask for pre-application advice. Timeous, meaningful responses are, of course, vital to avoid further uncertainty and in some cases, further deterioration of buildings. However, in many instances there is no or insufficient resource on the part of budget constrained local authorities and HES to provide this advice.

Our members acknowledge that “The majority of Listed Buildings are in active use.” However, the majority of planning/listed building applications in a development context will be in relation to listed buildings that are no longer in active use, and may well have deteriorated since last used.

At page 3, point 6 is welcomed but will require a significant culture shift in local authorities towards a more positive attitude to provide an imaginative approach to design and reuse.

At the end of page 3 - “The best use of a Listed Building is almost always going to be the one for which it was designed.” - Our members are concerned that this takes no account of the changing economic environment where businesses or activities are no longer viable, changing technologies render such buildings obsolete; and costs of operations in such buildings are no longer sustainable.

Our members are of the view that the guidance on page 8 (enabling) is unclear and have suggested that shared examples of this would be helpful.

At page 9 a 'quick turnaround' would always be welcomed but is invariably not the case mainly due to the lack of resources and consideration needs to be given as to how can this could be improved.

**We list five approaches to the adaptation of listed buildings to allow continued active use.**

- Minimal intervention
- Adaptation
- Extension
- Selective Demolition
- Enabling

**To what extent do you agree or disagree with these approaches?**

Our members welcome the inclusion of creative use and adaptation in the guidance. They also welcome the inclusion of enabling and but noted concern that economic viability is not included and only appears at the end of the guidance.

**We will publish separately short case studies to help illustrate ways in which listed buildings have been successfully adapted. Do you have any examples that you would like us to publicise?**

Our members also agree that it would be helpful to have case studies including a library built over time, visual guidance would also be helpful. The SPF would be happy to work with HES to identify buildings that have been successfully adapted.

Some suggestions are:

- RBS at St Andrew Square (The Registers)
- Parkview Dundee
- Marischal College Aberdeen
- Alexandra Park (Glasgow)

**Does the document include anything you think is unhelpful or unnecessary?**

A key issue is finding something meaningful for a building's future use. However, at page 3 of the guidance the term 'best use is what it was designed for' is a rather stark statement. Our members are firmly of the view that flexibility is required and that the purpose that a building was designed for may no longer be relevant e.g. economic and environmental changes. The use of the term 'intangible value' is vague and is too widely open to interpretation.

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