

NOTES FOR GUIDANCE

HOW TO APPLY FOR LISTED BUILDING OR CONSERVATION AREA CONSENT

These notes have been prepared to help you apply for listed building or conservation area consent. If you need any more help or are unsure if permission is required, please contact the staff of the Development Control Section within the Council's Planning & Transport Division. Please note that separate applications are required for Building Warrants, Planning Permission and Advertisement Consent.

WHEN IS AN APPLICATION NECESSARY?

Under Section 1 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Secretary of State has responsibility for compiling lists of buildings of special architectural or historic interest. This is done through a Government Agency (Historic Scotland) and the buildings they select are termed listed buildings which are then afforded statutory protection. It is a criminal offence to alter a listed building in any way that affects its character unless the works are authorised by means of a Listed Building Consent from the Council.

Under Section 61 of the same 1997 Act, every local Planning Authority is required to determine which parts of its district are areas of special architectural or historic interest the character and appearance of which it is desirable to preserve or enhance and to then designate them as Conservation Areas.

Listed Building Consent and often planning permission also, is required for the demolition of a listed building or any alteration or extension which in any manner affects its external or internal character as a building of special architectural or historic interest. This includes objects or structures which are fixed to a listed building or which come within its curtilage and have done so since 1948.

Listed Building Consent is **not** required for:-

- the erection of a free standing building within the curtilage of a listed building;
- works to objects or structures erected within the curtilage of a listed building since 1948 and not physically attached to it;
- changing the use of a listed building with no alterations.

Please note that planning permission may, however, be required for some of these works.

Conservation Area Consent is only required for the total demolition of most unlisted buildings in a designated conservation area in which case planning permission is not required. Many other proposals within a conservation area will, however, require planning permission.

The regulations are complex and you are advised, therefore, to always check first with the Division to find out whether or not you need to obtain listed building or conservation area consent or indeed planning permission. It is always best to put such requests in writing. This would provide you with a response in writing from the Council which can be very useful should you wish to sell your property in the future.

HOW IS A PLANNING APPLICATION MADE?

- Because of the specialist nature of listed buildings, anyone contemplating seeking permission is recommended to engage a professional agent to apply on their behalf. They will have the knowledge and expertise not only to ensure the correct information, forms and plans are submitted but will also be able to negotiate on any issues raised by the Planning Authority.
- Find out if you need listed building consent, conservation area consent or planning permission by contacting a Development Control Officer at the Planning & Transport Division, County Buildings, Market Street, Forfar, DD8 3LG.
- In addition the Area Development Control Officers are available for consultation at local Development Control Surgeries held weekly at Arbroath, Brechin, Carnoustie, Kirriemuir, Monifieth and Montrose. Details of the locations and times of these surgeries are available in a 'handout' obtainable from the Planning & Transport Division.
- If you do need permission, collect the appropriate application forms and any relevant Advice Notes (forms can be sent to you if you cannot visit the Planning & Transport Division).
- Where both planning permission and listed building consent are required, it is acceptable to apply on the same form.

- In all cases, two copies of the application forms are required.
- Complete the forms carefully (please ask for assistance if required) giving full details of your proposal.
- Remember to accurately and clearly complete the section of the application forms on land ownership.
- Remember to sign and date the forms.
- Have an Architect or competent draughts person prepare the necessary drawings. Four copies of relevant drawings are required; unless otherwise indicated. Depending on the proposal some or all of the following plans will be required:-
 - (i) Location Plans: every application must be accompanied by a location plan to an Ordnance Survey scale of either 1:2500 and for rural areas 1:10000, containing sufficient detail to locate the site.
 - (ii) Site Plans: a larger scale plan showing the proposed development within its site. The application site including any land affected by the proposal must be edged within a continuous red line; any other land owned by or within the control of the applicant must be edged in blue.
 - (iii) Elevations: existing and proposed elevations will be required illustrating the proposed alterations or extensions. All applications for new buildings must include elevational details of each side of the proposed building at a minimum scale of 1:50 or 1:100 in the case of large scale developments.
 - (iv) Elevations of infilling development (e.g. to build in a gap in a terraced row) or alterations to shop fronts etc. should indicate their relationship to and the main features of the adjoining properties.
 - (v) Floor Plans: floor plans at a scale of 1:100 or 1:50 should be submitted for any full application including applications for the change of use of a building or buildings.
 - (vi) Where the works involve an extension or alteration to an existing property all new works should be indicated in colour on at least one set of the submitted plans.
 - (vii) In the case of extensions to existing properties, supplying existing as well as proposed elevations may help to speed up the process.
 - (viii) Cross Sections and Levels: where development is on sloping sites, the Council will require site plans at a minimum scale of 1:200 showing both existing and proposed ground levels with reference to a datum point. Cross sections showing new buildings and existing/proposed ground levels should also be supplied. Where there is adjacent development it will be necessary to show the relationship with adjoining properties.
 - (ix) Photographs can be very helpful in speeding up the processing of an application.
 - (x) Landscaping Details: if there are any trees on the site they must be shown on the layout plan. The position of the trunk and diameter of the crown spreads must be accurately indicated.
 - (xi) Supporting information in the form of a design statement or, in the case of proposed demolition, a structural report and evidence of attempts made to dispose of the property on the open market will assist your case and in the case of demolition, will be essential. Insufficient information will lead to delays.

When proposed landscaping details are submitted these should indicate the species of trees/shrubs to be planted, together with the sizes/height at time of planting and the densities of planting of each species. Failure to provide this information can seriously delay the process.

- Unlike applications for planning permission, there is no fee for submitting an application for listed building or conservation area consent.

NEIGHBOUR NOTIFICATION

There is no requirement to notify neighbours when submitting an application for listed building or conservation area consent.

WHAT HAPPENS TO YOUR APPLICATION?

When an application is received by the Planning & Transport Division it is checked as follows:-

- forms are completed and signed;
- four copies of all required plans are enclosed and are of the necessary quality;
- certificates are correctly completed.

If the application is incomplete we will write to you. The letter will explain why the application is incomplete and ask you to supply the necessary information.

You should respond to this request for information quickly since we cannot begin to process your application until it is complete. If you are not sure what else we need, please telephone the Development Control Officer whose name is indicated at the top of the letter.

If your application is complete it will be registered and you will be sent an acknowledgement letter saying who is dealing with the application.

The processing of your application will involve the following stages:-

- advertisements placed in a local newspaper and the Edinburgh Gazette and notices put up at or near the site;
- a variety of consultations. In general these cover the clearing of technical aspects with public bodies and supply services such as Scottish Environmental Protection Agency (SEPA) or the Council's own Roads Division and Historic Scotland; these consultees have the right to ask for more information and raise objections;
- consideration of your application against existing Angus Council policies particularly Local and Structure Plans, Historic Scotland guidance and any past history of decisions on that site or similar applications;
- other technical checks that the application meets Angus Council's standards for things such as parking, privacy, day lighting and visibility near road junctions;
- at least one visit to the site by a Planning Officer who will also contact you if more information or alterations are advisable;
- the application will either go to the Development Control Committee which meets approximately every three weeks and is made up of Councillors or will be considered by the Head of Planning & Transport under delegated powers (approximately 80% of applications are approved this way). All applications with objections are reported to Committee as are all applications recommended for refusal. In these cases a full report is prepared for the Committee's consideration including reference to any supporting case supplied by applicants and letters of objection which are printed in full.

Angus Council has two months to deal with an application but some listed building applications (Category A and B and all demolitions) and all conservation area consents have to be referred to the Secretary of State for Scotland and therefore may take a little longer to process.

If your application should take longer than two months to process and we have not agreed on an extension of time, you are entitled to claim the application a "deemed refusal" and lodge an appeal with the Scottish Office.

SOME GENERAL ADVICE

The **demolition of a listed building** is a serious step which will require very significant justification if it is to be granted. The Council will, for instance, want to be assured that strenuous efforts have been made to dispose of the building to a restoring purchaser and that the price sought reflected its condition. A structural survey by an appropriately qualified person will also be required. Even then the Council will require to convince itself that there are no prospects of the building being re-used within the reasonable future.

Planning applications seeking a **new use for a listed building** (listed building consent not being required for just a change of use) will be sympathetically received where the Council is convinced that there is little likelihood of the building continuing or returning to its intended uses and if by granting consent its future will be assured. Before granting consent the Council is likely to require information on any proposed alterations required to accommodate the new use. If granted it is probable that it will still be necessary to then seek listed building consent for the alterations.

When considering applications for **alterations or extension to listed buildings**, Planning Authorities are 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. Accordingly, the Council will need to satisfy itself that no unnecessary damage to historic structures or features will be caused, that additions are in keeping and that any new external or internal features harmonises with their surroundings.

Unlike normal planning permission, the grant of **outline consent for a listed building** is not permitted by legislation. In most instances only provision of full details of the proposal will make an application for listed building consent acceptable.

Where **demolition of an unlisted building in a conservation area** (Conservation Area Consent) is applied for, consent is only likely to be granted if the Council is satisfied that the proposals are acceptable. To do this, a detailed application for planning permission is likely to be required at the same time as the Conservation Area Consent. This will allow a full appraisal to take place, including the suitability of the proposed replacement building.

Many **developments within conservation areas** will require planning permission (sometimes as well as listed building consent) and some advice on making such applications, although not the primary objective of this Guidance Note, would not go amiss:-

- new developments should be designed not as an isolated entity but as part of a larger whole which will already have an established character;
- any proposals that erode the established qualities of the conservation area may have to be refused;
- the Council will pay special attention to the quality of the development proposed to ensure that it preserves or enhances the conservation area.

Proposals for new developments, alterations or extensions which are likely to affect the character of a conservation area to any significant extent must be publicly advertised by the Planning Authority and a notice posted on the site.

YOUR RIGHTS DURING THIS PROCESS

You should feel free to contact the Development Control Officer handling your case to discuss its progress and to give any information supporting your case. Unfortunately, due to the pressure of work involved in processing applications within the laid down timescale, the onus is on yourself (or your agent) to check on progress.

You are entitled to address the Development Control Committee (maximum five minutes) e.g. to support your application, if a request is received by the Council not less than one clear day prior to the meeting taking place (i.e. by 5.00 p.m. on the Wednesday prior to the normal Committee meeting day of Thursday). Such requests should be addressed to the Head of Law & Administration at Angus House, Orchardbank Business Park, Forfar, DD8 1AN (contact Elaine Whittet) and can be by letter, telephone, fax or e-mail.

THE DECISION

Once a decision has been reached on your application by Angus Council (Committee or Head of Service) a Decision Notice will be sent to the applicant or agent, if one was used. If listed building consent and planning permission were sought, two Decision Notices will be sent. The Decision Notice will inform you whether your application has been:-

- granted;
- granted with conditions;
- refused.

The reasons for refusal or imposition of conditions will also be given when the application has been granted with conditions or refused.

YOUR APPEAL RIGHTS

- If your application was refused or you feel any of the conditions imposed on an approval are unreasonable, you may appeal to the Secretary of State for Scotland. The appeal must be made within six months of the date of the decision being issued.
- You may also appeal if a decision has not been made within two months and you have not agreed to an extension of time.
- In both cases you should initially contact the Scottish Office Inquiry Reporters' Unit, 2 Greenside Lane, Edinburgh, EH1 3AG. They will provide you with the necessary appeal forms.

- Further information will be given out with your Decision Notice and a leaflet on the appeal process is available from the Planning & Transport Division.
- Should you in any way feel dissatisfied with the service you receive from the Council or its staff you are advised to request a copy of the Department's Complaints Procedure which will tell you how to complain and what will happen to your complaint.
- If you remain dissatisfied and feel that the Council has not followed the correct procedures for dealing with an application, you may consider contacting the Local Government Ombudsman. The Ombudsman is not able to question the merits of any decision by the Council but can investigate the method and procedure the Council undertook in dealing with any application or in reaching its decision.

FURTHER INFORMATION

Further information on any aspect of this guidance note including:-

- details of listed buildings;
- details of conservation areas;
- Guidance Notes on "How to Apply for Planning Permission";
- Advice Note 20 "Listed Buildings and Conservation Areas";

can be obtained from:-

Angus Council
Infrastructure Services
Planning & Transport Division
County Buildings
Market Street
FORFAR
DD8 3LG

Tel No: 01307-461460

Fax No: 01307-461895