

PE1749/C

Built Environment Forum Scotland submission of 29 October 2019

While the petitioner's focus is on listed buildings BEFS would respond that all buildings, regardless of age or cultural significance, require ongoing maintenance for them to remain in use. The financial viability of restoration and maintenance needs be reconsidered through the lens of the declared climate emergency. The continued use of all our building stock has become imperative due to their embodied energy and the need to reduce the emission of greenhouse gases through new construction if Scotland is to meet the target for net-zero carbon emissions by 2045. The question is therefore, what is the carbon cost of not maintaining and restoring *all* existing buildings?

Until a building becomes a danger to the public, maintenance and condition issues are the responsibility of the owner. If an owner has allowed a building to become neglected Part 3A of the Land Reform (Scotland) Act 2003, Community Right to Buy (Abandoned, Neglected or Detrimental Land) which came into force in June 2018 could be helpful. Derelict buildings, such as those on the Buildings at Risk Register, would fall within the legislative criteria but, to date, we are unaware of any community body attempting this route. Some commentators have assessed the barriers as too high and the process too lengthy to be attractive. The Scottish Land Commission has also examined issues around building dereliction and recommended the introduction of Compulsory Sales Orders as a means to shift ownership from neglectful to restorative but the recommendation has not, to date, been taken forward by the Scottish Government.

BEFS provides the secretariat function for the Scottish Parliamentary Working Group on Tenement Maintenance which has examined challenges similar to those raised by the petitioner. While its focus is specific to buildings under multiple ownership, it has researched the mechanisms available to Local Authorities to enforce the maintenance of tenements under the Housing (Scotland) Act 2006 and Buildings (Scotland) Act 2003. What becomes clear is that while mechanisms are available, the conditions have to be extreme and in relation to the tolerable building standard before a local authority will proceed with intervention, and they are resource intensive. Timescales to recoup the costs from owners are also a disincentive to intervention. The capacity to pursue condition issues of non-residential buildings is therefore very limited with little political appetite to reassign local authority resources away from essential, statutory services.

The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 makes it an offence to demolish, alter or extend a listed building without Listed Building Consent but it is not an offence to *neglect* a listed building. It could be argued that legislation could be amended to make it an offence, but as with previous powers mentioned above it would require a local authority to have the capacity and resource to pursue the matter. It is also salutary that there have been no prosecutions for the unauthorised demolition or alteration of a listed building since 2003 (Lanrick Castle, Doune) and it is more likely that a building will be de-listed than the owner prosecuted. Any introduction of neglect as an offence may also ultimately be handled in the same manner.

Financial assistance for the restoration of historic buildings is available from the National Lottery Heritage Fund and also the Scottish Government through Historic Environment Scotland's grant programme. Both schemes however have an increasing focus on the project outcomes of grants, wider public benefits beyond just maintaining historic buildings, with greater interest in projects that offer community benefit not private gain. It is a matter of record that the Heritage Fund's allocation has decreased in line with the dip in sales of lottery tickets but it is also worth noting that the Scottish Government's grants through HES have remained around £14.5 million for more than a decade, a reduction in real terms. The challenge with grant funding for buildings in disrepair is the perverse incentive it provides against regular maintenance. There is an understandable reluctance to grant fund regular maintenance which is the owner's responsibility, but maintenance would often prevent the resultant need for more expensive repairs.

BEFS Members, along with the Scottish Government have long pressed the UK Government to at least equalise VAT between new build and maintenance, but successive governments have declined to respond, commonly placing responsibility with EU Regulations. That excuse may be about to be removed. Previous HMRC mechanisms such as the Business Premises Renovation Allowance were helpful. BPRA was a 100% tax allowance for certain spending when converting or renovating unused qualifying business premises in a disadvantaged area: Malmaison Dundee is one example. While these are not devolved matters, non-domestic rates and the Land and Buildings Transaction Tax could also be used to provide incentives to restore derelict listed buildings. We anticipate the forthcoming report from the Built Heritage Investment Group will address some of these matters.

We share the petitioner's concern in the deterioration of Scotland's building stock but in light of the above do not think that undertaking financial viability studies would be a means to address this. Returning to the question of our first paragraph: what is the carbon cost of not maintaining and restoring *all* existing buildings? This is the question that must be addressed, will require us to think beyond financial profit margins and cultural significance as primary drivers and necessitates leadership from all parties within the Scottish Parliament.