

# **PE2105/J: Safeguard Scottish Listed Buildings at risk of unnecessary demolition**

## **Cabinet Secretary for Constitution, External Affairs and Culture written submission, 3 October 2025**

Thank you for your letter of 4 September 2025 to the Cabinet Secretary for Housing regarding Petition 2105 to safeguard listed buildings at risk from unnecessary demolition. You have asked for reflections on the issues raised at the evidence session on 4 June 2025 and an update on next steps in relation to providing expanded guidance on the Building Standards Enforcement Handbook and Procedural Handbook.

I am very aware of the need to conserve our historic buildings and want to ensure that we make the best use of current legislation and guidance to do so. However, where buildings do fall into a dangerous condition it is important that swift and proportionate action is taken to address public safety concerns.

I am aware of the close involvement in this work by my officials in Building Standards Division (BSD) and their discussions with Local Authority Building Standards Scotland (LABSS) on the use of statutory powers in the Building (Scotland) Act 2003 for dangerous and defective buildings. Earlier correspondence with the Citizen Participation and Public Petitions Committee, set out that the purpose of the Scottish building standard system is to protect the public interest, and that local authority enforcement powers include a duty to act immediately to remove the danger posed by a building that has fallen into a dangerous condition.

In response to the petition, BSD carried out research to establish different case studies illustrating how a local authority has resolved issues for a listed building when it has become defective or dangerous. The research project concluded in July 2025 and a full report is shared with the Committee members for their information. Examples of previous cases, provided by local authorities to support the research, indicated instances where their interventions had either been able to save the building or where partial or full demolition were the only options to remove the danger to public safety.

The case studies underline that no two scenarios are the same and that difficult decisions are often required. It is clear from the research that the decisions are made based on collaboration with the parties involved, whenever possible, and that professional advice from experienced structural engineers is central to the outcome for each building. The use of these emergency powers is the last resort and is only used when all other related legislation has failed to protect the building.

Enforcement powers under the Building (Scotland) Act 2003 are effective when dealing with dangerous buildings. Following the research, guidance in the Building Standards Enforcement Handbook and Procedural Handbook will be expanded to reflect recommended best practice as indicated by the project's findings. This work will be taken forward by my officials in Building Standards Division in the months ahead with involvement from LABSS and the Scottish Building Standards Hub to drive a consistent approach across Scotland.

The guidance will not recommend only using conservation accredited engineers to support decision-making as there are insufficient numbers of these engineers to serve need across Scotland. The lack of availability of this resource on a national basis would significantly hinder the local authority's ability to meet their statutory duty to act immediately to remove the danger posed in these circumstances. The research project found that structural engineers routinely consulted by local authorities, although not always conservation-accredited, possess the necessary expertise and experience to provide robust and reliable assessments. Their input has been shown to support sound decision-making in practice. In addition, suitably qualified architects and building surveyors will be able to give advice and guidance.

Prevention is key to save listed buildings from unnecessary demolition. Periodic inspections and repairs are essential to maintain these buildings in a good condition and reduce the risk of problems that may lead to their eventual loss. It is the owner's responsibility to maintain their building and avoid the need for expensive measures to protect the building from demolition. Preventative action at an early stage should identify where repair work can stop deterioration and avoid more costly repairs at a later date.

Owners have a clear responsibility to take a proactive approach through regular surveys, maintenance and inspections to plan for future repairs and meet their obligation to keep their building in a good condition. The use of competent persons to provide advice and undertake works is recommended and this may include the services of a conservation accredited engineer, or other professional, where appropriate.

Historic Environment Scotland (HES) provides advice to listed building owners and can provide up to £50,000 in interim grant funding for significant buildings at immediate risk of loss or damage. Other HES grant programmes are available to repair buildings, and can be found at; <https://www.historicenvironment.scot/grants-and-funding/our-grants/>. Inclusion on the Buildings at Risk Register, which is currently paused for further evaluation, is not a prerequisite for accessing financial assistance from HES.

The Planning (Listed Buildings and Conservations Areas) Scotland Act 1997 also has a statutory role in prevention. The 1997 Act provides powers that promote earlier actions by building owners with the aim of protecting listed buildings. These measures can be taken at a much earlier point before enforcement action under the Building (Scotland) Act 2003 becomes essential.

A Listed Building Repairs Notice can be served by a local authority when a listed building is in a state of neglect and work is required to bring the building back into a good state. If the owner does not carry out these works, then the process can lead to compulsory purchase. In addition, a Listed Building Urgent Works Notice can be served by a local authority to enable them to give seven days' notice to the building owner before carrying out work themselves to preserve a listed building. Amenity Notices can also be served by a local authority to improve the appearance of a building or land. A Building Preservation Notice can be served to provide protection for an unlisted building until HES considers whether to list the building.

Additional guidance from HES to support local authorities and planning authorities to handle these difficult situations will also be an important source of advice on avoiding demolition and enabling development. A focus on targeting reuse of buildings at risk and the availability of funding support are part of the early and proactive approach to prevention.

In response to the points raised by Paul Sweeney MSP, we recognise the importance of ensuring that listed buildings are protected through effective use of existing statutory powers. The Scottish Government considers that the current legislative framework under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 provides planning authorities with a range of provisions to intervene where buildings are at risk. These include Building Preservation Notices, Repairs Notices, Urgent Works Notices, and, where necessary, compulsory purchase powers. Such provisions enable early and proportionate action to safeguard buildings of architectural or historic interest.

I consider that these provisions, when used proactively and in coordination with other statutory powers, including those under the Building (Scotland) Act 2003 where public safety is at risk, are sufficient to support the protection of listed buildings without the need for legislative review at this time. In particular, where a building is deemed dangerous under Section 29 of the 2003 Act, local authorities have a statutory duty to act immediately to remove the danger. In such cases, listed building consent under the 1997 Act is not required in advance, as the urgency of the situation takes precedence. Section 8(3) of the 1997 Act provides a statutory defence for works carried out without consent, provided they are urgently necessary in the interests of safety or health, limited to the minimum measures required, and the planning authority is notified as soon as reasonably practicable.

Where emergency works, including demolition in whole or part, are carried out without prior listed building consent under Section 29 of the Building (Scotland) Act 2003, listed building consent must still be obtained under Section 7(3) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. In addition to seeking consent, the planning authority must be notified as soon as reasonably practicable, in accordance with Section 8(3). While the statutory defence may apply, it does not remove the requirement to regularise the works through the consent process. If consent is refused, enforcement action may be taken, including the requirement to reverse unauthorised works.

I trust the research report on the issues raised by the petition provide a helpful insight into the use of emergency powers under the Building (Scotland) Act 2003. My officials in BSD will work with LABSS and other partners to ensure the expanded guidance in the Building Standards Enforcement Handbook and Procedural Handbook address best practice and support consistent action to protect listed buildings from unnecessary demolition.

On reflection of the evidence and research, I am content that the Scottish building standards system, and its ability to deal with listed buildings which become dangerous, remains fit for purpose. However, I fully support the provision of enhanced guidance in the Enforcement Handbook and Procedural Handbook around best practice to ensure listed buildings, which form part of our cultural heritage, are safeguarded from unnecessary demolition wherever possible.

Yours sincerely,

**ANGUS ROBERTSON**