

## An Overview of the five HEACS Reports

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Minister, Madam Chairman, Ladies and Gentlemen – It is a considerable privilege, if a pretty daunting task, to provide an initial commentary upon the five reports of the Historic Environment Advisory Council (HEACS) sought by yourself, Minister, in June 2003 upon the establishment of HEACS under the chairmanship of Liz Burns.

HEACS have faced a formidable task and have served you, Minister, and Scotland, well. Scotland, within the UK, has an ancient and honourable record of regard for its Heritage. Indeed its regard for its heritage can be seen as the central component, the *raison d'être*, of its present existence as a strong national and political entity. Some aspects of its heritage were crassly dealt with by the Hanoverian monarchy (albeit sorely tried by three invasive rebellions and two major insurgencies in thirty years). That mistreatment, however, only served to stimulate the genius of the Scottish Enlightenment, focused in Edinburgh, “the Athens of the North” – not just as it was to become, architecturally, but also, in the richest sense, of a threatened frontier Zone where the flowers of intellect grow thickly and in their progeniture leave a rich tilth. In that tilth among many other romantic inspirations (one contemporarily recognised as fraudulent – the extraordinary ‘Homeric’ Ossian – not the least of the great frauds of Scottish ‘History’) took root, notably, of course, the extraordinary genius of the poet and novelist Sir Walter Scott. His personality, his ideas and his contacts were critical to the development of Scottish culture for at least a century.

Scott’s vast inheritance soon reached into every corner of Scottish cultural life and, bonded with the Pre Raphaelite movement in Art, and the Arts and Crafts Movement in industry, with the leading figure of William Morris, saw the foundation in 1877 by Morris and his friend Philip Webb of the Society for the Protection of Ancient Buildings, with its Scottish component (principally to militate against extravagant and unauthentic restoration of buildings).

But interest in Preservation went back much further than that. The Society of Antiquaries of Scotland, of which I have the honour, currently, to be President, was founded in 1783 and the Earl of Buchan, its inspiration, had at the very centre of his vision the creation of an audit of the monuments and great buildings of Scotland so that their preservation could be guaranteed. That vision, sadly however, didn’t come to pass, (although Sir John Sinclair’s great *Statistical Account* followed between 1790 and 1799), and the idea of a complete audit of the Scottish heritage, an inventory of heritage assets, had to wait until David Murray’s *An Archaeological Survey of the United Kingdom: the Preservation and Protection of Our Ancient Monuments*, published in Glasgow in 1896. David Murray was a prominent lawyer and fellow of the Society of Antiquaries of Scotland and his lead was followed, in 1905, by *The Care of Ancient Monuments* by Gerard Baldwin Brown, who was Professor of Fine Art in the University of Edinburgh. A later Sir John Sinclair, then Secretary of State for Scotland, fostered the creation of the Royal Commission on the Ancient and Historical Monuments of Scotland in February 1908 and English and Welsh equivalents followed in the October of that year, imitation being, as always, the surest register of a good idea!

The First Enactment by the Westminster Parliament to protect Ancient Monuments (but not occupied Historic Buildings) was sponsored by the great Liberal politician and intellectual Sir John Lubbock, later Lord Avebury. He introduced his bill

initially in 1873 during Gladstone's First Ministry, but it took him nine first readings and six second, to finally push the Act through in the face of bitter opposition from landowning interests, in 1882. This Act was a pretty minimalist beginning, offering, as it did, limited protection to a non-extendable schedule of 68 monuments throughout Britain and Ireland. However the notion of Guardianship was introduced at this time – an attempt to overcome the difficulties posed by the Laws of Entail that governed the management and inheritance of so many great Estates. Furthermore the *owner* was not bound by the Act. Much remained to be done, and further Acts followed in 1900, 1913, 1931, 1953 and most recently, in 1979. Interestingly, Acts passed for Ireland in 1892 and later for many of Britain's Colonies were much more enlightened.

But these Acts were passed to apply to what Sir Jocelyn Stephens, a later Chairman of English Heritage, so memorably called 'ruins and humps and bumps'. Dwellings and buildings in use were not protected in any way until the first of the Planning Acts in 1931 and, principally, the Town and Country Planning Act of 1947.

The Inventory of Heritage Assets in Scotland, the National Monuments Record of Scotland, now comprises, available on-line against a mapping base, probably the most publicly accessible, live and up-to-date heritage record in the World, just short of a quarter of a million archaeological sites and buildings (about 120,000 buildings – there are approx 500,000 structures of pre-1919 date in Scotland) and currently the schedule of AMs in Scotland stands at around 12,000 while there are some 47,000 listed buildings of historic or architectural interest (some of which comprise groups of more than one structure).

Scotland (indeed the UK) possesses, arguably, the most concentrated variety of landscape, geomorphology and vegetation of any country in Europe. Partly as a consequence of this; partly because of our continuity of historic tradition; and also the relative complexity of our ethnic make-up, we possess a variety and complexity of historic environment that is unrivalled, arguably, anywhere in the World. As I have briefly shown, our desire to care for the environment is founded in a three hundred year old tradition that has been both path-breaking and hard fought. Scotland, indeed, has played, as so often is the case in other spheres, a disproportionately enhanced role in these developments, nationally and internationally. The outcome as we enter the 21<sup>st</sup> century is a vastly complex, patchily understood, uncertainly quantified asset governed by an array of institutions and legislation that has accrued over a period not far short of three hundred years, at national, regional and local level. The issue of the heritage, perhaps especially in Scotland, arouses atavistic passions, great enthusiasms, profound differences, and very little indifference. A recent survey conducted for English Heritage revealed that 85% of the population place the 'Heritage' high on the list of their interests. Vastly more people visit Scotland to admire its historic environment than to play golf. Yet Heritage interests sit in a lowly position in our national fora of debate and are poorly resourced by international comparison.

This introduction, much of which is implicit, if not explicit, throughout the HEACS Reports that are being published today has, I very much hope, not tried your patience, but I feel it is only fair to indicate clearly the vast scale of the task which, in 2003, HEACS was set. The almost dogged determination (in the face of an almost ubiquitous lack of firm and reliable figures and statistics) of the (unpaid) Council is apparent on every page. Furthermore the focus and scrupulous avoidance of pitfalls and byways (with which, I well know, this particular path is bedevilled) speak volumes for the skill of the Council's Chairman. It has been 'a gude shippe skeely skipper'd'.

It is indeed to that lack of figures and statistics that HEACS really first addressed itself in its first report to you, issued in 2004, in which it set out the crying need for a Heritage Audit, a compilation and appreciation of the inputs and outputs that the Historic Environment demands from and offers to the Scottish polity and economy. These are complex; in many instances difficult to assess objectively (because they are so bound up with emotional, atavistic values as aforesaid); and, in a great many locations rely upon informal, voluntary input that is difficult to quantify. HEACS made no bones about the fact that such an Audit was going to cost money – but as they pointed out only 0.05% of the *current* budget spent on the Historic environment would be necessary for its creation and updating in the future. This Audit agreed by Ministers, is now, I understand under way

Minister, any uncertainty detected in these current reports is solely due to the current lack of this facility. Any future tasks that you may choose to set HEACS will be partly vitiated by any delay in its completion and subsequent maintenance. The Audit, alone, will be of the greatest value to the sector in its proper search for the Strategic Oversight, Direction and Development that it so desperately needs.

But resources are not, of course, the only source of the problem as HEACS makes clear. Whether the issue is considered at Local Authority(LA) or National Level there is an absolute need for the Historic Environment (as HEACS makes abundantly clear at various points) to be located further up the agenda (and, indeed, the table) in the discussion of all the intercutting issues (tourism, economic development, environmental integrity, industrial development and standards and education) than it is at the moment. Currently it is taken for granted as an almost subliminal influence, a sort of background music, managed by background people, if you will forgive me being so blunt. The entire issue of the heritage needs to be re-ranked in terms of the public agenda.

In order for this to happen there has to be a re-briefing of senior officials and indeed elected representatives as freely hinted by HEACS . This, in turn, will require, Minister, leadership from the very core of Government, energetically pursued – a task of quasi-‘Czar’ proportions. Without this development (which HEACS very clearly indicates) all the other adjustments suggested in these five reports will ultimately be only partly effective. It is not enough to say we care about the Historic Environment; we have to *show* that we care.

If I may use a single example to illustrate this point....one that is not raised by HEACS because it is indeed one of the many byways, referred to earlier, which have been so scrupulously avoided. Health and Safety, Equal Opportunities and other similar legislation has imposed upon historic environment agencies conditions that are sometimes irrelevant and, indeed, often directly conflict with their primary objectives. We have all read with sadness of the abandonment of the ‘Cathedral Camps’ scheme in England which gave hundreds of young people direct experience of the heritage at first hand, under caring and well supervised direction. Their tasks, the careful polishing of tile floors, sponge-cleaning of ground level marble monuments etc in which they never experienced an accident in over thirty years of practice. These ‘camps’ are now being abandoned due to exigent H&S requirements and inordinate insurance costs. Yet, in so far as I have been able to establish, the formulation of such legislation while consulting major stakeholders did not consult the historic environment sector, probably because there was no focal organisation to consult (?) – which lends yet further weight to the HEACS proposal for a Forum for traditional skills training in Scotland . Simply put, the historic environment is either not at the table, or not on the agenda when crucial decisions, with their cascading,

and probably unintended effects, are made. The question of VAT on repairs to historic buildings is, one suspects, another decision made in isolation from the historic environment front-line which it is proving difficult to reverse.

If this re-briefing of our senior public servants and representatives is necessary then how much more is the appropriate education in the history syllabus of our young people. Rightly, Minister, HEACS avoids this byway too. Yet this is another table and agenda at which one suspects the historic environment sector has not been formally present when important debates are held. Our centrally governed school syllabus for history is, it seems, likely to contract in a situation that is already wildly over restrictive. How can we expect our young people to respect, or even enjoy, the historic environment if they have no flint of knowledge against which to strike the pyrites of their imagination?

Enough of the broader issues that echo implicitly or explicitly throughout the five reports. Minister, the Historic Environment sector looks to you to secure the admission to intercutting debates, the outcomes of which so frequently have unintended consequences for it - and for which its potential input goes unrealised. This admission has to be at all levels of government and will require energetic support. In order to allow this desired participation to be conducted to best effect the Historic Environment Audit now being implemented is a *sine qua non*. Fulfilment of these two requirements would have a revolutionary impact upon the sector which, after all, identifies, maintains and interprets the stock-in-trade of one of Scotland's most important industries, while also providing vital support for the social and psychological cohesion of her people.

Let me now move on to more detailed matters that emerge so cogently from these reports. The built environment comprises a wide spectrum of sites of varying historic and architectural importance and the maintenance of an environment requires an holistic approach that has hitherto been compartmentalised. Some properties and their curtilages have been singled out for especial treatment, whether by private or public trusts (such as NTS), and some have been accepted by Ministers into Guardianship – since the 1882 Act – a status that falls short of outright ownership but devolves management and conservation to Government, currently Historic Scotland(HS). As a result some 345 properties are now held in Guardianship through slow accrual by means of this time-hallowed practice, although 20% of these are now directly owned by government. Yet no explicit policy for assessment and selection, or indeed proactive investigation for acquisition, exists. HEACS have drawn attention to this *lacuna*, suggesting that this practice might well become more 'processual' with monuments, often in a decision of last resort, being taken on by the State, stabilised and then passed on, for upkeep, to independent managers, Trusts or LAs for ongoing management, thus freeing up Historic Scotland resources for renewed activity in other directions. The importance of this Estate, this National Collection, equivalent in every way to those mobile artefacts housed in our National Museums and Galleries, for tourism is demonstrated by the circa 3 million visitors received at the 20% sites where numbers are monitored, and the Guardianship ethos meshes well with Scottish Ministers' aims to stimulate Tourism, Social inclusion, Life-long learning, Economic development and Regeneration. Together with independent owners and trusts, the NTS and HS present a massive resource for Scottish tourism, education and amenity. I have to say that I sometimes think that mutual co-operation between those bodies in guiding visitors *to each other's* sites could be enhanced to mutual, and public, benefit.

But these 'honeypot' attractions, these buildings of exceptional character are of course the tip of the iceberg. They rely for their amenity upon the wider built environment within which they are set – in crude statistical terms the 47,000 Listed Buildings and 670 odd Conservation Areas across Scotland – in more realistic terms the built environment that furnishes so much of the character and individuality of our countryside and its townscapes. The responsibility for the administration of the protection of listed buildings and Conservation Areas falls largely to LAs who may be advised by HS. HEACS have studied the working of this system (although, as in so many areas, finding it difficult, often, to quantify inputs and outputs) and their conclusions are pretty shocking (unless you knew!). It is abundantly clear that the network of Conservation Officers across Scotland can best be described as “unevenly threadbare” and is inadequate to the task imposed upon it. The system is overstretched and could not function at all without substantial voluntary input from the Architectural Heritage Society of Scotland and the Scottish Civic Trust supported by HS. LAs are, of course, hard pressed financially by Government, and will plead other priorities, but HEACS does not pull its punches here. It compares the support offered by HS unfavourably with the approaches adopted by Scottish Natural Heritage. It challenges HS and LAs to take a more proactive role in convincing local populations of the value, economically and psychologically of the Historic built environment; to set out clearer priorities for its conservation; to identify and communicate a body of best practice and to find means of measuring the performance of that practice, as well as tackling under-investment and variable performance.

However, at the root of this under-investment lies the lack of any statutory requirement for it to happen. This is not the case with the Natural Environment wherein the *Nature Conservation (Scotland) Act 2004* places a duty on all LAs and public agencies to conserve biodiversity. The distinction is neatly illustrated by the fate of the much-loved College of Textiles building in Galashiels, a fate (sadly only temporarily) suspended as total demolition was delayed by the hitherto unknown presence in this doomed fine building of a bat colony.

The current regime for the protection of our historic buildings is unfit for purpose. The whole issue is inappropriately placed on LA agendas and is woefully under-resourced. If we add to this the parlous state of some Sites and Monuments Records held by Councils we can observe a whole plinth structure that supports built amenity in Scotland, which of all countries has an architectural tradition of which it ought to be so proud, that is wholly inadequate to the task. I congratulate HEACS for bringing this issue so forcefully to your attention.

However further problems, bedevil this difficult issue. Even if goodwill, finance and public support are available to enable buildings to be properly maintained and repaired we would appear to be entering a critical situation where the traditional materials, and the skills and crafts in the use of these materials, are becoming increasingly scarce. Scottish slate is no longer quarried. Suitable dressed stone of local origin is often difficult to come by (and the use of unsuitable foreign, or just different, stones can be not only disfiguring but also positively harmful), and apprentice tradesmen are not coming forward. At your request Minister, HEACS have addressed this issue and while my own expertise really doesn't extend into this highly technical area, the report makes it abundantly clear that vastly enhanced co-operation through newly developed *fora* will be necessary to ensure that scarce materials and skills are deployed to best effect. Stimulating capital to invest in the production of traditional materials may prove difficult, but is a challenge that must be

faced urgently. But the key must also lie in the stimulation of demand. If HS and LAs insist upon the use of traditional materials then the market will respond, although it may prove necessary to provide pump-priming or subsidy finance to those carrying out maintenance. The root issue here is, however, as across the entire sector, a question of will backed by appropriate resources and appropriate legislative rigour.

It is to this last issue that HEACS directs its fifth report. Is there the need for a review of the Laws governing the Historic Environment? That was your question, Minister. At the outset I sketched the long, pretty haphazard trek that has brought us the present situation so that my audience could appreciate the issue. The law as it exists is workable and has served adequately for a long period. To those of us on the 'inside', if I can put it like that, its quiriness, lack of consistency, internal contradictions, and unevennesses have come to be almost like 'family'. But to those 'outside', who come across the law only once or twice and who have no knowledge of its history it must seem arcane, opaque and sometime perverse with distinctions that are ill-defined.

In addition, as already indicated, to those of us working within the Heritage sector, laws are occasionally passed that seem perverse in the rather unusual circumstances that prevail here. Furthermore, we are now working in a world of complex cross-cutting environmental issues that can all too easily set one set of law against another.

HEACS has addressed all of these issues in a thoughtful and even-handed document. It remains determined that the protection of buildings and sites offered by current legislation should not be weakened, but recognises that the 'site specific' approach adopted for well over a century simply does not answer all of the issues raised by our current understanding of the 'historic environment', nor does it allow proper integration with current Planning law and practice. HEACS also is convinced that the prescriptive nature of much of the current legislation sits ill with the aspiration to partnership and co-operation that infuses much of our current approach to conservation issues.

It is also clear that current public awareness of the value of the Historic Environment is inadequately developed – or perhaps, in a 'taken for granted' sort of way, subliminal, and that any Law must be consensual. Furthermore it is axiomatic that the law in itself is only an abstraction without the resources to patrol it, and where necessary to enforce it.

The outcome of these reflections by HEACS is that a full review should be undertaken of the law relating to heritage protection in Scotland that reduces the compartmentalisation of current law; that simplifies its concepts; unifies its consent procedures within a more open and transparent set of guidelines; while setting appropriate levels for decision making, and unifying it with other environmental statutes. And finally, and probably most importantly, HEACS presses the case for the introduction of a 'duty of care' provision in law similar to that conjured in recent legislation for the bats of Galashiels.

Minister, thank you for asking the right questions – they cover a fair segment of the field. HEACS, I am vastly encouraged by the skilful, thoughtful and economic yet the penetrative frankness and focus of your answers. I hope we can all now get 'stuck in' and move forward to the action that the Heritage so desperately needs. May I finally thank you all for your attention.

Roger Mercer  
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