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## Funding

### 1 Introduction

This section comprises a series of short texts on unrelated aspects of funding and financing buildings at risk projects. This does not attempt to replicate the advice guides of the principal funding agencies nor does it seek repeat the case studies of funding arrangements for completed schemes published in the annual reports of the Architectural Heritage Fund and elsewhere. It is anticipated that this guidance will be expanded and revised over time based on user and reader input.

### 2 Cross subsidy of Buildings at Risk and ‘Enabling Development’

One means of resolving the impasse surrounding buildings at risk is through the cross subsidy of restoration works through the sale or development of associated land to raise funds to help finance the restoration project. In some circumstances this may be relatively straightforward but in many others it will involve making proposals which are contrary to planning policies. In such cases it is known as ‘enabling development’.

Depending on their individual perspectives, people interpret the term ‘enabling development’ differently. Some see it as a concession, benefit or inducement to a developer to encourage them to take on an intractable building due to the prospect of an enhanced profit through additional development opportunities that a site would otherwise offer. As such it is regarded as a positive, unlocking tool for economic development and growth and an example of flexible thinking in a modern planning system.

Scottish Planning Policy is supportive of ‘enabling development’ in relation to buildings at risk although it is not clear whether the term is being used as a noun (a thing) or as a verb (an activity):

114. Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building. The resulting development should be of a high design quality, protect the listed building and its setting and be the minimum necessary to enable its conservation and re-use. The new development should be designed to retain and enhance the special interest, character and setting of the listed building.

Many sites, including buildings at risk, do contain opportunities for creative, sympathetic development in and around them without prejudice to the buildings character and setting and the wider amenity of the area. Such development is highly appropriate and can bring new life to

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a building or locality. It can be promoted in a council endorsed planning brief or through consent gained in advance of marketing. However, such development that brings heritage assets into optimum and appropriate beneficial use while in accordance with policy as defined in the relevant statutory development plan is not enabling development in the established technical meaning of the term. This ‘official’ definition considers it as development that secures the future of a significant place but is contrary to established planning policy.

Various arguments are put forward for development associated with buildings that is contrary to policy including owner seeking opportunities when they are restoring a site after a catastrophic event such as a fire and where the insurance cover was inadequate, where an earlier policy compliant development has not made a profit and the developer claims to need addition. Some developers see a degree of deviation from policy as a right or at least as a starting point in negotiations with the planning authority and others as a possible means of ‘getting round’ the planning system.

There is no special guidance on enabling development in historic contexts in Scotland although it is understood that this will be forthcoming in Historic Scotland’s *Managing Change* series. It has been discussed in the published Conservation Assessment of St Peter’s Seminary, Cardross, a notable buildings at risk case:

The problem which enabling development typically seeks to address is that the cost of maintenance, major repair or conversion of a building is greater than its resulting value to its owner, or in the property market. This means that a subsidy to cover the difference – the ‘conservation deficit’ – is necessary to secure its future. The concept of enabling development is that development which would otherwise be contrary to established planning policy may be permissible if it can be demonstrated that the benefits it would bring to securing the future of a heritage asset at risk outweigh the harm that would be caused by the development itself. The likelihood of some harm resulting is intrinsic. The issue to consider is whether the benefit (and principally the financial benefit) is sufficiently substantial and secure to compensate for it.<sup>1</sup>

This goes on to reference and draw on the guidance published by English Heritage<sup>2</sup>, which remains the principal in-depth guide to the subject when it notes, in paragraphs 11.5 and 11.6 that effective and acceptable enabling development should not materially harm the heritage values of the place or its setting, and also meets all of the following criteria:

- It avoids detrimental fragmentation of management of the place;
- It will secure the long term future of the place, and where applicable, its continued use for a sympathetic purpose;
- It will meet the costs of resolving problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid;
- Sufficient financial assistance is not available from any other source;
- It is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place;

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<sup>1</sup> <http://www.historic-scotland.gov.uk/avanti-chap11-stpeters.pdf> paragraph 11.2.

<sup>2</sup> English Heritage *Enabling Development and the Conservation of Significant Places* 2008. <http://www.english-heritage.org.uk/publications/enabling-development-and-the-conservation-of-significant-places> It is understood this guidance is being revised.

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- Its form minimises harm to other public interests, particularly conflict with other planning policies;
- The public benefit of such enabling development decisively outweighs the disbenefits of breaching other public policies.

It suggests that it may be inferred from the above criteria that the default presumption is against enabling development. However, if it is decided that a scheme of enabling development meets all the above, planning permission should only be granted if:

- The impact of the development is precisely defined at the outset – normally requiring the granting of full rather than outline planning permission;
- The achievement of the heritage objective is securely and enforceably linked to it;
- The heritage asset is repaired to an agreed standard, or the funds to do so are made available as early as possible in the course of the enabling development, ideally at the outset and certainly before completion or occupation; and
- The planning authority closely monitors implementation to ensure the obligations are fulfilled.

Enabling development clearly does have a place but only as a tool of last resort and not as a given. Such development is always complex and controversial and the onus is on the applicant to provide all relevant information to the local planning authority. There are a number of considerations

- Where an approach for enabling development seems likely the local authority should recognise this and not wait for the developer or their agent to come forward with proposals. Full use should be made of planning briefs to explore and confirm capacity for acceptable change and how it might be achieved. (Toolkit text 8 *The Planning or Conservation Brief*).
- There should be an onus on the applicant to demonstrate that real efforts have been made, without success, to continue the present use or find compatible alternative uses for the place.
- If the basic criteria that proposals will not materially harm the heritage values of the place or its setting cannot be met then the proposal should go no further.
- There should be the fullest statements arguing the public benefit of securing the future of the significant place through enabling development decisively outweighs the disbenefits.
- Financial considerations are central and assessment, accounting and monitoring will require professional input.
- A deep understanding the nature and significance of the asset is essential at the outset.
- Similarly, the full impact of development should be precisely defined at the earliest stage.
- Robust legal agreements need to be put in place, including bonds.
- All repairs need to be phased and conditioned to ensure that the heritage asset is safeguarded at the earliest stage.
- There needs to be provisions for rigorous monitoring and the signing off of progress.

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The above guidance was prepared by The Architectural Heritage Fund for Historic Scotland and is published by the Buildings at Risk Register for Scotland as part of the Buildings at Risk Toolkit. <http://www.buildingsatrisk.org.uk/>

The text contains references to legislation and its interpretation that may contain inaccuracies or be out of date. Ensure you take appropriate professional advice before making decisions relating to property. Feedback, relevant case studies and suggested changes are welcomed.

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