
A83 Rest and Be Thankful

LTS EIAR VOLUME 4, APPENDIX 8.1 - CULTURAL HERITAGE
LEGISLATION, POLICY AND GUIDANCE

Transport Scotland

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A8-1. Cultural Heritage Legislation, Policy and Guidance

A8-1.1. Legislation

[The Roads \(Scotland\) Act 1984 \(Environment Impact Assessment\) Regulations 2017](#)

- A8-1.1.1. The legal requirements regarding Environmental Impact Assessments (EIA) for proposed road schemes within Scotland are contained in the Roads (Scotland) Act 1984. This Act was amended by The Roads (Scotland) Act 1984 (Environmental Impact Assessment) Regulations 2017 in order to transpose Directive 2104/52/EU into Scottish law. The Regulations state that EIAs should include a description of the environmental factors predicted to be significantly impacted by the Proposed Scheme. For cultural heritage this includes architectural and archaeological aspects and landscape. The description of effects should include a discussion around the direct and indirect effects, whether short term or long term, permanent or temporary and whether effects are positive or negative. The assessment should also include proposed mitigation methods where appropriate.

[Planning \(Listed Buildings and Conservation Areas\) \(Scotland\) Act 1997](#)

- A8-1.1.2. This Act outlines the restrictions on works affecting listed buildings and conservation areas. It details how works should be undertaken once authorisation and consent has been granted. Part 1, chapter 2 outlines the conditions for authorisation for developments which affect listed buildings.

A8-1.2. National Policy

[National Planning Framework 4 \(NPF4\)](#)

- A8-1.2.1. In the NPF4 (2023-2045), Policy 7 outlines a long-term plan to protect and enhance historic environment assets and places. It aims to facilitate positive

change as a catalyst for the regeneration of these areas. The policy elements that are pertinent to this assessment are as follows:

“a) Development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change.

Proposals should also be informed by national policy and guidance on managing change in the historic environment, and information held within Historic Environment Records (HER).

b) Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.

Where impacts cannot be avoided, they should be minimised. Where it has been demonstrated that avoidance or retention is not possible, excavation, recording, analysis, archiving, publication and activities to provide public benefit may be required through the use of conditions or legal/planning obligations.

When new archaeological discoveries are made during the course of development works, they must be reported to the planning authority to enable agreement on appropriate inspection, recording and mitigation measures”.

- A8-1.2.2. Please note that Sections b-n of Policy 7 relate to aspects of the historic environment which are not relevant to the Proposed Scheme, including demolition of listed buildings, scheduled monuments, conservation areas and historic battlefields and are therefore not included here.

[Planning Advice Note \(PAN\) 2/2011: Planning and Archaeology 2011](#)

- A8-1.2.3. The PAN advises that, in determining planning applications, planning authorities should consider the relative importance of archaeological sites. The

desirability of preserving a heritage asset (whether scheduled or not) is a material consideration and the objective should be to ensure the protection and enhancement of heritage assets by preservation *in situ*, in an appropriate setting. When preservation *in situ* is not possible, recording and / or excavation followed by analysis and publication of the results should be undertaken.

[Historic Environment Scotland Policy Statement \(HEPS\) 2016](#)

- A8-1.2.4. The HEPS details a number of policies that ensure that ‘Scotland’s historic environment is understood and valued, cared for and protected, enjoyed and enhanced’. The strategy sets out high level policies for managing the historic environment, which include ensuring understanding of the historic environment; prioritising protection of historic environment assets and, where not possible, mitigation is included; seeking enhancement opportunities; and consideration of impacts on communities.

[Our Past, Our Future: The Strategy for Scotland's Historic Environment 2023](#)

- A8-1.2.5. 'Our Past, Our Future' is the refreshed five-year strategy that has replaced '[Our Place in Time](#)' (2014). The document aims to set the priorities for the historic environment during the five-year plan. These priorities feed into the mission statement presented in this document, which is to sustain and enhance the benefits of Scotland's historic environment, for people and communities now and into the future. The priorities are to aid in delivering the transition to net zero, to empower resilient and inclusive communities and places, and to build a wellbeing economy. Under each priority, several outcomes are defined, such as increasing engagement with the historic environment and allowing communities to participate in decisions that affect their local environment. It also identifies some high-level actions that can help to realise these outcomes. Proposed developments should show consideration of the mission statement, the highlighted outcomes, and evidence adherence to this and other guidance.

A8-1.3. Regional Policy

[Local Development Plan 2 | Argyll and Bute Council \(argyll-bute.gov.uk\)](#)

- A8-1.3.1. The Development Plan for the Argyll and Bute consists of the NPF4, the adopted LDP and any associated Supplementary Guidance. The following policies are relevant to the Proposed Scheme:

“Policy 15 – Aims to support the protection, conservation and enhancement of the historic built environment. All proposals for development that would affect either a designated or non-designated heritage asset or their setting will be expected to demonstrate how they would enable positive change by balancing the need to secure the long-term sustainability of the asset against the need to address the impacts of climate change and to meet the council’s wider regeneration objectives, where appropriate”.

“Policy 16 – Protection of Listed Buildings. Development proposals which affect a listed building are required to meet criteria which includes demonstrating respect of the original structure through a proposed appropriate use and conforms to national policy. Proposals should include an assessment of the proposed effect on listed buildings and their setting and propose appropriate mitigation measures”.

“Policy 21 – Sites of Archaeological Importance. Where a proposed development would affect a site of archaeological significance, the prospective developer will be required to: consult the planning authority and the West of Scotland Archaeology Service (WOSAS), provide an assessment of the importance of the site and conform to relevant policies and guidance. Developers will be expected to make provision for the protection and preservation of archaeological deposits in situ. If, however, the planning authority deems this is not warranted, developers will where appropriate mitigate through preservation by record. Policy 21 also outlines guidance for actions to be undertaken if archaeological remains are discovered after development has commenced”.

[Loch Lomond and The Trossachs National Park LDP 2017-2021](#)

A8-1.3.2. The LDP contains the following policies are relevant to the Proposed Scheme:

- Historic Environment Policy 1: Listed Buildings.
 - Developments which alters or extends a listed building will only be supported if there is a demonstration that through design choices, the

development will protect, conserve or enhance the listed building and its setting.

- Partial or full demolition shall be approved where there is either no special interest, the building is incapable of repair, the demolition allows for further economic or community benefits, or where the building is not economically viable to repair.
- Historic Environment Policy 3: Wider Built Environment and Cultural Heritage. Proposed Developments are expected to protect, conserve and/or enhance a building or feature of architectural or historical significance. Features of note should be incorporated within design choices and any adverse effects should be mitigated against where appropriate.
- Historic Environment Policy 7: Other Archaeological Resources. Proposed developments should aim to preserve archaeological resources in-situ and within an appropriate setting. Where this is not feasible, methods of mitigation should be proposed where appropriate.
- Historic Environment Policy 8: Site with Unknown Archaeological Potential. Proposed Developments should display consideration of archaeological potential and follow with an archaeological evaluation where appropriate. The archaeological evaluation should include appropriate mitigation measures for the discovery of archaeological remains at the evaluation stage.

A8-1.4. Guidance and Standards

Managing Change in the Historic Environment – Historic Environment Scotland’s Guidance Note Series

- A8-1.4.1. ‘Managing Change in the Historic Environment’ is a series of guidance notes about making changes to the historic environment in line with the ‘Historic Environment Policy for Scotland’ (HEPS) and NPF4, which replaced the ‘Scottish Planning Policy’ (SPP). These guidance notes include physical effects to heritage assets of historical importance as well as their setting.

Design Manual for Roads and Bridges (DMRB) - LA 104 Environmental Assessment

- A8-1.4.2. It sets out the requirements for environmental assessment of projects, including reporting and monitoring of significant adverse environmental effects. It establishes criteria for assignment of value (sensitivity) to receptors of impacts, categories and descriptions of magnitude of impacts, and the resultant significance of effects of impacts to receptors.

Design Manual for Roads and Bridges (DMRB) - LA 106 Cultural Heritage Assessment

- A8-1.4.3. It sets out the requirements for assessing and reporting the effects on cultural heritage as part of the environmental assessment process of construction, operation and maintenance projects. It specifies that for the purposes of cultural heritage assessments, landscapes of historical, cultural or archaeological significance shall be assessed as a cultural heritage resource. It requires that the study area of an assessment be defined according to the sensitivity of the receiving environment and the potential impacts of the Proposed Scheme, and to include the footprint of the Proposed Scheme plus any land outside that footprint, which includes any heritage assets which could be physically affected. The significance criteria assigning value (sensitivity), magnitude of impact and significance of effect and reporting the significant effects of a project on cultural heritage resource and its settings are defined as those established by DMRB LA 104.

Standard and Guidance for Historic Environment Desk-based Assessment

- A8-1.4.4. The Chartered Institute for Archaeologists (CIfA) has produced a series of standards and guidance for archaeological work. The most relevant is the 'Standard and guidance for historic environment desk-based assessment', which details the requirements for baseline assessments.

Listed Buildings & Conservation Areas Planning Guidance

- A8-1.4.5. Loch Lomond and The Trossachs National Park have produced policies to protect listed buildings, maintain and enhance conservation areas and high quality new builds within the national park. The accompanying guidance sets out how this can be achieved and sets guidance required for repair and maintenance.