



Historic Environment (Amendment) (Scotland) Act 2011 2011 asp 3

PART 3

MODIFICATIONS OF THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997

Declining to determine applications for listed building consent

20 Declining to determine an application for listed building consent

(1) After section 10 of the 1997 Act, insert—

“10A Declining to determine an application

(1) A planning authority may decline to determine an application (in this subsection referred to as the “current application”) for listed building consent—

(a) if—

(i) in the period of two years ending with the date on which the current application is received, the Scottish Ministers have refused a similar application referred to them under section 11 or have dismissed an appeal against the refusal of, or an appeal under section 18(2) in respect of, a similar application, and

(ii) in the opinion of the authority there has not, since the Scottish Ministers refused the similar application or dismissed the appeal, been any significant change in any material considerations,

(b) if—

(i) in that period of two years the planning authority have refused more than one similar application,

(ii) there has been no appeal to the Scottish Ministers against either (or as the case may be any) of those refusals, and

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Changes to legislation: There are currently no known outstanding effects for the Historic Environment (Amendment) (Scotland) Act 2011, Section 20. (See end of Document for details)

- (iii) in the opinion of the authority there has not, since the more (or as the case may be most) recent of the refusals, been any significant change in any material considerations,
 - (c) if—
 - (i) in that period of two years the planning authority have refused more than one similar application,
 - (ii) there has been an appeal to the Scottish Ministers against either (or as the case may be any) of those refusals but as at the time the current application is received no such appeal has yet been determined, and
 - (iii) in the opinion of the authority there has not, since the more (or as the case may be most) recent of the refusals, been any significant change in any material considerations,
 - (d) if—
 - (i) in that period of two years there have been appeals under section 18(2) in respect of more than one similar application but as at the time the current application is received no such appeal has yet been determined, and
 - (ii) in the opinion of the authority there has not, since the more (or as the case may be most) recent of the appeals was made, been any significant change in any material considerations, or
 - (e) if—
 - (i) in that period of two years two similar applications have been made to the planning authority,
 - (ii) the planning authority have refused one of those applications and there has been an appeal under section 18(2) in respect of the other but as at the time the current application is received the appeal under that section has yet to be determined as has the appeal (if any) against the refusal, and
 - (iii) in the opinion of the authority there has not, since the refusal or since the appeal was made (whichever was the more recent), been any significant change in any material considerations.
- (2) For the purposes of this section an application for listed building consent is to be taken to be similar to another such application only if the listed building and the works to which the applications relate are in the opinion of the planning authority the same or substantially the same.”
- (2) In section 18(2) of that Act (right to appeal against decision or failure to take decision)
- (a) for the word “neither” substitute “ not ”,
 - (b) the word “nor” after paragraph (a) is repealed,
 - (c) after that paragraph, insert—
 - “(aa) given notice to the applicant that they have exercised their power under section 10A to decline to determine the application, or”.

Commencement Information

II S. 20 in force for specified purposes at 30.6.2011 by S.S.I. 2011/174, art. 2, Sch.

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I2 S. 20 in force in so far as not already in force at 1.12.2011 by S.S.I. 2011/372, art. 2, **Sch.**

Status:

Point in time view as at 01/12/2011.

Changes to legislation:

There are currently no known outstanding effects for the Historic Environment (Amendment) (Scotland) Act 2011, Section 20.