Research

Research report: Access improvement applications to listed buildings and the role of local authorities

HISTORIC SCOTLAND

Making rights a reality

The Disability Rights Commission

The Disability Rights Commission (DRC) is an independent body, set up by an Act of Parliament, which has the goal of creating a society where disabled people and those with long-term health conditions can participate fully as equal citizens.

We work with the voluntary sector, the business community, Government and public sector agencies to achieve practical solutions which benefit disabled people and society as a whole.

There are around 10 million people with rights under the Disability Discrimination Act in Great Britain. The legal definition of disability covers people with physical, sensory, communication and intellectual impairments, and people with mental health and other long-term health conditions such as diabetes, epilepsy, cancer, multiple sclerosis, HIV and schizophrenia.

Under the Disability Discrimination Act 1995, disabled people have the legal right to fair treatment in employment, in education and as customers of services. Most duties of the Act are now in force. A new Disability Discrimination Act received royal assent in 2005. This will create a duty on public bodies to actively promote disability equality from December 2006 as well as close some of the loopholes in the previous act.

The DRC has offices in England, Scotland and Wales and can support both those with rights and those with responsibilities under disability legislation. For further details of how we can help you please contact our Helpline – contact details can be found on the back cover.

In 2007, a new Commission for Equality and Human Rights will begin its work. This body will have responsibility for the activity currently undertaken by the DRC.

To obtain a copy of this report or an alternative format please email: **scotland@drc-gb.org**

Historic Scotland

Historic Scotland safeguards the nation's built heritage by scheduling monuments of national importance and by listing historic buildings of special architectural or historic interest. Scheduled monuments, listed buildings, and buildings in conservation areas, are protected by legislation and consent is normally required before any alteration or development can take place. The agency conserves properties in our care and provides financial assistance to private owners towards the costs of conserving and repairing outstanding monuments and buildings.

Historic Scotland leads in researching issues relating to building conservation and in developing and promoting craft skills. The agency carries out specialised conservation work and is active in raising the standard of conservation practice among owners, and trade and professional groups.

Historic Scotland has more than 300 properties in its care and welcomes around 2.9 million visitors each year to over 70 properties where admission is charged. The agency has a commitment to encourage knowledge about Scotland's built heritage and provides guidebooks and other publications, and educational material relating to the school curricular guidelines.

Historic Scotland was created as an agency in 1991 and was attached to the Scottish Executive Education Department, which embraces all aspects of the cultural heritage, in May 1999. As part of the Scottish Executive Historic Scotland is directly accountable to Scottish Ministers for safeguarding the nation's built heritage, and promoting its understanding and enjoyment.

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Summary

- This report summarises the research undertaken by Tom Lister Associates on behalf of the Disability Rights Commission (DRC) and Historic Scotland (HS), into the planning and listed building consent application process concerning accessibility improvements to historic buildings and the role of local authorities.

Methodology

- The research is made up of two key parts, a literature review and case studies of three Scottish Councils. The literature review identifies the key legislation and guidance, as it applies in Scotland, on improving access for disabled people to historic buildings. Each case study is split into two main sections. The first part of each case study reviews planning application data and the second part contains interviews with Council officers, including planners, building standards surveyors and local access panel members. Policy documents from all three Councils are reviewed.

Findings

- The research findings did not support the anecdotal evidence that the listed status of historic buildings was being used by service providers as a way of avoiding their obligation to make reasonable adjustments under the terms of the **Disability Discrimination Act 1995**.

- The interviewed planners did not see the promotion of accessibility issues as a key part of their role. The planning legislation gives little or no regard to inclusive design issues. Accessibility is seen as an issue for designers to address and building standards officers to enforce.

- The interviewed planners appear to be making judgements on the balance between the character of listed buildings and the need to improve access.

- Of the planning and listed building consent applications reviewed, only a small proportion were withdrawn or refused. The reasons for a withdrawn application were not always recorded.

- The interviewed planners had no formal training in inclusive design.

- The case study Councils' own policies and standards on inclusive design and access improvements vary considerably.

- There is little or no Scottish good practice guidance on improving access to the historic environment, but there is a substantive body of general guidance produced elsewhere in the UK which is also relevant in Scotland.

- Some examples of good design practice were found, where the access panel, design team and access consultant were involved throughout the development process.

Forthcoming Changes

- Under the **Disability Discrimination Act 2005** every local authority will have a duty to produce a Disability Equality Scheme setting out how they will meet their general duties under the Act. Actively promoting inclusive design, involving disabled people when developing policies and generally taking a more joined-up approach to delivering inclusive environments are all likely to play a part in meeting this duty. However, Councils currently have no duty to require fully inclusive environments under planning legislation.

- The publication of the Scottish Executive's **Inclusive Design Planning Advice Note** and the opportunities presented by the forthcoming reforms to the Scottish planning system may go some way towards addressing the general issue of improving

access to the built environment. In particular, if the introduction of access statements becomes a requirement of planning permission for certain developments this could assist greatly. The revision of the Scottish Building Standards in 2007 could be another step forward.

Recommendations

- A joint planning and building standards approach to inclusive design is required to deliver environments which are accessible to everyone. This is even more important when adapting the historic environment, where a balance has to be struck between accessibility and the preservation of the structure or site. Only considering accessibility issues at the building warrant stage may mean the opportunities to integrate the access requirements sensitively into a design are lost.

- Until inclusive design is included in Scottish planning and building standards legislation, Councils will have no duty to insist on inclusive environments. A statutory obligation should be placed on local authorities to consider and recommend access improvements to historic buildings during the planning and listed building consent application process.

- An applicant should be required to submit an access statement to support their planning application. This would assist planners when assessing accessibility issues. This places the onus, from the very start of the project, on designers to take an holistic approach to addressing the needs of disabled people.

- Many individuals and interested parties have a role to play in ensuring that listed buildings become more accessible to disabled people. They include:

- Local authorities

- Designers

- Access panels

- Historic Scotland

- The occupier of the listed building/applicant.

There has to be a dialogue between all interested parties. Communication must be formalised to ensure that access issues are given due consideration in planning and listed building consent applications.

Contents

1.   Introduction

1.1   This report summarises the research undertaken by Tom Lister Associates on behalf of the Disability Rights Commission (DRC) and Historic Scotland (HS), into the planning and listed building consent application process concerning accessibility improvements to historic buildings and the role of local authorities. The research was commissioned in response to anecdotal evidence that the listed status of historic buildings was being used by service providers as a way of avoiding their obligation to make reasonable adjustments under the terms of the **Disability Discrimination Act 1995** (DDA 1995). The research was carried out between August and December 2005.

1.2   The steering group supporting the research was made up of the following members:

- Vicki Allison – Disability Rights Commission
- Victoria Ball – Historic Scotland
- Caroline Johnston – Disability Rights Commission
- Graham Robinson – Scottish Executive
- Iain Ross – Fife Council
- Steven Scott – Scottish Building Standards Agency

1.3   Every effort has been made to make sure that the information in this research is correct. However, it is not intended to be an authoritative statement of the law, and the Disability Rights Commission and Historic Scotland cannot accept any legal responsibility or liability. The views expressed in this report are the author's own and do not necessarily reflect those of the Disability Rights Commission or Historic Scotland. The research steering group provided the author with advice and guidance.

2. Methodology

2.1 Introduction

This research is made up of two key parts, a literature review and case studies of three Scottish Councils. The literature review identifies the key legislation and guidance, as it applies in Scotland, on improving access for disabled people to historic buildings. A summary of the literature review is in Section 3 and the full review is in Appendix I. Each case study was split into two main sections: the quantitative research which looked at planning application data, and the qualitative research which involved interviewing Council officers. Policy documents from the three Councils were reviewed. Relevant planning appeals were also analysed.

2.2 Structure

This is a baseline research study. Therefore, the research has been structured to allow subsequent research to replicate the methodology of this research.

2.3 Programme

It was agreed that the research would be undertaken from August to December 2005. It was identified at the early planning stages that the success of the research hinged on good co-operation from the chosen Councils on both the quantitative and qualitative aspects of the research.

2.4 The Steering Group

The steering group met three times – firstly, soon after the contract was awarded in August to discuss the focus of the research, then in September to discuss the results from pilot study, and lastly in December to discuss the first draft of this report.

2.5   Case Studies

The same three case study Councils (A, B and C) were used for both the quantitative and qualitative aspects of the research. Council A was chosen as a pilot study, since it reflected a mix of urban and rural settlements, and it was known to have a large concentration of listed buildings within its boundaries. The decision on which Councils to use for case studies B and C was made after the pilot study to reflect the lessons learned. Council B was chosen for its electronic planning (E-Planning) system. All Scottish Councils are likely to have similar systems in the future. Like Council A, Council C was chosen for its mix of urban and rural settlements.

2.6   Quantitative Research

2.6.1   Introduction

The quantitative research for each case study was carried out prior to the qualitative research so specific applications could be discussed with Council officers and local access panel members. This helped provide a fuller picture of how applications were being dealt with in practice.

2.6.2   Timescale

The quantitative study of planning applications involved analysing application data for the period July 2004 to July 2005. This period was chosen to give a snapshot of the period before and after 1 October 2004, when the final section of the Part 3 duty of the DDA 1995 was introduced. Part 3 of the DDA 1995 places a duty on providers of goods, facilities or services to make reasonable adjustments, including alteration to the physical fabric of their premises, to allow access for disabled people. It was expected there would be a large number of applications for access improvements of listed buildings during this period.

2.6.3 Data Retrieval

Data was gathered on non-residential planning and listed building consent (LBC) applications, ie applications to alter service provider's premises. During the period chosen a number of applications were solely for providing ramps, handrails or accessible toilets. However, for many larger applications, for example an application for a full building refurbishment, a ramp or a toilet comprised only a small part of the overall application. Identifying the relevant larger applications was a key hurdle in this part of the research.

Most Councils log planning applications with only a short description. This description cannot include every element of an application. In the majority of Scottish Councils, only a weekly list of planning applications is available, either on paper or on the Council's website. Most Councils in Scotland use the 'Uniform' computerised database for logging planning applications. A paper-based system for cataloguing key information on applications, which includes all drawings and specifications for the proposals and planning committee reports, is used as well. Therefore, unless the short description includes key words such as 'ramp', 'disabled' or 'DDA', the paper files must be reviewed.

2.6.4 Applications

The details of the rejected applications and the reasons for rejection are of particular interest. The withdrawn applications are also important, ie when an applicant withdraws their application before a decision is made. Withdrawn applications could amount to the same as rejected applications, since an applicant could have been advised by planners that their proposals would be rejected if they proceed with their application.

The fact that an application is withdrawn is not necessarily negative, since this could reflect advice given by a planner on how to improve an application. A re-application with a different scheme which takes on board the planner's comments may achieve a better solution. Rejecting an application outright could set a precedent for any similar applications in the future.

2.7   Review of Council Policies

2.7.1   Introduction

The relevant written policies of the three case study Councils were reviewed against the good practice identified in the literature review. This included building and streetscape design guidance and the Councils' Development Plans.

2.7.2   Development Plans

Development plans are made up of two parts – the structure plan and the local plan. Between them they show how much development may take place, where it will take place and where it is unlikely to be allowed. Development plans are the basis for decisions on planning applications. They contain policies for the future development and use of land in an area. Plans can cover a wide range of issues such as housing, transport, employment, shopping, recreation, and conserving and protecting the countryside.

2.7.3   Structure Plans

The structure plan for an area takes a long-term view of development, considering its general scale and broadly where it should be located. Each Council will prepare a structure plan either alone or working with neighbouring Councils. After there has been wide consultation with the public and other interested people and organisations, the Council submits a structure plan to the Scottish Executive for approval.

2.7.4   Local Plans

Local plans are often for smaller areas. They set out more detailed policies and proposals to guide development. Again, Councils must consult widely on the content of a local plan. After considering all views and objections and making suitable changes, Councils will adopt the local plan as the basis for their decision-making in the area. They cannot do this if the local plan is not in line with the approved structure plan.

2.7.5   Planning Decisions

Councils must make decisions on planning applications in line with the development plan unless material considerations suggest otherwise. A 'material consideration' is a planning matter which is relevant to the application such as national planning policy, comments by the public or organisations with whom the Council has consulted, the design of the proposed development, access or the effect on the environment. (See Section 3.3 of the Literature Review on national planning policy.) The Council must decide what these material considerations are and how important they are. Councils will usually approve applications for development in line with the development plan.

2.8   Qualitative Research

2.8.1   In order to maximise the information gained from the research the sources have been anonamised within this report.

2.8.2   The four groups of people interviewed within each Council were as follows:

- Planners
- Building standards surveyors
- Roads engineers
- Councillors.

2.8.3 Members of the access panel in each Council area were also interviewed.

2.8.4 A set of questions was developed to ensure consistency and for comparative purposes between the three Councils, see Appendix 3. During the interviews there was an open discussion session. The discussion session varied depending on an individual's knowledge of the subject and the number and complexity of the applications being discussed. Where possible, specific listed building consent (LBC) applications were discussed to try to gain a fuller understanding of the application process and to gauge the Council's attitudes.

2.9 Planning Appeals

Planning appeals made between July 2004 and July 2005 are reviewed in the quantitative section of each case study and in Section 7 (Planning Appeals). Appeals against refusal of planning permission, conditions attached to a planning permission, or an enforcement notice are lodged with the Scottish Ministers. The Scottish Executive Inquiry Reporter's Unit (SEIRU) considers appeals. SEIRU makes most of the decisions although the Scottish Ministers will make decisions in some cases.

2.10 Delays

The quantitative research for the pilot study carried out in Council A had to be completed prior to agreeing the approach for the other case studies. There were delays in gaining the necessary information from Council A which delayed the programme by three weeks. There were also further delays with Council C which also had an impact on the programme.

3.   Literature Review Summary

3.1   The aim of the literature review was to identify the key legislation and guidance, as it applies in Scotland, on the subject of inclusive design and on improving access for disabled people to historic buildings.

3.2   The study highlighted the legal imperative for service providers to consider whether it was necessary for them to adapt their listed buildings in order to meet their duties under the terms of the DDA 1995. The literature review identified the lack of Scottish guidance on improving access to historic buildings, and the limitations of Scottish planning and building standards legislation. Scottish local authorities have little or no opportunity to insist that the historic environment is accessible to disabled people.

3.3   It is clear from the literature review that there is a large body of relevant good practice guidance available from elsewhere in the UK. This includes guidance for designers, developers, planners and managers of listed buildings on how to meet the needs of disabled people in a manner sympathetic to the historic fabric of their buildings. In addition, the English building regulations and planning legislation give more credence to inclusive design issues.

3.4   Under the DDA 2005, every local authority will have a duty to produce a Disability Equality Scheme setting out how they will meet their general duties under the Act. To meet this duty local authorities may actively promote inclusive design, involve disabled people when considering key policies and generally take a more joined-up approach to delivering inclusive environments. Until inclusive design features more highly in Scottish planning and building standards legislation, Councils have no legal authority to insist on fully inclusive environments.

3.5 The publication of the Scottish Executive's forthcoming Inclusive Design PAN (Planning Advice Note), and the opportunities presented by the forthcoming reforms to the Scottish planning system, may go some way towards addressing the general issue of improving access to the built environment through the planning system. The review of building standards may also help improve access to buildings generally. However, the existing body of English good practice guidance on improving access to the historic environment has relevance in Scotland. The principles for improving access to historic buildings remain the same across the UK, even though planning and building standards legislation differs.

4. Case Study A

4.1 Introduction

Case study A, the pilot study Council, was chosen for its mix of urban and rural areas and its large number of listed buildings.

4.2 Quantitative Research

4.2.1 Introduction

Council A has an electronic planning database and a paper-based system. Council A only publishes a list of applications on its website. There is no public online access to the information entered on the planning database. The database can only be accessed from within the Council offices.

4.2.2 Data Retrieval

The weekly planning application lists on the Council's public access website were filtered manually. All of the potentially relevant applications were put onto a spreadsheet, see Appendix II. This process included filtering out full and outline planning applications, as well as LBC applications for residential properties; approximately 3,800 planning applications were assessed. The Council's planning database was then accessed from within the Council, to refine the list further. In most cases it was not possible to clarify whether or not applications included access improvements. Only applications which were referred to the planning committee had a detailed description of the proposals entered on the planning database. There was a heavy reliance on the parallel paper filing system. Planners identified those applications which included access improvements and provided a detailed rationale for any refusals. A planning technician co-ordinated the responses from the planners.

4.2.3   Number of Applications

The results from the final refined list of relevant LBC applications for the period under consideration are given in the table below:

Table 1 Council A: Summary of Application Data

Total	Accepted	Pending a Decision	Withdrawn	Rejected
53	43	7	2	1

For further detail see Appendix II.

4.2.4   Analysis

The only rejected application was a proposal to provide external ramped access to a public house located on the lower ground floor of a building. To maintain two means of escape, building standards insisted that two ramps be provided. However, for conservation reasons, planning, in consultation with HS, would only accept one of the ramps.

Council A has no formal method of recording the reasons why applications are withdrawn. If a reason for withdrawal is recorded it is included in the paper filing system. No reasons were recorded for the two withdrawn applications.

4.3   Review of Council Policies

4.3.1   Development Planning

The current structure plan covers the period 2001 to 2011. The local plans for each of the Council areas were adopted on different dates between 2002 and 2004. All of these documents were produced after the introduction of the DDA 1995, but there is no reference to accessibility issues in any of these plans.

4.3.2 Planning Application Form

The Council's LBC/Conservation Area Consent Application form has 'tick-box' options for describing the proposed development. There is the option to describe a development under 'others'. Access improvements are not specifically listed as an option. Therefore identifying applications to improve access is difficult. The information provided on the form is the same information that is entered on the development control database.

The form's structure could be partly responsible for the difficulty in identifying access improvement applications.

4.3.3 Council A – Access Policies for Buildings

This document contains the policies and standards that Council A applies when designing or altering its own buildings. Planners do not consider this internal policy document when judging planning or LBC applications. The publication covers a wide range of subjects and includes some useful guidance. This document does not reflect the changes in inclusive design thinking since the publication of BS8300:2001 (see the Literature Review in Appendix I, 4.2.1, for more information).

4.3.4 Council A – Draft Design Guide

This guide sets out Council A's approach to designing buildings and planning for open space. The aim of the guide is to improve the quality of future development and retain the special character of Council A's towns and villages. However, there is no mention of the need to consider the requirements of disabled people in the design.

4.3.5 Council A – Transport Guidelines

The document provides a limited amount of guidance on including the needs of disabled people in the design of streets and public spaces, including details such as dropped kerbs. However, there are other important issues

such as signage and lighting which are not covered in the document. In addition, some of the guidance in the document does not reflect current good practice. The references in the document have also been largely superseded by the publication **Inclusive Mobility (2002)** (see 4.2.3 in Literature Review, Appendix I), which brings together current good practice. It is understood that Council A's guidance will be revised shortly.

4.3.6 Council A – Note on Ramps within Highways

The Note on Ramps within Highways sets out the Road Department's stance on providing ramps on public footways to give access to buildings. This is an important document in the context of the historic environment. To provide a ramp on the footway can often be the only solution to overcoming steps at an entrance to a listed building without dramatically altering the building fabric. The document tries to balance the public benefit of an unobstructed footway to passers by, against the benefit of a ramp to those who wish to enter a building.

The Note gives some valid reasoned arguments for many of the criteria that ramps must meet before being accepted. For example, it states that it is preferable to overcome a change in level within a building rather than on a public footway. However, the tone of the document seems overly prescriptive and rigid. It sets a minimum residual pavement width of 1.8m, which on quiet side streets seems overly onerous. Current good practice documents such as **Inclusive Mobility (2002)** (see 4.2.3 in Literature Review, Appendix I) allow a much narrower footway for short distances,

> 'The absolute minimum, where there is an obstacle, should be 1000mm clear space. The maximum length of restricted width should be 6 metres.'
> (Department for Transport)

It is apparent that every situation will be different and each case should be assessed objectively on its own merits, against good practice.

4.3.7   Summary

Key strategic policy documents, including the local plans, give no consideration to accessibility issues. Where policy documents do consider the needs of disabled people, such as accessible sanitary accommodation, the guidance does not cover all of the important issues, and in most cases the standards referred to have been superseded. Council A's Access Policies are only applied to the Council's own buildings. There is no specific guidance on improving access to listed buildings. However, the Council's Note on Ramps is particularly relevant to historic buildings, since providing a ramp outside the entrance to an historic building is often the only way of improving access for people who cannot negotiate steps. However, this Note takes a 'one standard fits all' approach and seems overly rigid.

4.4   Qualitative Research

4.4.1   Planners

4.4.1.1 Introduction

Council A's planning and building standards functions are grouped together in three area teams. Interviews were carried out with two planners and one member of the planning administration team; the planners were located in different area offices and all three staff were interviewed separately over two visits.

4.4.1.2 Consultation

It was clear from discussions with all interviewees that there is no dialogue between planners and local disabled people in any of the three area offices. However, the planners stated that the fire brigade, roads engineers and

building standards surveyors are regularly consulted on applications.

4.4.1.3 Planning and Accessibility

The general consensus from the interviewees was that accessibility features in a design are a matter for designers to address and building standards surveyors to enforce. The role of planning is to protect listed buildings.

The planners stated that while access features are not a material consideration when assessing planning and LBC applications, a good planner should be able to identify these issues. They were keen to see a more joined-up approach to the issue of inclusive design with both planners and building standards surveyors playing an active role.

The planners had worked with a number of applicants to find an effective access solution which was in keeping with the listed building. This included a university careers office, a bank and a police station.

4.4.1.4 Knowledge and Understanding

None of the planners interviewed had any training in inclusive design, nor could name any technical guidance they might refer to. The interviewees believed that their level of knowledge and understanding of access issues is representative of all planners within Council A. They believed that with suitable guidance planners should be able to comment on accessibility issues if it becomes an issue for planning. Planners are already commenting on other technical aspects of design, such as flooding, with the help of guidance documents.

4.4.2   Building Standards Surveyors

4.4.2.1 Introduction

Council A's senior building standards surveyor was interviewed.

4.4.2.2 Consultation with Disabled People

Council A sends out weekly lists of planning and building standards applications to members of the local access panel. The access panel requests drawings from the Council for the applications they are interested in reviewing. The access panel comment on building standards applications, but rarely request information on planning and LBC applications. The access panel's comments are passed on to the applicants. Building standards do not have time to feed back to the access panel on whether applicants amended their proposals.

Many of the issues the access panel raises should be picked up during the building standards assessment of an application. Some of their comments go further than the requirements of the Scottish building standards and go beyond what building standards surveyors can insist upon. It is up to the applicant whether or not to take on board the non-building standards issues raised by the access panel.

The building standards surveyor asks for comments from Council A's own Access Group for larger applications, such as shopping centres and schools. Council A's Access Group is discussed further in the access panel section (4.4.5).

4.4.2.3 Consultation with Planning

There is little or no consultation between planning and building standards, even though these functions are organised within the same department. Building standards surveyors are not consulted by the roads department, but the planners consult roads engineers. As the planners

enforce separate legislation from building standards surveyors, there is no compulsion for dialogue between the two functions. In the past there have been conflicts between the planning conditions set for a development and the building standard requirements for access and use of a building by disabled people.

An example of such conflict is the building standards requirement for level or ramped access to a building which conflicts with the planning requirement to keep an area in front of the building clear of development. Planning approval is often granted up to six months before an application is submitted for building standards approval, by which time the building standards surveyor feels that many important design features are already fixed. If accessibility issues are not considered before proposals are submitted to planning, opportunities to integrate the needs of disabled people into a design can be lost and access and use of the finished building can be compromised. It was felt that accessibility issues should be a concern of planning, and that access statements would be a key tool to achieve a joined-up approach (see Literature Review, Appendix I, 4.2.5, Access Statements).

At the planning application stage a design lacks much of the detail required for a Council to assess accessibility issues. Therefore this report recommends that an applicant should be required to submit an access statement to support their planning application. This would assist planners when assessing accessibility issues. A revised statement would then be submitted at the building standard application stage. Progress in meeting the commitments made in the original access statement submitted at the planning stage could then be assessed by building standards surveyors. This would help create a joined-up approach to inclusive design.

It would place the onus on designers to take a holistic approach to addressing the needs of disabled people from the early stages of a project.

4.4.3 Roads Engineers

4.4.3.1 A senior roads engineer was interviewed at one of the Council A's offices.

4.4.3.2 The roads issues most likely to affect access to listed buildings are:

- the provision of parking spaces close to a building

- creating ramps on the footway to provide access to the building.

See 4.3.5 for Council A's transportation policy. In Council A it is customary that planning and building standards are always consulted on aspects which affect buildings. Planning and building standards often ask the roads department for comments on applications to create ramps to access buildings. All work in the street environment must comply with the Council's **Transportation Development Guidelines**, which include accessibility issues. These guidelines do not cover all of the issues that are important to disabled people and many of the standards referred to are out of date.

4.4.4 Councillors

4.4.4.1 Introduction

The councillor who chairs one of Council A's area planning committees was interviewed.

4.4.4.2 Planning and Accessibility

It was felt important that planning should support access improvements to listed buildings where the changes do not detract from the building or its surroundings.

There was a keenness to see a more joined-up Council-wide approach to accessibility between planning and building standards. It was felt that accessibility was too often left until the building warrant stage. However, building standards and planning enforce two completely separate pieces of legislation which can be counter to this aim.

The importance of planners working with applicants to achieve an effective and acceptable access solution for listed buildings was stressed. A good example of an accessible solution was an application to provide a ramp on a police station (the planner also discussed this application). However, planners' time is limited and the legislation they enforce does not consider accessibility as material when judging applications. It was hoped the Planning Bill would address accessibility, but it was doubted if there would be any additional resources given to Councils to provide additional planners to take on the issue of accessibility.

4.4.5 Access Panel

4.4.5.1 Introduction

Four members of the local access panel management board were interviewed as a group.

4.4.5.2 Role of the Access Panel

There are approximately twelve members of the access panel across Council A's area. The membership of the access panel includes people with sensory impairments and people with mobility impairments, wheelchair users. The access panel is concerned with information provision as well as access to the built environment.

Members of the access panel also sit on Council A's own Access Group. The Council's Access Group looks solely at accessibility issues in Council A's own buildings, and

includes representatives from different Council departments.

4.4.5.3 How the Access Panel Operates

A member of the access panel in each of the three Council areas receives a weekly list of planning and building standards applications. Access panel members request drawings for the building standards and sometimes the planning applications which they wish to review. The access panel mainly comment on building standards applications. The access panel receive no feedback from the Council on whether their comments were passed on to the applicants, or if the applicants' proposals are altered in response to their comments.

4.4.5.4 Members' Knowledge

There was a general lack of understanding among the interviewees about the differing roles of building standards and planning. The members had heard of listed buildings, but their understanding of the LBC application process was limited. When commenting on applications the access panel draws on an extensive range of members' personal experiences of how disabling the built environment can be. However, the access panel's combined technical knowledge of design issues such as interpreting drawings and how the development control process operates appeared to be limited.

4.4.5.5 Building Standards and Planning Involvement

There are no building standards surveyors or planners represented on the access panel. There was a general consensus among access panel members that Council A was not proactive in consulting the access panel on any planning or building standards applications, other than applications to change their own buildings.

4.5 Summary

4.5.1 Accessibility issues are not planning's primary concern. Accessibility is seen as an issue to be picked up by building standards. Planners' understanding of the requirements of disabled people and their awareness of relevant guidance is limited.

4.5.2 There is little or no dialogue between planners and the local access panel.

4.5.3 Members of the access panel have an extensive personal knowledge of how disabling the built environment can be. However, the access panel lacks technical knowledge on how the planning system operates and has a limited understanding of the LBC application process.

4.5.4 The only LBC applications that local disabled people are likely to be consulted on relate to Council A's own buildings.

5. Case Study B

5.1 Introduction

The principal reason for choosing Council B was its E-Planning system. All Scottish Councils are likely to have similar systems in the future. It was considered important to include a Council already using an E-Planning system to ensure that these systems facilitate rather than hinder any subsequent studies.

5.2 Quantitative Research

5.2.1 Introduction

E-Planning systems make it possible for anyone to access planning and LBC applications online, including full access to committee reports and drawings relating to an application. A detailed description of each application is entered on the system.

5.2.2 Data Retrieval

Council B ran a key word search on their E-Planning system for 'ramp', 'disabled', 'handrails' and 'DDA', and supplied a list of LBC applications which included these words. Each LBC application was checked on the Council's public access website. Council B's E-Planning system made the quantitative research much easier to carry out, and should be borne in mind for follow-up research.

5.2.3 Number of Applications

The results from the final refined list of relevant LBC applications for the period under consideration are given in the table below:

Table 2 Council B: Summary of Application Data

Total	Accepted	Pending a Decision	Withdrawn	Rejected
29	23	0	0	6

For further detail see Appendix II.

5.2.4 Analysis

One of the rejected applications, a proposal to replace an internal stair with a passenger lift, was accepted on appeal by SEIRU. In this case the Council planner believed there were other less intrusive locations within the building to provide a lift which would have less impact on the historic character of the building. The planner stated he would always turn down applications where a less intrusive solution was apparent. However, planning would not necessarily suggest a preferred access solution to an applicant. It is regarded as the applicant's responsibility to put forward an acceptable scheme. A description of the other five rejected applications and the Council's reasoning are listed below:

5.2.4.1 Application 1 – This application is for the formation of a ramp to the raised ground floor level of a town house, bridging over a light-well. The application was rejected on the grounds it would diminish the architectural integrity of the building and its basement light-well. In addition, the form and position of the ramp would not be compatible with the character of the listed building. The ramp would also compromise special features of the building including the front railings and would adversely affect the open frontage of this town house. It is also doubtful whether the proposed ramp would have provided a suitable gradient, although this was not quoted as a reason for rejection. In similar situations to this, platform lifts have been used as an alternative to a

ramp, and the planner felt that these were often more acceptable, being less intrusive. However, this advice was not mentioned in any written correspondence to the applicant.

5.2.4.2 **Application 2** – The application was 'to alter the existing entrance doors to an unequal width to comply with disabled access requirements'. Wheelchair users require a minimum clear door opening width, with only one leaf open, to allow independent access to a building. The proposals were seen as unacceptable, as 'the loss of this doorway from this shop frontage would detract from the character of the building'. The application was also seen as 'contrary to non-statutory guidance in respect of door alterations in Listed Buildings and Conservation Areas as the installation of doors of unequal widths would compromise the architectural integrity of the building'. The Council planner believed there was a less intrusive solution available to the applicant, in the form of automating both existing doors to provide the clear opening width required by wheelchair users. However, this solution was not stated in any of the written correspondence to the applicant.

5.2.4.3 **Application 3** – The application was to alter a wrought-iron balustrade to form a glazed ramp at the entrance to a building. The application was refused LBC on the grounds that 'the proposals diminished the architectural integrity of the listed building'. The design, materials and positioning were seen as incompatible with the character of the existing building. The rejection letter also stated that 'the character and appearance of the listed building would be adversely affected by the dominance of the structure'. The planner felt that the application proposals were entirely unacceptable on this listed building. The applicant had not explored other options with the planner.

5.2.4.4   **Application 4** – The application was for 'the installation of a disabled access ramp'. The proposed ramp was of a temporary metal construction and appeared to be reversible. It was judged that the proposed ramp would have 'adversely affected the character and compromised the character and appearance of the listed building'. The planner stated that it was important not to set bad precedent, ie if one applicant is granted permission for a temporary ramp which compromised the character of the building, then it will be difficult to refuse other similar applications.

5.2.4.5   **Application 5** – This application was for an asymmetrical ramp and automatic doors at the entrance to a Council building. The application was rejected on the following grounds. Firstly, on the grounds that the ramp would diminish the architectural integrity of the listed building. Secondly, the design, form and position of the ramp would not be compatible with the character of the original building. Lastly, the proposed ramp would adversely affect the symmetry of the front elevation of the building.

5.2.4.6   **Summary**

The theme running throughout the rejected applications is, if there is an alternative less intrusive solution to an access barrier the LBC applications will be rejected. As Application 4 shows, just because a solution is reversible does not necessarily mean that it is acceptable. The planner was happy to be involved in an early dialogue with the applicant. However, the responsibility lies with the applicant to put forward an acceptable access solution. These points are explored further in the interview with the planner.

5.3   **Review of Council Policies**

5.3.1   **Development Planning**

Council B's structure plan and local plans mention

accessibility in its broadest sense. There is no specific mention of the design needs of disabled people within these strategic policy documents.

5.3.2 Planning Application Form

Applicants can submit planning and LBC applications on-line. A detailed description of the application proposals is entered on the E-Planning system which makes it simple to identify applications that include access improvement. This is a large improvement on the systems used in Councils B and C.

5.3.3 Council B – Barrier-Free Guidance

This document aims to ensure that development proposals and streetscape works provide a barrier-free, accessible environment for all, including disabled people, children, parents and older people. The document also provides guidance for property owners and agents on adaptations for access provision within Council B's historic environment. This document describes key principles which should be considered when adapting an environment and refers to technical documents, such as **BS8300: 2001** and **Inclusive Mobility (2002)** (see the Literature Review, Appendix 1, 4.2.1 and 4.2.3 respectively).

5.3.4 Council B – Transport Guidelines

This document sets out criteria against which Council B will assess the transport aspects of development proposals. A development which does not comply with the guidelines in this document may be refused planning permission. Many of the features important to disabled people are integrated throughout this document. Much of the guidance is still current good practice. However, it does not cover all design issues and should be updated to reflect a number of changes in design thinking.

This document states the minimum widths of footways, which impacts on where ramps to listed buildings can be used. The minimum widths of footways criteria appear to strike a better balance, between obstructing the footway and the benefit to those wishing to enter a listed building, than Council A's Note reviewed in 4.3.6.

5.3.5   Council B – Street Design

This draft document sets out what the Council expects from streetscape developments, in both historic and non-historic environments. The aim of the document is to ensure quality and consistency of the design and materials used in the public realm. The document has the status of supplementary planning guidance. Therefore, it will be taken into account when judging planning applications.

Many features important to disabled people are integrated into the detailed design guidance. However, some of the details, such as dropped kerbs and the colour of tactile paving, diverge from established good practice.

5.3.6   Council B – Urban Design

This strategic document sets out the principles of design which the Council expect from the design of public spaces and streets. The document considers the historic environment as well as the design of new environments. The document mentions accessibility and the 'barrier-free' concept, but does not define what is meant by these terms.

5.3.7   Summary

Council B's policy documents address the needs of disabled people to a far greater degree than the other two Councils examined in the research. The draft document **Street Design** is a real opportunity to ensure that the needs of disabled people are integrated into the design of streetscape developments in both the historic

and non-historic environment. However, some of the details proposed in this draft document diverge from current good practice.

5.4 Qualitative Research

5.4.1 Planners

5.4.1.1 Introduction

Council B's lead planning officer who deals with LBC applications was interviewed. The planner is involved in overseeing all applications.

5.4.1.2 Consultation

A planner sits as an observer on the local access panel and brings applications, including access improvements to listed buildings, to the access panel for comment. Building standards also present applications to the access panel for discussion. There is a close, longstanding relationship between the Council and the access panel.

In Council B, planners mainly liaise with the roads and transportation departments. In the case of changes in level at the entrances to listed buildings, the Council approach is always to seek to resolve the barrier within the buildings. The planner felt that many owners did not want to overcome a change in level within their buildings because of the loss of valuable floor space.

In one instance, previous applications by a high street shop to install a permanent ramp to overcome a single step at the entrance threshold were rejected. The roads department had objected on the grounds that the ramp would narrow the footway below the 3 metres required by the Council's **Transport Guidelines**. In consultation with the planning and roads departments the shop eventually developed a bespoke temporary ramp which is folded into the vestibule, off the footway when the shop is closed.

5.4.1.3 Planning and Accessibility

The planner stressed that it was not the role of planning to point out deficiencies in a design or to suggest the best solution to a barrier to access. For example, if a ramp or lift was required to meet a building owner's duties under the terms of the DDA 1995 (see Literature Review, Appendix I, 2.1.1) and there was no ramp or lift in the proposals to change an entrance, the planner would not highlight the deficiency. Equally, if the ramp or lift did not meet current building standards the planner would not alert the applicant to this fact. The role of planning is seen as one of conserving the historic character of an environment.

Planning applications which have no way of meeting the criteria, or where there is a less intrusive solution, are always turned down. Application 2, discussed in 5.2.4.2, is an example of the latter. In Application 2 the proposed asymmetrical door configuration would change the character of the listed shop front and the planner believed that there was a less intrusive alternative. The planner was happy to discuss schemes to assist in achieving a more acceptable solution, but it was not the role of planning to put forward acceptable access solutions.

5.4.1.4 Knowledge and Understanding

The planner had little or no training on the subject of inclusive design. However, the Council's policies and guidance on the subject reviewed in 5.3 covers a lot of the key accessibility issues. The planner refers to these documents on a regular basis.

5.4.1.5 Miscellaneous

Other points raised during the interview include the following:

- Many applicants appear to be just 'going through the motions' not expecting to be granted permission. They are merely applying to be turned down, thus allowing them to say they have met their duties under the terms of the DDA 1995.

- The reasons why applications are withdrawn are entered on the E-Planning system. There were no withdrawn applications concerning access improvements during the period considered.

- During the discussion the idea of keeping an up-to-date log of good practice case studies was felt to be a good idea. In this way the lessons learned in solving a barrier in a sensitive but effective way could be used elsewhere, ensuring that the best access solutions are applied.

5.4.2 Building Standards Surveyors

5.4.2.1 Introduction

Council B's access officer was interviewed. Their main role within the Council is senior building standards surveyor.

5.4.2.2 Consultation with Disabled People

The access officer brings complex building standards applications to the access panel, many of which involve alterations to listed buildings. There are too many building standards applications to bring to the access panel. Building standards surveyors judge the accessibility of most applications without consulting the access panel. Therefore the access panel are keen to ensure that building standards surveyors have a better understanding of the requirements of disabled people.

5.4.2.3 Consultation with Planning

Planners do not consult building standards. However,

planners do bring a number of applications to the access panel for comment, for example to clarify the suitability of a ramp. This includes a proportion of LBC applications.

Planning and building standards use the same E-Planning system to log applications. However, it is not possible to check easily whether an application for a building warrant already has planning permission. The access officer felt that this hindered a Council-wide approach to this issue.

5.4.3   Roads Engineers

5.4.3.1   Two roads engineers were interviewed. One of the engineers is responsible for producing Council B's document **Street Design** reviewed in 5.3.5

5.4.3.2   The Council has a group which considers streetscape improvements, including improvements in historic areas. This group includes representatives from planning, HS, World Heritage and roads. These wider issues mainly concern the Council's own schemes. The group does not normally consider specific planning applications.

5.4.3.3   Planners dealing with applications which affect the streetscape would refer to Council B's **Barrier-Free Guidance** reviewed in 5.3.1. Complex issues are brought to the access panel for consideration.

5.4.3.4   On wider streetscape issue the roads engineers recognised that Council B's document, **Transport Guidelines**, reviewed in 5.3.2, did not reflect current good practice in some areas and the minimum width of footway was ridgid. The roads engineers believed that the Council was more flexible and would look at applications on their own merits. The Council would consider the narrower width set by **Inclusive Mobility** (2002) (see Literature Review, Appendix I, 4.2.3) on streets with low pedestrian flows. The Council's **Street**

Design document (reviewed in 5.3.5) is currently out for consultation and will include accessibility issues. The key aim of this document is to create consistency of standards across the Council area.

5.4.4 Councillors

5.4.4.1 Introduction

The councillor interviewed was a member of Council B's planning committee.

5.4.4.2 Planning and Accessibility

The councillor stated that the planning committee always looked favourably upon LBC applications which include access improvements. However, it was often difficult to balance improving access for disabled people with the need to retain the character of a listed building.

The councillor explained that it was also difficult to appreciate how an access improvement would look once built. An example of an access improvement was a platform lift which was installed in the light-well of a Georgian town house. The lift was enclosed in shaft which was not apparent in the application documentation. The councillor felt that the shaft/enclosure was very prominent and detracted from the character of the town house.

It was explained that planners do not always have time to discuss proposals with applicants prior to submitting a LBC application. It was felt that planners were not keen to suggest acceptable solutions to barriers to access. It was felt that applicants had a responsibility to put forward well-designed solutions.

5.4.5 Access Panel

5.4.5.1 Introduction

Access panel members were interviewed along with Council observers at a regular access panel meeting.

5.4.5.2 Role of the Access Panel

The membership of the access panel includes people with sensory impairments and people with mobility impairments, including wheelchair users. One member of the access panel is also an experienced architect.

5.4.5.3 How the Access Panel Operates

The access panel comment on complex planning, LBC and building standards applications presented by Council B's planning and building standards representatives at access panel meetings. Many of these applications concern listed buildings. The main role of the access panel is to advise Council B. The members also comment on schemes presented at access panel meetings by designers.

5.4.5.4 Members' Knowledge

There is generally a good level of understanding among the access panel members about the differing roles of building standards and planning. The members understand the LBC application process. When commenting on applications, the access panel draws on a reasonable level of technical expertise. In judging applications the access panel also draws on an extensive range of members' personal experiences of how disabling the built environment can be.

5.4.5.5 Building Standards and Planning Involvement

There is a building standards surveyor, a planner and a roads engineer represented on the access panel. There was a general consensus among access panel members

that Council B was proactive in consulting the access panel on complex planning or building standards applications, affecting historic buildings or any other type of building.

5.5   Summary

Council B has a good working relationship with the local access panel, and the Council's own policy documents cover most accessibility issues. However, planners see their role as protectors of listed buildings rather than champions of inclusive design. Planners are happy to discuss proposals, but do not generally suggest the most acceptable solution in terms of aesthetics or function. Planners are making judgements on what are acceptable solutions to access barriers with reasonable levels of guidance, but with a limited understanding of disabled people's requirements.

6. Case Study C

6.1 Introduction

Like Council A, Council C was chosen for the rural and urban mix of the settlements within its boundaries.

6.2 Quantitative Research

6.2.1 Introduction

Council C has an electronic planning database running in parallel with a paper-based system, similar to Council A. There is public access to the electronic system online. The online access allows anyone to interrogate the information from outside the Council offices.

6.2.2 Data Retrieval

Council C ran a search for LBC applications from July 2004 to July 2005 on their database. A potential 137 applications were found on the database. Like Council A, the brief descriptions in the applications meant the paper files had to be checked. The applications were narrowed down to 30 paper files.

6.2.3 Number of Applications

The results from the final refined list of relevant LBC applications for the period under consideration are given in the table below.

Table 3 Council C: Summary of Application Data

Total	Accepted	Pending a Decision	Withdrawn	Rejected
18	14	2	1	1

For further detail see Appendix II.

6.2.4   Analysis

- No reason was logged on either the paper or electronic filing systems, for the withdrawn application.

- The one rejected application was rejected on road safety grounds. The lack of off-street parking was judged to be unacceptable in the rejected application for a change of use from a dwelling to a tearoom. The application drawings included full wheelchair access and an accessible toilet. This rejected application was later granted by SEIRU on appeal.

6.3   Review of Council Policies

6.3.1   Policies

Council C has no policies or guidance on accessibility issues. There is also no mention of accessibility issues in the structure or local plans.

6.3.2   Planning Application Form

The Council's LBC/Conservation Area Consent Application has similar features to Council A. The paper form has 'tick-box' options to describe a development. Access improvements are not listed as an option. The information provided on the form is entered on the development control database. The form's structure could be part of the reason for the difficulty in identifying applications which include access improvements.

6.4   Qualitative Research

6.4.1   Planners

6.4.1.1   Introduction

A senior planner who deals with LBC applications was interviewed within Council C.

6.4.1.2 Consultation

Planners liaise with roads and building standards departments on a regular basis when considering applications. The tearoom application mentioned in 6.2.4 had been rejected by planning, on road safety grounds, after taking advice from the Council's roads engineers. The local access panel is not consulted on planning or LBC applications.

6.4.1.3 Planning and Accessibility

The planner stated that they would not point out any access deficiencies within a LBC application, for example, the lack of a ramp within an application to alter a building entrance. Planning believe their role is to judge whether or not an application enhances or protects the character of a listed building. The planner felt it was difficult to argue that a ramp or lift on the front of a listed building could ever enhance the character of a listed building.

Whilst discussing an application for alterations to a former building society to form retail units, the planner reinforced the message that planners are not designers. The planner stated that it is up to the applicant to come up with a solution that is acceptable for the situation. This building society application was also discussed with the access panel, see 6.4.4.6.

6.4.1.4 Knowledge and Understanding

The planner had no training in inclusive design. It was felt it was the role of designers, not planners, to ensure that the proposals in an application meet user needs.

HS's **Memorandum of Guidance** is the only reference to use when judging applications to change listed buildings. The existence of other guidance documents on improving access to listed buildings from outside

Scotland was highlighted, but the planner stated that they would only refer to HS or Scottish Executive Guidance.

6.4.2   Roads Engineers

6.4.2.1   An area roads engineer was interviewed.

6.4.2.2   The roads engineer confirmed Council C has no written policies on the design of the street environment to meet the needs of disabled people. There are also no policy documents on providing ramps on the footway. Ramps on the footway are only allowed in exceptional circumstances. Each proposal is judged on its own merits, since there must be a balance struck between the benefit to individuals who wish to enter a listed building and any inconvenience and potential danger to other pedestrians.

6.4.2.3   Building standards inspectors would have to be happy with the ramp's gradient and general design. The roads engineer could not quote any good-practice guidance on the minimum footway width over short restrictions, eg around a ramp on the footway.

6.4.3   Councillors

6.4.3.1   Introduction

The councillor interviewed is a member of both Council C's planning committee and the local access panel.

6.4.3.2   Planning and Accessibility

Minor LBC applications which include many access improvements are dealt with by planners under delegated powers and are not seen by the planning committee.

The Council sponsors the local access panel. To avoid any conflict of interest, the councillor, a member of the

planning committee, does not comment on planning and LBC applications on behalf of the access panel. The access panel sends comments directly to the applicants, rather than via the planning, to stay at 'arms-length' of the Council.

The councillor was supportive of the work of the access panel, and described the success of the collaboration between the Council and access panel on a campaign to remove advertising boards from footways.

The limitations of planning and building standards systems in addressing the need for a joined-up Council-wide approach to accessibility issues was recognised. Planning and building standards are based on completely separate pieces of legislation.

6.4.4   Access Panel and Building Standards Surveyors

6.4.4.1   Introduction

Two members of the access panel were interviewed together. One access panel member was the Council's access officer. The other member, X represents the access panel on planning issues.

6.4.4.2   Role of the Access Panel

The access panel has ten to fifteen members and includes three visually impaired people and two wheelchair users. A councillor attends access panel meetings on a regular basis. There are no planners represented on the access panel.

Different access panel members have different areas of interest. The access panel deals with issues relating to access to information, transport, the pedestrian environment, and buildings.

6.4.4.3 How the Access Panel Operate

The access panel check the weekly planning list and request information on applications of interest. The access panel contact the applicant or their architect directly with suggestions on how an application could be improved.

6.4.4.4 Members' Knowledge

Member X is a retired architect and has technical expertise. Most of the other access panel members find it difficult to understand the nuances of the planning system. Therefore member X represents the access panel's views on planning issues. The access panel can also draw on a wide range of personal experiences of how disabling the built environment can be.

6.4.4.5 Building Standards and Planning Involvement

There is a close working relationship between the access panel and the Council's building standards team. There is little or no contact between the access panel and planning. Member X stated that the access panel works 'in spite' of the planning system. Sending their comments to the planning department had no impact. Therefore they contacted the applicants directly. However, the principal building standards inspector has contact with the planners and is consulted regularly.

The access panel had previously requested to be put on the list of consultees for planning applications. The access panel were told they were not statutory consultees and would not be added to the list.

6.4.4.6 LBC Applications Discussed

The access panel considered the refurbishment of a local Sheriff Court, to be an exemplar of how accessibility issues should be incorporated in the refurbishment of a

listed building. The access panel was consulted by the applicant from the outset and an access consultant was brought onto the design team. The design team attended access panel meetings at various stages throughout the three year design programme. The access consultant and access panel also assessed the scheme post-completion.

A hotel was cited as another good example of improving access to a listed building. A series of platform lifts has been installed within the hotel to overcome the many changes in level between the floor levels. There is no space on the site for car parking, but the hotel operates a valet parking service to overcome this inherent problem.

A bad example concerns a LBC application to improve access to the building society building discussed earlier with the planner (see 6.4.1.3). The building had five steps at the entrance. The building society put in an application for a ramp on the footway, but this was refused because it narrowed the footway to 700mm, which is unacceptable on any street. The access panel felt that the building society knew that their application would be rejected. The building society has since sold the building and the subsequent owners installed a ramp inside the building, accepting the reduction in floor space.

6.5   Summary

6.5.1   Council C's planner, like the other planners interviewed, sees their role as protector of the historic environment rather than as an inclusive design champion. Accessibility issues are seen as a matter for designers to include in their designs and for building standards surveyors to enforce.

6.5.2   The access panel has a close involvement with building standards. The access panel work in spite of the planning system to promote inclusive design issues. Unlike the

access panel in Council A's area, they send comments directly to the applicants, as experience has shown that this approach is more effective than sending comments to planning.

6.5.3 There were no LBC applications turned down during the period under consideration on the grounds of an access improvement being unacceptable. However, the building society's LBC application, for a ramp on the footway, may have been an application submitted with the aim of being rejected, to circumvent their obligations to make reasonable adjustments under the DDA 1995.

7.   Planning Appeals

7.1   Introduction

The Scottish Executive Inquiry Reporters Unit (SEIRU) is responsible for dealing with planning appeals in Scotland.

SEIRU carried out a key word search on their database, for LBC appeals containing the terms 'disabled access', 'ramp', 'handrail' and 'DDA', for the period July 2004 to July 2005. This search showed three relevant appeals. Two of these appeals have been discussed in this report. Both of these applications were granted permission on appeal and only one appeal related to the access features contained within the application, ie a passenger lift replacing a stair.

The third LBC appeal (3rd appeal) was rejected and is discussed below.

7.2   3rd Appeal – Rejected Listed Building Consent

The third appeal failed, since it was judged that the proposals would detract from the character of the building and its surroundings. The application proposed to provide wheelchair access for employees to the side entrance of a bank. The proposals involved forming a ramp on the footway, providing asymmetrical entrance doors, the removal of inner lobby doors and the installation of an inclined platform lift within the building. The proposed ramp would be 1.1m wide inclined at a gradient of 1:12 for 3m. The remaining footway would be 1.8m wide.

7.3   3rd Appeal – Details

The Council concerned had refused LBC on the following grounds:

- The 1.8m clear width of the remaining footway would be inadequate for the safe and free flow of pedestrians in this city centre location.

- The construction of a ramp and the alteration of the storm doors would detract from the character, appearance and setting of the listed building and the surrounding conservation area.

- It would also contravene the Council's own Design Standards.

7.4   3rd Appeal – Analysis

7.4.1   The Council's roads engineers required a minimum 3m wide footway. The Council's guidelines also required that ramps should be a minimum of 1.8m wide with a maximum gradient of 1:12. The applicant pointed out that this is a secondary street with low pedestrian flows, and traffic signalling equipment narrows the footway to less than 1.8m on the same street.

A minimum ramp width of 1.8m is desirable but seems overly onerous in every situation, when compared with current good practice.

8.   Conclusion

8.1   From the analysis of the LBC data for the case study Councils, there is no evidence to prove the hypothesis that the listed status of historic buildings is being used by service providers to avoid their obligation to make reasonable adjustments under the DDA 1995. However, this is only a small study and in Council B the planner believed that some listed building owners were putting in poorly designed proposals with the hope of their applications being rejected. In Council C's area the building society application to provide a ramp on the footway may have been an application submitted with the hope of being rejected.

8.2   Whilst adapting listed buildings to improve access can require more consideration, only a small number of applications were rejected. It appears, for the rejected applications, that there were more sensitive solutions.

8.3   Planners do not see the promotion of accessibility issues as a key part of their role. However, the planning legislation gives little or no regard to inclusive design issues. Accessibility is regarded as an issue for designers to address and building standards officers to enforce. The planning and building standards systems work independently of one another. Inclusive environments could be delivered more effectively by a joined-up Council approach. Therefore, there must be a clear demarcation between the role of planning and building standards in delivering inclusive design. Access statements could be a useful tool in achieving inclusive design.

8.4   The planners interviewed are making judgements on the balance between the character of listed buildings and the need to improve access, with a limited understanding of

the needs of disabled people. There is a body of English good practice guidance available. The planning and building standards legislation referred to in these documents may differ from Scottish legislation, but the principles of improving access to the historic environment remains the same across the UK. It is apparent that all Scottish planners should be aware of the guidance available.

Consideration should be given to whether further Scotland-specific guidance is required. There does seems little point in 're-badging' guidance that is already available.

8.5 Under the DDA 2005 every local authority will have a duty to produce a Disability Equality Scheme setting out how they will meet their general duties under the Act. Actively promoting inclusive design, involving disabled people when developing policies and generally taking a more joined-up approach to delivering inclusive environments are all likely to play a part in meeting this duty. However, currently Councils have no legal authority to require fully inclusive environments.

8.6 The publication of the Scottish Executive's **Inclusive Design Planning Advice Note** and the opportunities presented by the forthcoming reforms of the Scottish planning system may go some way towards addressing the general issue of improving access to the built environment. To include access statements as a planning permission requirement for certain developments could assist greatly. In 2007, the revision of the Scottish Building Standards could be an opportunity for another step forward.

8.7 The street environment can have a direct effect on the accessibility of listed buildings. Councils' roads departments appear to be taking a very rigid approach to

granting permission for ramps on footways. The right balance must be struck between the desire for an unobstructed footway and benefit to individuals who wish to enter listed buildings. Each case should be judged objectively on its own merits, against standards of good practice.

8.8 To assist in striking the right balance between accessibility and the many other considerations in the historic environment, Councils should be consulting their local access panels on planning, building standards and roads issues. Council staff influencing changes in the built environment should also receive training to gain a fuller appreciation of the requirements of disabled people.

Appendix I
Literature Review

1.   Introduction

1.1   The aim of this literature review is to identify the key legislation and guidance, as it applies in Scotland, on the subject of inclusive design and on improving access for disabled people to historic buildings.

1.2   The DRC's publication **Focus 7: Creating an Inclusive Environment** (2001) defines inclusive design as a user-centred approach to design which aims to create environments which can be used by everyone regardless of age, gender or disability. The varying needs of people are too often considered as an afterthought, rather than as an integral part of the design process.

1.3   **The Family Resources Survey** reports there are about 10 million disabled adults and 700,000 disabled children covered by the DDA 1995 in Great Britain (Bajekal et al., 2004). Scotland is estimated to have almost 1 million (0.9 million) disabled adults likely to be covered by the DDA 1995. Scotland has an ageing population and the probability of having a disability increases with age. The average age of a person with a long-term illness, health condition or disability is 58 years (General Register Office Scotland, 2003). It is important that the principles of inclusive design are implemented by those who shape the built environment to ensure that the increasing proportion of disabled people can participate in mainstream society.

1.4   Adapting buildings with cultural or historic significance to meet the needs of disabled people can give rise to conflicting requirements. However, this does not mean a building cannot be altered in a sensitive fashion or prevent the occupier of such a building circumventing such barriers through appropriate policies, practices and procedures.

2.   Legislation

2.1   Disability Discrimination Legislation

2.1.1   The DDA 1995 places a duty on employers, educators and service providers to make reasonable adjustments to avoid discriminating against disabled people. This includes making adjustments to the physical features of buildings to remove barriers to access. The cultural or historic significance of a building is a relevant factor in determining reasonableness under the terms of the DDA 1995. Preservation of the character of a building may be a valid reason for not making certain physical adjustments to remove barriers to access.

2.1.2   The **Disability Discrimination Act 2005** (DDA 2005) amends the DDA 1995 and brings in new duties for public authorities, including Councils, to actively promote disability equality. Public authorities will have a 'general duty' and many will have 'specific duties'. The general duty covers:

- eliminating unlawful disability discrimination
- eliminating unlawful disability harassment
- promoting equality of opportunity
- taking steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons
- the need to promote positive attitudes towards disabled people
- the need to encourage participation by disabled persons in public life.

2.1.3   The specific duties are intended to assist public authorities in meeting the 'general duty': in particular, they set out what they should do to plan, deliver and evaluate action to eliminate discrimination and promote

equality, and to report on the activity which they undertake by producing a Disability Equality Scheme every three years. Codes of practice will be prepared by the DRC to assist public authorities in meeting their duties. In spring 2006 the DRC will be publishing guidance which will cover planning. Promoting inclusive environments is likely to become one of the key aims in meeting the 'general duty'. Council planning policies, like all other policies, will have to 'build in' for disability. Councils will also be required to take a more co-ordinated approach to considering disabled people's needs across departments and functions. This will include greater co-ordination between building standards, roads, planning and licensing. Inclusive design can no longer be seen as purely an issue for building standards, and Councils will have to demonstrate how they have involved disabled people.

2.2   Planning

2.2.1   Planning (Listed Buildings & Conservation Areas) (Scotland) Act 1997

The Planning (Listed Buildings & Conservation Areas) (Scotland) Act 1997 sets out the special controls in respect of buildings and areas of special architectural or historic interest. The Act does not mention inclusive design or the importance of planning in delivering environments which meet the requirements of disabled people.

2.2.2   Town & Country Planning (Scotland) Act 1997 (TCPA 1997)

The TCPA 1997 sets out the basis of the planning system in Scotland. Section 45 of TCPA 1997 refers to the **Chronically Sick and Disabled Persons Act 1970** (CSDPA, 1970). The CSDPA 1970 is the only reference to delivering inclusive environments in Scottish planning legislation (see 2.2.3 for more details on the CSDPA 1970).

2.2.3 **Chronically Sick and Disabled Persons Act 1970 (CSDPA 1970)**

The CSDPA 1970 was the first UK Act of Parliament to require buildings to include features necessary for people with mobility impairments, such as parking and accessible toilets; people with sensory or cognitive impairments were not considered. The CSDPA 1970 has largely been superseded by the DDA 1995 (see 2.1.1 for more details) and the strengthening of the building regulations (see 2.3 for more details).

2.2.4 Note: In England the **Planning and Compulsory Purchase Act 2004** introduced a requirement for access and design statements to accompany certain categories of application for planning permission. The Office of the Deputy Prime Minister is currently consulting in the **Changes to the Development Control System** publication on draft requirements for the submission of access and design statements. The consultation proposes that one statement should cover both design and access, allowing applicants to demonstrate an integrated approach that will deliver inclusive design, and address a full range of access requirements throughout the design process.

2.3 **Building (Scotland) Regulations 2004**

2.3.1 The primary purpose of building regulations is to set standards that secure the health, safety, welfare and convenience of people in or around buildings. The Scottish Building Standards Agency issue Technical Handbooks to support the statutory regulations and functional standards of the system. These give guidance defining the scope and level of performance a building should achieve to comply with the mandatory functional standards. It is not always possible to make listed buildings meet today's building regulations without altering their historic character. However, Councils have the authority to make a judgement on whether or not a design meets the spirit of the regulations.

2.3.2 It is important to note that, in many areas, the Building (Scotland) Regulations 2004 permit a minimum standard that does not equate to recognised accessibility good practice. Also, the scope of the current standards does not cover all of the issues that are important to disabled people when accessing or using a building, or the duties under the DDA 1995 (see 2.1.1 for more details). The list of accessibility issues not covered by the building regulations includes signage, visual contrast, lighting and door ironmongery.

2.3.3 A review of accessibility and use of buildings in the Building (Scotland) Regulations 2004 is presently considering issues such as the promotion of inclusive design and the good practice recommendations of **BS 8300:2001**. The outcome of the review is expected in May 2007 (see 4.2.1 for more details).

2.3.4 Under Part 3 of the DDA 1995 (see 2.1.1 for more details), there is presently a limited exemption for a building which complies with the 5th and 6th amendment of the Building Standards (Scotland) Regulations 1990 or the Building (Scotland) Regulations 2004. When considering a 'reasonable adjustment', building elements which complied with the Building Standards applicable at the time of construction need not be altered for ten years after completion.

2.3.5 However, relying on an exemption lasting only ten years may be considered inappropriate by many organisations. Most alterations to listed buildings are designed for a far longer useful life than this, and potential occupiers may well see this approach as 'short sighted'. The benchmark for those elements which are not covered by the Building Standards will be the good practice set by documents such as BS8300:2001 (see 4.2.1 for more details).

2.3.6   Note: In April 2004, in England and Wales, a new edition of the Approved Document M which supports Part M of the Building Regulations was introduced. This brings their mandatory standard closer to the good practice given in BS8300:2001 (see Section 4.2.1 for more details). The new regulations also cover a wider range of issues than required by current Scottish Building Standards, including the use of colour to assist visually impaired people. These new regulations also introduce the requirement to produce access statements (see 4.2.5 for more details) which require designers to justify how their scheme will address the needs of disabled people. Access statements are particularly relevant when altering listed buildings where it may not always be possible to follow current standards exactly. In England, access statements are also a common condition of granting planning permission.

2.4   **Summary**

There is little or no recognition of inclusive design issues within planning legislation. As a result the needs of disabled people may not be given due regard when judging planning and LBC applications. The Scottish Building Standards set some mandatory standards for access but these are lower than good practice recommends and do not cover all of the issues that are relevant to disabled people when accessing and using buildings. The Scottish Building Standards are less onerous than the English and Welsh Regulations (see 2.1.1 for more details).

3.   **Scottish Guidance and Advice**

3.1   **Historic Scotland (1988) Memorandum of Guidance on Listed Buildings and Conservation Areas**

The Memorandum of Guidance sets out how HS operates and has a section dedicated to improving access to historic buildings. As guidance, it does not overrule the

duty of building occupiers to make reasonable adjustments to remove barriers, including adjustments to the physical features of buildings, under the terms of the DDA 1995 (see 2.1.1 for more details).

This guidance is a 'material consideration' when judging planning applications, ie it is used as a benchmark of what is acceptable when changing historic buildings. The guidance states that efforts should be made to make all buildings easily accessible to everyone. It sets key principles on improving access, such as the main entrance of a building should be considered first for improvement and providing where possible particular colour schemes for visually impaired people. The guidance states that it is not always possible to make historic buildings comply fully with the building standards of the day. The guidance reminds local authorities of their powers to judge whether an alteration meets the spirit of the building standards.

3.2 Historic Scotland (1996) Access to the Built Heritage: Technical Advice Note 7 (TAN 7)

TAN 7 was one of the first publications in the UK to consider improving access to listed buildings, published shortly after the introduction of the DDA 1995 (see 2.1.1 for more details). Tan 7 describes some of the key principles for making the historic environment more accessible to disabled people, including staff awareness of disabled people's needs as well as physical solutions to barriers. It describes a method for assessing the accessibility of a site and there is some technical advice contained within the document. However, the standards referred to in the document have been largely superseded and most of the useful addresses listed in both the document and the accompanying amendment sheet are out of date. HS proposes to update TAN 7 in due course.

3.3 **The Scottish Executive's Planning Policies, Circulars and Planning Advice Notes**

3.3.1 Scottish Planning Policies (SPPs) provide statements of the Scottish Executive's policy on nationally important land use and other planning matters. Existing National Planning Policy Guidelines (NPPG) have continued relevance to decision-making, until such times as they are replaced by a SPP. Circulars, which also provide statements of Scottish Executive policy, contain guidance on policy implementation through legislative or procedural change. Planning Advice Notes (PANs) provide advice on good practice and other legislation.

3.3.2 Statements of Scottish Executive policy guidance and advice contained within SPPs, NPPGs, Circulars and PANs may be material consideration to be taken into account in development plan preparation and development control. Much of the guidance and advice contained within this series of documents is not specific to historic buildings. The following section summarises the content of the relevant SPPs, NPPGs, Circulars and PANs.

3.3.3 **NPPG 18 Planning and the Historic Environment**

NPPG 18 deals with the Scottish planning policies in relation to the historic environment with a view to its protection, conservation and enhancement. The guidelines have been prepared on the basis of the existing statutory framework for planning, listed buildings and conservation areas. There is no mention of including the requirements of disabled people when making changes to the historic environment within this document. However, the primary source of guidance on Scottish Ministers' interests and responsibilities in relation to listed buildings and conservation areas is provided in the Memorandum of Guidance on Listed Buildings and Conservation Areas (revised 1998) (see 3.1 for more details).

3.3.4   SPP 1 The Planning System

SPP 1 summarises the Scottish Ministers' understanding of the effect of primary and secondary planning legislation. The SPP describes the aims of the planning system to ensure that development and changes in land use occur in suitable locations and are sustainable. SPP 1 provides protection from inappropriate development. Its primary objectives are:

- to set the land use framework for promoting sustainable economic development

- to encourage and support regeneration

- to maintain and enhance the quality of the natural heritage and built environment.

3.3.5   **SPP 1** also describes how the development control process should operate to support the key Scottish Executive objectives of Sustainable Development, Economic Competitiveness, Social Justice, Environmental Quality, Design and Integrated Transport. These objectives are described in general terms, but the need to consider disabled people, in respect of development plan policies and consultations, is specifically mentioned under the Social Justice objective. The DDA 1995 (see 2.1.1 for more details) Part 3 service provider's duties are also mentioned under this objective.

3.3.6   SPP 17 Planning for Transport

SPP 17 mentions the Part 3 duties under the terms of the DDA 1995 (see 2.1.1 for more details) and states general recommendations about considering the needs of disabled people when designing transport infrastructure. It also recommends using the same proportions of accessible car parking spaces as stated in BS8300:2001 (see 4.2.1 for more details). This recommendation is a higher provision than required by the Scottish Building Standards (see 2.3 for more details).

3.3.7 PAN 68 Design Statements

PAN 68 makes reference to accessibility in its broadest sense in the list of issues which should be explained within a design statement. Design statements are generally written by designers to justify how their design meets its brief and fits within the wider environment.

3.3.8 Forthcoming PAN on Inclusive Design

The forthcoming PAN on Inclusive Design will be published in 2006 and builds upon PAN 68 (see 3.3.7 for more details). The Inclusive Design PAN explains the need for everyone involved in the development process, from client and designer through to planners and building standards officers, in ensuring that environments are designed inclusively. From December 2006 Local Authorities will have a duty under the terms of the DDA 2005 (see 2.1.2 for more details) to promote disability equality issues. Inclusive Design should be seen as one of these issues and this PAN describes a framework for delivering inclusive environments.

3.3.9 Other Relevant Scottish Executive Documents

The Planning etc. (Scotland) Bill 2005

The Planning etc. (Scotland) Bill 2005 (PSB 2005) brings forward proposals for reforming the Scottish planning system. The PSB 2005 responds to the need for improved opportunities for public involvement in the planning system. It aims to enable communities to engage early in the process and give people the right to have their voices heard while proposals are still on the drawing board.

The PSB 2005 also aims to give planning authorities a role to promote sustainable development through their development plan process. The Scottish Executive's **Scotland's Sustainable Development Strategy** defines sustainable development as 'securing a better quality of

life for current generations, without compromising the right of others in the world and future generations to do the same'. One of the key aims of this strategy is the promotion of a just society which includes equal opportunities for all. Therefore, considering the needs of disabled people within the planning process may feature more highly.

However, the proposal to require access statements for certain types of development is mostly likely to ensure that accessibility issues are considered within the planning process. Scottish Ministers would be able to specify the form and content of an access statement. (See 4.2.5 for more information on Access Statements.)

3.4   Summary

HS's Memorandum of Guidance gives some specific guidance on the principles of adapting listed buildings to meet the needs of disabled people, but TAN 7, 'Access to the Built Heritage', is largely out of date. At the time of publishing this literature review there is also little or no general guidance on inclusive design in the series of Scottish Executive's planning policies, circulars or PANs. However, an inclusive design PAN will be published shortly which may address the lack of general guidance on this issue. The PSB offers a number of opportunities to reinforce the principles of inclusive design and introduces the requirement for access statements.

4.   Other Relevant Guidance and Advice

4.1   Introduction

The good practice guidance listed below is not mandatory and most of the documents are produced by Westminster government departments and institutions with a UK-wide remit. There is currently little or no good practice guidance originating from Scotland. Clarification is given where there are differences between Scotland and England.

4.2 **General Guidance and Advice**

4.2.1 **British Standards Institute (2001) BS8300: Design of buildings and their approaches to meet the needs of disabled people – Code of Practice**

This publication contains good practice and should be a key reference for anyone considering the needs of disabled people when designing new buildings or altering existing buildings. The document considers the design of buildings and the spaces surrounding them, up to the site boundary. The recommendations in this Standard are based on user trials and validated desktop studies which formed part of a research project commissioned in 1997 and 2001 by the then Department of the Environment Transport and the Regions. The document was last revised in June 2005.

4.2.2 **City of Edinburgh Council (2004) Access to the Built Environment**

Following a review of relevant guidance produced by Scottish Councils, the City of Edinburgh's guidance was found to be the most up-to-date and relevant. This document was produced in consultation with the DRC and aims to ensure that development proposals and streetscape works provide a barrier-free, accessible environment for all, including disabled people, children, parents and older people. The document also provides guidance for property owners and agents on adaptations for access provision within Edinburgh's historic environment. This document describes key principles which should be considered when adapting an environment and refers to technical documents, such as BS8300:2001 (see Section 4.2.1) and Inclusive Mobility (see Section 4.2.3).

4.2.3 Department for Transport (2002). Inclusive Mobility: A Guide to Best Practice on Access to Pedestrian and Transport Infrastructure

Inclusive Mobility brings together good practice from around the world on making the pedestrian environment more accessible to disabled people. The pedestrian environments, including public open spaces, are the links between buildings. This document gives technical design advice on most aspects of the design of this environment and should be the first point of reference for streetscape and landscape designers. The bibliography contains a useful list of reference material.

The design and management of pedestrian environments is key to many disabled people's ability to move around easily and safely. Access to listed buildings can often be improved by making changes to the environment surrounding the building, rather than altering the listed fabric, for example by providing a ramp on the footway, or creating a parking space close to the entrance.

4.2.4 Disabled Persons Transport Advisory Committee (2004) Inclusive Projects

This guide offers good practice advice on how all participants in the development process can contribute to the delivery of a high quality inclusive environment that provides access to all members of society. It gives guidance on writing a project brief to ensure that inclusive design principles are included from the outset and it introduces the concept of an 'Access Champion'. The guide gives information on what should be considered at key stages throughout the design and construction process.

4.2.5 Disability Rights Commission (2004) Access Statements

This is the DRC's guide on how to write access statements. Access statements are written to justify how

a design will address Inclusive Design issues. These statements can also be used to justify deviation from recognised standards, or in the case of an alteration to an existing building, justify why a barrier to access cannot be overcome. This is particularly relevant when altering historic buildings where more innovative access solutions are often required. Access statements are now a mandatory requirement as part of English and Welsh building warrant applications and are often required to support planning applications.

4.2.6   Fieldfare Trust (1997) Countryside for All Good Practice Guide: A good practice guide to countryside access for disabled people

The accessibility standards in this Fieldfare Trust publication remain a UK-wide benchmark of good practice in meeting needs of disabled people seeking access to the countryside. The standards provide practical advice to countryside access managers on how to develop and manage accessible paths through all countryside environments. The publication was last revised in 2005. The original document was based on the findings of the BT Countryside for All project between 1993 and 1997.

Disabled people require the same features, including suitable ramps and signage, whether or not a countryside landscape or building is historically significant. Therefore, this is an important reference for this research.

4.2.7   Office of the Deputy Prime Minister (2003). Planning and Access for Disabled People: A Good Practice Guide

This publication describes how everyone involved in the development process can play their part in delivering accessible physical environments. It encourages local planning authorities and developers to consider access

for disabled people, and stresses the importance of early consultation with disabled people, when formulating development plans and preparing planning applications.

It shows how local planning authorities can put in place appropriate planning policies and development control processes, and suggests ways in which these can be implemented and enforced effectively. It pinpoints the role of developers and occupiers and underlines the benefits to them in providing environments which are accessible and inclusive.

Although the guide explains English legislation and policy frameworks, it is useful to consider the principles it describes within the Scotland context.

4.3   Other Guidance Specific to the Historic Environment

4.3.1   CADW Welsh Historic Monuments (2002). Overcoming the Barriers: Providing Physical Access to Historic Buildings

The aim of this CADW Welsh Historic Monuments document is to demonstrate to local authorities and service providers, who deliver services from historic buildings, that it is possible to improve access to their services whilst respecting the historic fabric of the building. This document provides guiding principles rather than prescriptive standards.

4.3.2   English Heritage (2004) Easy Access to Historic Buildings

This English Heritage access policy document builds on the earlier 1999 edition. The document describes the process and issues which should be considered when improving access to listed buildings. The document also reflects changes in thinking, introducing publications such as BS8300:2001 (see 4.2.1 for more details) and the May 2004 edition of Part M (see 2.3.6 for more details) of the English Building Regulations. Being a policy

document this publication is more strategic than technical. The document includes case studies and interpretation of reasonableness in balancing the character of listed buildings with improving access. These case studies are useful.

4.3.3 English Heritage (2005) Easy Access to Historic Landscapes

This publication was written by the Sensory Trust and was funded by English Heritage and the Heritage Lottery Fund with advice from HS among others. The document was produced to help property owners and managers make their historic landscapes more accessible. This document is also aimed at designers, planners and policy-makers. The key aim of the document is to assist in improving accessibility while respecting the special qualities of a site. This is a useful policy document which should be read alongside technical documents such as **BS8300** (see 4.2.1 for more details) and the Fieldfare Trust publication **Countryside for All** (see 4.2.6 for more details).

4.4 Summary

There is little or no guidance originating from Scotland on improving access for disabled people. However, there is a body of good practice guidance available from across the UK, from **BS8300:2001** and **Inclusive Mobility to Easy Access to Listed Buildings**. These documents cover most aspects of inclusive design and all have relevance in Scotland. The principles for improving access to historic buildings remain the same across the UK even though planning and building standards legislation differs.

5. Conclusion

5.1 There is now a legal imperative for service providers to consider whether it is necessary for them to adapt their listed buildings in order to meet their duties under the terms of the DDA 1995. There is little or no up-to-date

Scottish guidance on improving access to historic buildings. However, there is a body of relevant good practice guidance available from across the UK for designers and managers of listed buildings on how to meet the needs of disabled people in a manner sympathetic to the historic fabric of their buildings.

5.2   However, the Scottish legislation relating to planning and building standards does not currently give due attention to inclusive design issues. Inclusive design is not considered a 'material consideration' when planning authorities judge applications. Therefore, planners cannot insist that applicants include access features in planning and LBC applications. The Scottish building standards do not cover all of the issues important to disabled people when accessing and using buildings and in many cases set lower standards than good practice documents, such as BS8300:2001.

5.3   Under the DDA 2005 every local authority will have a duty to produce a Disability Equality Scheme setting out how they will meet their general duties under the Act. Actively promoting inclusive design, involving disabled people when developing policies and generally taking a more joined-up approach to delivering inclusive environments are all likely to play a part in meeting this duty. Currently Councils have no legal authority to require fully inclusive environments.

5.4   The Scottish Executive's Inclusive Design PAN and the introduction of the requirement for access statements in the PSB may go some way towards addressing planners' lack of legal authority in this respect. The revision of the Scottish building standards in 2007 is another opportunity to improve access to the built environment.

Appendix II
Planning Application Data

Council A
Planning Application Data

Description	Accepted	Rejected
Ramp to hall	1	
New primary school toilets	Pending	
Ramp Housing Services office	Withdrawn	
Internal & external alterations to Council office	1	
Extension to convalescence home	1	
Alterations to care home	1	
Accessible toilet, at Abbey	1	
Toilet extension to hotel	1	
Ramp at senior citizens' club	1	
Ramp to church	Withdrawn	
Internal alterations to church	1	
Internal alterations to hairdresser	1	
Ramp & WC at bingo hall	1	
New lift shaft and accessible WC, school	1	
Alteration to coffee shop	1	
Ramp & other alterations to hotel	1	
Alterations to primary school	1	
Ramp to Council building	1	
Accessible toilet, primary school	1	
Ramp 6 St Mary's Place	1	
Internal alterations to office	1	
New doorway	Pending	
Alteration to University Halls of Residence	1	
Biology Dept, ramp & parking	1	
Alterations to shop	1	
Extension to restaurant	1	
Alteration to form office	1	
Alteration to form gallery food serving	1	
Ramp at church	1	
Sign & internal alterations library	1	

Council A (Continued)
Planning Application Data

Description	Accepted	Rejected
Alterations to hotel	Pending	
Access improvements to Boys Brigade hall	1	
Ramps to public house		1
Ramp to church	Pending	
Extension to golf club house	1	
Internal alterations to office	1	
Internal & external alterations to pub	1	
Alterations to farm buildings to form holiday accommodation	1	
Internal alterations to clubhouse	1	
Dwelling conversion to office	1	
Alteration to pub doorway	1	
Alter steps & provide handrail	1	
Alter dwelling to form guest house	1	
Alterations to Halls of Residence	1	
Erect handrail and sign at a bank	1	
Ramp to Town Hall	Pending	
Internal alterations to hall	1	
Altering access to university building	1	
Ramp to nursing home	Pending	
Extension of hotel toilets.	1	
Alter stable block to form meeting room	1	
Internal alterations to university building St Andrews	1	
Ramp to YMCA	Pending	

Accepted	43
Pending	7
Withdrawn	2
Rejected	1
Total	53

Council B
Planning Application Data

Description	Accepted	Rejected	Appeal
Improved disabled access provision to main entrance by the insertion of an access lift (as amended)	1		
Disabled access ramp at entrance	Permission Not Required		
Alter entrance platt and threshold to provide disabled access ramp	Permission Not Required		
Alter existing entrance doors to an unequal width to comply with disabled access requirements.		1	
Re-instate stone arches to form door openings, re-open windows	1		
Addition of 6 female toilets + 1 disabled toilet within existing toilet spaces	1		
Part removal of internal main staircase to allow installation of passenger lift to provide disabled ...		1	*Overturned on appeal
Form disabled access ramp at main entrance	1		
Alter existing wrought iron railings and balustrade at entrance area in order that a new access for ...		1	
Install disabled access ramp at main entrance		1	

Council B (Continued)
Planning Application Data

Description	Accepted	Rejected	Appeal
Install new disabled toilet	1		
Works to improve disabled access to public areas including the installation of two new lifts, two ...	1		
Form new slapping and construct ramp for disabled circulation	1		
Internal alterations to form new disabled toilet accessed off entrance hall at ground floor. New ...	1		
Refurbishment of the auditorium + cafeteria, extension to provide a lift lobby, lift and disabled to...	1		
Interior alterations and upgrading of outside area with new disabled access	1		
Proposed alterations to form new disabled access platform steplift at entrance platt	1		
Alter existing restaurant, offices and vacant store area to form hotel, bar and restaurant with ...	1		
Form new internal stair, position dry riser inlet box on front elevation + replace one window at ...	1		

Council B (Continued)
Planning Application Data

Description	Accepted	Rejected	Appeal
DDA compliance alterations including replace straight flight stairs to mezzanine level with spiral s ...	1		
Alterations to form new disabled access platform lift and entrance platt	1		
Form disabled access comprising ramp and automatic door		1	
Install a disabled platform lift to the rear garage, form a unisex disabled toilet on the ground floor	1		
Formation of new access ramp to ground floor level		1	
Demolish non-original toilet block and form new conservatory entrance and access ramps; retain hotel ...	1		
Construct ramp to form new accessible entrance, carry out internal alterations to increase sanitary ...	1		
Full internal refurbishment of property on ground, basement and first floor: minor internal alteration …	1		
Alteration to shop front and form new access ramp	1		

Council B (Continued)
Planning Application Data

Description	Accepted	Rejected	Appeal
Installation of stone access ramp to front elevation	1		
Upgrade existing building to create access ramp in line with the disability ...	1		
Erect ramped access and associated works, form accessible WC area (as amended)	1		

Accepted	**23**
Pending	**0**
Withdrawn	**0**
Rejected	**6**
Total	**29**

Council C
Planning Application Data

Description	Accepted	Rejected	Appeal
Change of use from home to tearoom		1	*Overturned on appeal
Lower ATM	1		
Access ramp	1		
Improvements to reception desk	1		
Includes a new accessible toilet	1		
The shop already has level access Ramp and toilet	1		
Ramp and toilet	1		
Ramp to church	1		
Ramp and toilet	1		
Access ramp	1		
Conversion of building society to retail units. Access ramp within the building	1		
Hotel extension	Withdrawn		
Automatic doors and internal platform lift	1		
Entrance ramp	1		
Lower ATM, step at entrance and provide an internal ramp	1		
Improvement to existing ramp	Pending consideration		
Internal and external handrails	1		
Highlighting step nosings Includes an accessible toilet	Pending consideration		

Accepted	**14**
Pending	**2**
Withdrawn	**1**
Rejected	**1**
Total	**18**

Appendix III
Interview Questions

Interview Questions

1. Do you have training on inclusive design?

2. What references do you refer to?

3. Do you see improving accessibility as a key role of planning? For example, would you point out accessibility gaps in an application, eg lack of a ramp?

4. Do you liaise with other Council departments?

5. Do you consult with disabled people?

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