

A guidance note on Environmental Stewardship for heritage properties designated under the Inheritance Tax Act 1984

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Summary

- Designated heritage properties will normally be eligible for Environmental Stewardship except for works that are a formal (mandatory) requirement of an owner's undertakings for maintenance, etc in return for the tax exemption. These are often manifested or set out in detail in a management plan but might be identified specifically in the undertakings. See examples in section 5 for further clarification.
- The broad range of options in Entry Level and Organic Entry Level Stewardship means that virtually all designated heritage properties should be able to enter the scheme.
- Designated heritage properties will be eligible for Higher Level Stewardship without first entering into an Entry Level Stewardship agreement for those rare cases where the property cannot find sufficient options to enter under Entry Level Stewardship.
- Penalties for payments made for ineligible work required by undertakings will be proportional to the number/percentage of 'points' for that element.
- Advice on individual Environmental Stewardship applications for designated heritage properties is available from the Countryside Agency, English Nature, Country Land and Business Association and Historic Houses Association. In addition, Defra will provide further advice for Higher Level Stewardship. See section 7 for contact details.
- Since Defra cannot make Environmental Stewardship payments for work required by existing legal obligations, owners/managers of designated heritage properties will need to ensure that their tenants are properly informed of relevant undertakings when considering applying for Environmental Stewardship. NB: Defra looks at the obligation as it applies to the land rather than to the individual person.

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Section 1: Purpose of this guidance

- 1.1** Environmental Stewardship: Look after your land and be rewarded (Defra, 2005) provides information on the new agri-environment scheme. The Environmental Stewardship handbooks¹ briefly explain the relationship between Environmental Stewardship and properties designated under the Inheritance Tax Act 1984.
- 1.2** This guidance provides more detailed advice for owners and managers of designated heritage properties in England who are considering applying for Environmental Stewardship. Since every designated property is unique, this guidance cannot answer all possible questions about eligibility. However, this guidance explains the principles of Environmental Stewardship in relation to designated properties, identifies issues to bear in mind and provides contact details for further advice. This guidance should be read with the Environmental Stewardship handbooks.
- 1.3** Designated heritage property (conditionally exempt from capital taxes² or designated as the object of a maintenance fund by Inland Revenue) is normally eligible for Environmental Stewardship.
- 1.4** However, Defra states that applicants must not claim for work that is a formal (mandatory) requirement of the undertakings agreed with Inland Revenue for conditionally exempt land. The underlying principle of this policy which has been applied to previous agri-environment schemes is that Defra cannot make Environmental Stewardship payments for work required by existing legal obligations.
- 1.5** Applicants will therefore need to look carefully at:
 - the steps their undertakings oblige them to take for maintenance, etc³;
 - the particulars or detail of which may be set out in their heritage management plan (if there is one); and
 - the relevant Environmental Stewardship options that are available for this land to ensure that ineligible work is not included in the application.

¹ Entry Level Stewardship handbook paragraph 4.9; Organic Entry Level Stewardship handbook paragraph 4.11; Higher Level Stewardship handbook paragraph 6.11.

² 'Capital taxes': inheritance tax or capital gains tax.

³ The term 'maintenance etc' is used in this guidance as follows: to maintain land designated for its outstanding scenic or historic or scientific interest under section 31(1)(b) of the Inheritance Tax Act 1984 and preserve its character; and/or to maintain, repair and preserve buildings designated for their outstanding historical or architectural interest under section 31(1)(c) and land designated under section 31(1)(d) of the Act as essential for the protection of buildings so designated.

- 1.6** In older cases⁴ there might not be any identifiable steps, merely a general undertaking to take reasonable steps for maintenance etc. In such cases applicants may wish to seek advice on individual Environmental Stewardship applications from the Countryside Agency, English Nature, Country Land and Business Association and Historic Houses Association. Contact details are listed in section 7.
- 1.7** This guidance is a joint Defra/Countryside Agency publication and has been prepared with input from the Country Land and Business Association, English Heritage, English Nature and the Historic Houses Association. Inland Revenue Capital Taxes have seen the guidance and have offered no objections.

Section 2: Introduction to Environmental Stewardship (ES)

- 2.1** The Environmental Stewardship (ES) scheme replaces the existing agri-environment schemes (Environmentally Sensitive Areas, Countryside Stewardship and Organic Farming Schemes). The key aim of ES is to secure environmental benefits at levels above those of Good Farming Practice and cross-compliance conditions. It comprises three elements: Entry Level Stewardship, Organic Entry Level Stewardship and Higher Level Stewardship.
- 2.2 Entry Level Stewardship (ELS)**
- 2.2.1** There are a broad range of management options to cover all kinds of farming. These range from maintenance of existing features (e.g. hedgerow maintenance, stone wall maintenance) to simple yet effective environmental management (e.g. controlling diffuse pollution). ELS does not fund capital works.
- 2.2.2** This range of management options can be thought of as 'positive management' or 'maintenance-plus'.
- 2.2.3** Each management option is worth a certain number of points. Farmers will need to reach a points target related to the size of the farm to be eligible for ELS.
- 2.2.4** Applicants are responsible for submitting their own applications correctly without advice from Defra. The process has been designed so that applicants should normally be able to prepare and submit their own applications without the need for professional advice. Acceptance is guaranteed providing the scheme requirements are met.

⁴ where the death or other occasion of fiscal charge ('chargeable event') occurred before 19 March 1985.

2.2.5 See Entry Level Stewardship handbook (Defra, 2005) for more information about ELS.

2.3 Organic Entry Level Stewardship (OELS)

2.3.1 The list of organic management options under OELS is similar to ELS but some options are excluded as they are unsuitable for organic farming systems. In addition, organic conversion payments are available for top fruit orchards and improved land.

2.3.2 OELS is open to all organic farmers with land that is fully organic and not currently receiving Organic Farm Scheme conversion aid. It can be thought of as 'positive management for organic land'.

2.3.3 Applicants are responsible for submitting their own applications correctly without advice from Defra. The process has been designed so that applicants should normally be able to prepare and submit their own applications without the need for professional advice. Acceptance will be guaranteed providing an applicant is already registered as an organic producer with an organic inspection body and the other scheme requirements are met.

2.3.4 See Organic Entry Level Stewardship handbook (Defra, 2005) for more information about OELS.

2.4 Higher Level Stewardship (HLS)

2.4.1 The main objectives of HLS are wildlife conservation; protection of the historic environment; maintenance and enhancement of landscape quality; promotion of public access; and natural resource protection. Secondary objectives are flood protection and genetic conservation.

2.4.2 HLS is carefully targeted to deliver significant environmental benefits in high priority situations and areas.

2.4.3 The long list of HLS management options is linked to specific environmental features. These will be tailored to individual situations. There are also grants for a range of capital works. HLS can be thought of as paying for 'capital repairs or enhancement'.

2.4.4 Applicants are asked to produce an HLS Farm Environment Plan before applying. HLS agreements will be drawn up in discussion between applicants and Defra.

2.4.5 HLS applications normally need to be underpinned by an ELS agreement or application. It is possible that owners of conditionally exempt land may find it difficult to achieve the minimum number of points for ELS due to the requirements of the undertakings. In such cases, Defra will consider the application for HLS 'as if' underpinned by an ELS agreement.

- 2.4.6 Acceptance into HLS is not guaranteed – HLS applications are assessed by Defra on a case-by-case basis.
- 2.4.7 See Higher Level Stewardship Handbook (Defra, 2005) for more information about HLS.

Section 3: Specific advice relevant to designated heritage properties

- 3.1 Agri-environment schemes provide vital funds for landscape conservation, management and enhancement. Designated heritage properties are normally eligible for agri-environment scheme payments. Applications from owners for grant aid from public funds will be supported where the payments assist the conservation and enhancement of the heritage property that goes beyond the requirements of the formal undertakings. To decide whether the work is a requirement of the undertakings, owners and/or agencies may wish to ask themselves whether the owners would be in breach of their undertakings if they did not do the work? If the answer is 'yes', then the work is a requirement of the undertakings.
- 3.2 Environmental Stewardship applications for designated heritage properties need to take into account the following issues:
- The relationship of agri-environment scheme agreements and undertakings;
 - relationship of agri-environment scheme agreements and Heritage Management Plans;
 - working with tenants; and
 - reasons for designation.
- 3.3. Relationship of agri-environment scheme agreements and undertakings**
- 3.3.1 The undertakings are a formal agreement between the owner(s) and Inland Revenue. For designated heritage land and outstanding buildings, undertakings normally require the owner(s) to take reasonable steps to:
- Maintain the designated land and preserve its character
 - Maintain, repair and preserve the designated building
 - Provide reasonable public access
 - Publicise the access and the undertakings

- 3.3.2 These general undertakings relate to the condition of the heritage property at the time of designation.
- 3.3.3 In addition, some undertakings specify additional work that is required to bring the property back into the condition normally expected for a property of its type. This is normally where there has been a period of reduced levels of maintenance. This is often referred to as 'catch-up maintenance'.
- 3.3.4 Maintenance works required by the undertakings are referred to as 'mandatory requirements'. This means:
- Any normal/routine maintenance work that secures the continuing condition of the property as it was at the time of designation (for example keeping land as permanent pasture and thereby preserving its character)
 - Any specific additional works required as 'catch-up maintenance' (for example repairing a roof of a stable block identified as in poor repair at the time of designation and itemised in the undertakings)
- 3.3.5 Modern assessments require a 'baseline condition survey' to be undertaken at or around the time of designation. Following designation, the Agencies regularly assess the condition of the designated heritage property and the provision of reasonable public access. This is to monitor the compliance of owners with their undertakings. The Agencies will report to Inland Revenue Capital Taxes any deterioration in the condition of the designated property, adverse changes to its character and/or problems relating to public access.
- 3.3.6 The Environmental Stewardship scheme rules state that owners cannot claim for work that is a formal requirement of the undertakings for conditionally exempt land agreed with Inland Revenue Capital Taxes. This means that agri-environment scheme payments will not be available for conditionally exempt land where undertakings require the following:
- Normal/routine maintenance works to maintain the property and preserve its character, and repair designated buildings;
 - catch-up maintenance works specifically identified in the undertakings; or
 - works required to remedy deterioration of the condition of the property, adverse changes to its character or problems relating to public access, where this is a result of poor management after designation and the date of any undertaking.

- 3.3.7 A baseline condition survey will provide evidence of the condition of the designated heritage property at the time of designation. This can help demonstrate whether or not application works are mandatory requirements of the undertakings (routine/catch-up/remedial maintenance) or over and above the requirements of the undertakings.
- 3.3.8 Some older undertakings may not give clear guidance on whether proposed works are likely to be eligible for agri-environment scheme payments. There may not be a good baseline survey of the character and condition of the property at the time of designation. In these cases, it may be helpful to seek advice from the Agencies, The Country Land and Business Association or the Historic Houses Association.
- 3.3.9 Section 5 of this guidance provides some examples to illustrate what works may or may not be eligible.

3.4. Relationship of agri-environment scheme agreements and Heritage Management Plans

- 3.4.1 Heritage Management Plans (HMPs) include the detailed steps that demonstrate how owners comply with their undertakings. They are a management tool. They do not necessarily provide a comprehensive schedule of all routine maintenance work required by the general undertakings for the maintenance, etc of the property. It is important to read the Heritage Management Plan together with the undertakings in the context of the requirements of the Inheritance Tax Act 1984 and associated legislation.
- 3.4.2 HMPs may include works that go beyond the formal (mandatory) requirements of the undertakings, such as voluntary proposals to improve the property (known as 'voluntary enhancements'). HMPs can cover designated property and land that is not designated. Some HMPs have been prepared for undesignated land.
- 3.4.3 Modern HMPs distinguish between mandatory requirements and voluntary enhancements, often using these phrases explicitly.
- 3.4.4 This distinction may not be apparent in older HMPs. However, sometimes the wording can help identify the type of proposal:
- Proposals that are *mandatory requirements* often include words such as 'maintain', 'retain', 'preserve', 'continue'
 - Proposals that are *voluntary enhancements* often include words such as 'restore', 'new', 'develop', 'remove', 'replace', 'enhance', 'improve'

- 3.4.5 It is also helpful to cross-check the HMP against the undertakings and any baseline survey. For example, 'repair' works may be considered a mandatory requirement where there is a specific undertaking to maintain, repair and preserve the grade I listed building, or to repair the damaged roof of the stable block. However, 'repair' works may be considered a voluntary enhancement where the work is not specifically identified in the undertakings and goes beyond what could reasonably be expected.
 - 3.4.6 Please contact the relevant Agency for advice if it is not clear whether a proposal is a formal (mandatory) requirement of the undertakings or a voluntary enhancement (see contact details, Section 7).
 - 3.4.7 Heritage Management Plans can provide a useful framework for developing and discussing HLS management options. The HLS Farm Environment Plan can draw on the content of the HMP, and can be attached as an appendix to the HMP and vice versa.
- ### 3.5 Working with tenants
- 3.5.1 Where tenancy agreements predate designation as a heritage property, Inland Revenue Capital Taxes expect owners to use their best endeavours to ensure tenants comply with the requirements of the undertakings.
 - 3.5.2 Defra cannot accept Environmental Stewardship applications for works that are a formal (mandatory) requirement of the undertakings regardless of whether the application comes from the tenant or the landowner. This is because Defra are looking at the relationship between the work and any legal obligation and the land rather than the relationship with any particular individual person.
 - 3.5.3 Owners and their agents need to ensure that tenants considering ELS, OELS or HLS applications are aware of the relationship between the undertakings, Heritage Management Plan and Environmental Stewardship.
 - 3.5.4 Tenants may also need reminding that works required by any tenancy agreement are not eligible for Environmental Stewardship scheme payments.
 - 3.5.5 Good communication between owners, agents and tenants is essential.

Section 4: Resolving conflicts

- 4.1** If applicants inadvertently apply for payment for works which are later assessed to be required by the undertakings, repayment to Defra will be for the specific work that is required by the undertaking. Applicants are encouraged to include more 'points' than strictly necessary, to provide a safety net.

Section 5: Illustrative examples

5.1 Entry Level Stewardship example

- 5.1.1** The undertakings for Estate A require the owner to 'maintain land as permanent grassland' because the pastoral appearance of the land contributes to its scenic interest. At the time of designation, normal management of Estate A included applying moderate levels of fertiliser. Therefore the owner can claim:

- ELS payment to manage permanent grassland with low inputs; or
- ELS payment to manage permanent grassland with very low inputs

since these options go beyond the requirements of the undertakings.

- 5.1.2** The undertakings for Estate B require the owner to 'maintain land as permanent grassland without fertiliser input' because the semi-improved grassland contributes to the outstanding scientific interest of the land.

Therefore the owner:

- will not be eligible to claim ELS payments to manage permanent grassland with low or very low inputs; but
- can claim ELS payment for mixed stocking

since in this case the undertakings do not specify the type or rate of stocking.

5.2 Organic Entry Level Stewardship example

- 5.2.1** The undertakings for Estate C require the owner to 'maintain land as permanent grassland with low fertiliser input' because the semi-improved grassland contributes to the outstanding scientific interest of the land. Since designation, the owner has converted the land to organic farming systems. The grassland has been managed with low organic fertiliser inputs and livestock in these fields have not received supplementary feeding. English Nature have confirmed that the semi-improved grassland is in favourable condition under the current organic management.

5.2.2 The owner can claim OELS payment to manage the permanent grassland with very low organic fertiliser inputs since the undertakings required low rather than very low fertiliser inputs.

5.3 Higher Level Stewardship example

5.3.1 The undertakings for Estate D require the owner to 'maintain the land and preserve its character.' Part of the parkland is under permanent pasture, the remainder has been in arable cultivation since the beginning of the Second World War. The parkland character at the time of designation was grass sward and parkland trees where land was under pasture, and open fields enclosed by woodland belts where land was under arable.

5.3.2 The owner can claim HLS payments for:

- Reducing fertiliser inputs to the permanent pasture
- Converting arable land to permanent pasture to restore the parkland to its pre-Second World War character
- New parkland tree planting in accordance with historic maps to restore the parkland to its 19th century character

5.3.3 The owner cannot claim HLS payments for replacement planting on a like for like basis for the existing parkland trees when they come to the end of their life.

5.3.4 The undertakings for Estate E require the owner to 'maintain, repair and preserve the designated buildings listed on schedule 1; including work to repair the damaged roof of the stable block in accordance with the specification attached as schedule 2.' The buildings listed on schedule 1 are designated for their outstanding interest. There are also some outlying traditional farm buildings which contribute to the outstanding interest of the land but are not designated in their own right and therefore not listed on schedule 1. These are maintained in a weatherproof condition with tin roofing where the original slates had been removed years before designation.

5.3.5 The owner:

- Cannot claim HLS payments for routine repairs to the outstanding buildings listed on schedule 1;
- cannot claim HLS payments for repairs to the roof of the stable block; but
- can claim HLS payments for replacing the tin roofing of the vernacular buildings with new stone slates to match existing adjacent traditional materials, which will enhance the property.

5.4 Part requirement/part enhancement

- 5.4.1 The undertakings for Estate F require the owner to 'maintain the land and preserve its character as a traditional upland country estate.' The assessment of the estate at the time of designation noted the contribution of the dry stone walls to the outstanding scenic interest of the property. The baseline condition survey noted that most stone walls are in good condition but one wall between fields G1 and G2 was in poor condition. The undertakings require the owner to carry out catch-up maintenance work to part of the wall (section X). The remainder of the boundary is post and wire fence (section Y).
- 5.4.2 The owner proposes to repair and rebuild the stone wall between fields G1 and G2. The owner:
- Cannot claim payment for repairing section X (catch-up maintenance)
 - Can claim payment for new length of stone wall Y (voluntary enhancement)
- 5.4.3 Defra will make the payment on a pro-rata basis, related to the length in metres of section X and section Y.

Section 6: The application process

- 6.1 The application process is outlined in the Environmental Stewardship handbooks⁵ (Defra, 2005).
- 6.2 Owners and managers of designated heritage properties should also consider the following points:
- Do not mark the boundary of the designated area on the map that you submit to Defra. However, you may find it helpful to mark the boundary on your own copy of the map, as a reminder when deciding which options to include in your application
 - Check undertakings and your Heritage Management Plan to make sure that the elements/works are not a formal requirement of the undertakings
 - Seek advice from the relevant Agencies particularly where there is a lack of clarity in the undertakings

⁵ ELS handbook section 2; OELS handbook section 2; HLS handbook section 3.

Environmental Stewardship

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- Check the baseline condition survey to make sure that the proposed application does not include remedial maintenance work
- Make sure your application includes more points than strictly necessary to provide a safety net
- For HLS, cross-check the proposed works against the Heritage Management Plan (if available)
- If in doubt leave it out
- Finally, ensure your application includes a Declaration that none of the works subject to claim is a formal requirement of the designation as heritage property

Section 7: Contacts

Defra RDS

Defra RDS offices are open 8.30 am to 5.00 pm Monday to Friday, excluding bank holidays

East of England

Bedfordshire, Cambridgeshire, Norfolk, Suffolk, Essex and Hertfordshire.

RDS East

PO Box 247
Cambridge CB2 2WW

Telephone: 08456 024094
e-mail: bdce.genesis@defra.gsi.gov.uk

East Midlands

Derbyshire, Leicestershire, Lincolnshire, Northamptonshire, Nottinghamshire and Rutland.

RDS East Midlands

PO Box 8296
Nottingham NG8 3WZ

Telephone: 08456 024091
e-mail: bdcem.genesis@defra.gsi.gov.uk

North East

Northumberland, Tyne and Wear and Durham and the former county of Cleveland.

RDS North East

PO Box 578
Newcastle upon Tyne NE15 8WW

Telephone: 08456 024097
e-mail: bdcne.genesis@defra.gsi.gov.uk

North West

Cheshire, Greater Manchester, Merseyside, Lancashire and Cumbria.

RDS North West

PO Box 380
Crewe CW1 6YH

Telephone: 08456 024093
e-mail: bdcnw.genesis@defra.gsi.gov.uk

Environmental Stewardship

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South East

Greater London, Berkshire,
Buckinghamshire, Oxfordshire,
Hampshire, Surrey, East Sussex,
West Sussex, Kent and Isle of Wight.

RDS South East

PO Box 2423
Reading RG1 6WY

Telephone: 08456 024092
e-mail: bdcse.genesis@defra.gsi.gov.uk

South West

Isles of Scilly, Cornwall, Devon,
Somerset, Dorset, Gloucestershire,
Wiltshire and the former county
of Avon.

RDS South West

PO Box 277
Bristol BS10 6WW

Telephone: 08456 024098
e-mail: bdcswh.genesis@defra.gsi.gov.uk

West Midlands

Herefordshire, Worcestershire,
Warwickshire, Shropshire,
Staffordshire and West Midlands.

RDS West Midlands

PO Box 530
Worcester WR5 2WZ

Telephone: 08456 024095
e-mail: bdcwm.genesis@defra.gsi.gov.uk

Yorkshire and the Humber

North Yorkshire, South Yorkshire,
West Yorkshire, East Riding of Yorkshire
and North Lincolnshire.

RDS Yorkshire and the Humber

PO Box 213
Leeds LS16 5WN

Telephone: 08456 024096
e-mail: bdcyh.genesis@defra.gsi.gov.uk

The Countryside Agency Landscape Access Recreation

John Dower House
Crescent Place
Cheltenham
Gloucestershire GL50 3RA

www.countryside.gov.uk

Telephone: 01242 521381 (ask for the National Heritage Unit)

Advice is available from the Countryside Agency as follows:

National Heritage Adviser – policy plus designated heritage land in Dorset and Hampshire:
Amanda Mathews, telephone 01747 871679.

Designated heritage land in North-East England, North-West England, Yorkshire and Humber,
East Midlands, West Midlands, Gloucestershire, Norfolk and Suffolk:
André Berry, telephone 01244 540076.

Designated heritage land in Essex and South-East England including Isle of Wight but
excluding Hampshire:
Geraldine Moon, telephone 01622 765222.

Designated heritage land in Devon and Cornwall:
Leslie Pearman, telephone 0117 901 2911.

English Heritage

23 Savile Row
London W1S 2ET

www.english-heritage.org.uk

Telephone: 020 7973 3000 (ask for your local regional business manager)

Environmental Stewardship

Environmental Stewardship guidance note on inheritance tax

English Nature

Northminster House
Peterborough PE1 1UA

www.english-nature.org.uk

Telephone: 01733 455000

Advice is available from the relevant Area Office. Telephone 01733 455000 and ask for contact details of your Area Office; or look on the English Nature website under 'contact us'.

Inland Revenue Capital Taxes

Heritage Section
Ferrers House
PO Box 38
Castle Meadow Road
Nottingham NG2 1BB

www.inlandrevenue.gov.uk/heritage

Telephone: 0115 974 2490

Country Land and Business Association

16 Belgrave Square
London SW1X 8PQ

www.cla.org.uk

Telephone: 020 7235 0511

Historic Houses Association

2 Chester Street
London SW1X 7BB

www.hha.org.uk

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