

**US Department of the Interior
National Park Service, Northeast Region**

**FINDING OF NO SIGNIFICANT IMPACT
SHERIFF'S HOUSE REHABILITATION PROJECT**

**First State National Historical Park
New Castle, Delaware**

INTRODUCTION

The National Park Service (NPS) proposes to rehabilitate the Sheriff's House in New Castle, Delaware for occupancy and determine an appropriate allocation of the building's interior space for park operations, and potentially compatible non-NPS uses, or a combination thereof. Rehabilitation will consider park and visitor needs, accessibility, resource preservation, and visitor experience. Action is needed because the Sheriff's House, a contributing structure within the New Castle Historic District, a designated National Historic Landmark, has remained vacant since the 1990s and the condition of the building, particularly the interior, has deteriorated. Further decay will occur without intervention to preserve the historic materials. The park also needs a permanent space for office administration, as it is only temporarily using office space in the adjacent New Castle Court House Museum (the courthouse).

The NPS prepared an environmental assessment/assessment of effect (EA/AoE) that evaluated three alternatives: a no-action alternative and two action alternatives. It also analyzed the potential impacts that these alternatives would have on the natural, cultural, and human environment. The *First State National Historical Park, Sheriff's House Rehabilitation Environmental Assessment/Assessment of Effect* (2017) was prepared in accordance with the National Environmental Policy Act of 1969 (42 USC 4321 *et seq.*) and its implementing regulations (40 Code of Federal Regulations [CFR] 1500-1508.9); and with NPS Director's Order 12: *Conservation Planning, Environmental Impact Analysis, and Decision-making* (2011) and its accompanying handbook (2015). In addition, the National Park Service integrated the NEPA compliance process with that for Section 106 of the National Historic Preservation Act of 1966, and used the NEPA documentation and coordination processes for Section 106 compliance pursuant to 36 CFR 800.8(c); therefore, the environmental assessment also served as an assessment of effect on historic properties under Section 106.

During preparation of the EA/AoE, NPS consulted with federal and state agencies, tribes, interested and affected parties, and the general public. The EA/AoE was made available for a 45-day review period, during which one public meeting was held.

SELECTED ACTION

The NPS selected action alternative 1 (the proposed action and NPS preferred alternative) for implementation. The selected action is described in detail on pages 7–16 of the EA/AoE, and figures illustrating the selected action are provided on pages 10 and 13. All references to room numbers in the summary below refer to figures 2–5 of the EA/AoE. The selected action consists of the following elements:

Exterior Treatments

Under the NPS selected alternative, the exterior materials of the Sheriff's House will be repaired, restored, preserved, and/or replaced where needed. These actions will include repairs to the masonry stairs at the front entrance, repointing and resetting of exterior masonry as needed, addressing moisture penetration and damage such as removal of biological growth, and replacement of the water-damaged wood boards on the gate door.

Interior Treatments

The National Park Service will undertake many actions to address the deteriorated condition of the interior. All sources of water infiltration throughout the building will be determined and addressed. All damaged materials of walls, ceilings, and floors will be repaired, restored, or replaced with historically-compatible materials, and all will be refinished to match the existing or the historic finishes to the extent possible. Modern floors will be repaired and refinished or, where deteriorated, removed and replaced with materials compatible with the historic fabric of the building. All windows, doors, and their associated elements will be restored, repaired, or replaced. If replacement is required, components will be created in historically-compatible materials to match the existing. A set of historic paneled wood vestibule doors, circa 1890, will be repaired, refinished, and rehung in their original location in the central hall. Incompatible modern hardware will be removed and replaced with historically-compatible materials where possible; however, some modern hardware will be installed where required for accessibility. All fireplaces and associated elements will be repaired and refinished. Any missing or severely damaged elements will be replaced with historically-compatible materials.

On the first floor, the walls and doors in the stair hall (rooms 105 and 106) and in the rooms in the western corner (rooms 107–110) that are not original to the 19th century construction will be removed to create an accessible path off the central hall, as shown on figure 4 of the EA/AoE. Additionally, the mid-to-late 20th century bathroom fixtures in rooms 113 and 114 will be removed. On the second floor, the existing restroom will be rehabilitated with updated fixtures and a new plumbing system. The existing floor plan and layout of the second floor will remain, as shown on figure 2 of the EA/AoE.

All plumbing, electrical, and climate control systems will be updated or replaced as needed. New mechanical equipment that will serve the Sheriff's House will be located in the basement (room 001), as identified on figure 3 of the EA/AoE. Updated and modern systems will tie into existing systems and infrastructure where possible. Incompatible modern elements, particularly lighting fixtures, will be replaced with more compatible materials and fixtures.

Occupancy and Use

Under the NPS selected alternative, the Sheriff's House will be available for both NPS use and non-NPS use, including use by partners such as the New Castle Historical Society. Though specific uses for the Sheriff's House will be flexible, any considered reuse must be compatible with the historic layout, materials, and character of the building. The National Park Service and potential future occupants of the building will enter an agreement to ensure general building maintenance and preservation of historic materials, the specifics of which will be determined at a later time when occupants are identified.

The National Park Service has identified preferred uses for the building based on their current needs; however, these uses and their specified locations will be adjusted as needed. On the first floor, each of the front rooms, identified as 101 and 103 on figure 4 of the EA/AoE, will be used as NPS visitor contact space, including a visitor contact desk and exhibit space. The remaining jail cells located on the first floor in rooms 111–114 will be retained for interpretation. Additionally, there will be several potential locations on the first floor for NPS or non-NPS accessible workstations, depending on the users' needs. The second floor will be available for use as NPS or non-NPS administrative space, and will include a restroom for building occupants.

Additional modifications to the building, accessibility, and mechanical systems may be required in the future depending on each specific use and its location in the building. These will be determined on an as-needed basis, and future compliance and/or agency consultation will be completed when necessary.

Accessibility

The visitor entrance to the Sheriff's House will be via stairs and a universally accessible ramp located on the south elevation of the building, between the Sheriff's House and the courthouse, as shown on figure 4 of the EA/AoE. The existing ramp between the courthouse and the Sheriff's House will be removed in coordination with the State of Delaware, the current owner of the courthouse. The existing brick walkway will be assessed for compliance with accessibility standards and will be repaired or replaced as needed. Visitors will access the proposed stairs and ramp through the existing accessible gate in the stone wall just south of the Sheriff's House front façade, which will lead to the base of the ramp. The proposed stairs and ramp will lead to a landing at the exterior door to the stair hall, which will be widened by a few inches for accessibility. The new door will be designed to be compatible with the historic fabric of the building in terms of color, material, and scale.

Restrooms

Two multi-stall, universally accessible restrooms will be constructed in the western rooms of the first floor, identified as rooms 106 and 107 in figure 4 of the EA/AoE. All non-historic walls within these rooms will be removed, and a new partition wall will be added to create two separate restrooms, each with four toilet stalls and three sinks. The existing exterior door located on the west side of the house will be reversibly sealed with the existing historic door left in situ. One restroom will be accessed through the existing door in the central hall, and the other will be accessed through the existing door in the stair hall. The door in the stair hall will be widened to accommodate wheelchairs. The construction of the restrooms will require new plumbing for the sinks and toilets, which will require penetrations in the historic floors. Stall dividers will be affixed to the floors and walls, and grab bars will be affixed around the toilet in the accessible stalls, as required. These may require additional intrusions on the historic floors and walls. Associated restroom fixtures such as mirrors and hand towel dispensers or hand dryers will be affixed to the new partition wall to minimize new intrusions and penetrations into the historic fabric.

MITIGATION MEASURES

Although the exact mitigation measures to be implemented would depend upon the final design and approval of plans by relevant agencies, the selected action incorporates the best management practices and mitigation measures listed in Appendix A.

FINDING OF NO SIGNIFICANT IMPACT

As described in the EA/AoE, adverse impacts on park resources will occur as a result of implementing the selected action; however, no significant adverse impacts were identified.

Although the EA/AoE described both beneficial and adverse impacts to historic structures and districts and archeological sites listed in National Register of Historic Places, the character-defining features of the building will remain intact, except for a slight widening of the exterior door. This door is not on the public-facing street, and so will not detract from the New Castle Historic District. Additionally, the project was designed to avoid potentially significant archeological sites and is unlikely to impact them to the point where they would lose their integrity. As a result, there would be no significant impacts to historic structures and districts, and archeological sites listed on the National Register of Historic Places.

The selected action will have beneficial impacts on visitor use and experience by providing opportunities for visitors to experience the historical context of the building through the architecture and potential future exhibits and information. As demonstrated in the EA/AoE, these actions would not result in significant impact to visitor use and experience.

During scoping, the team considered other NPS projects and consulted with local stakeholders to determine other actions that have or will have the potential to affect resources within the scope of this project. The team did not identify any past, present, or reasonably foreseeable actions by the National Park Service or other parties that will result in cumulative impacts on the resources affected by the selected action. Therefore, as discussed in the EA/AoE, there are no cumulative impacts associated with the selected action.

In summary, the selected action will not have a significant adverse effect on the human environment. There are no significant adverse impacts on public health, public safety, special-status species, sites or districts listed in or eligible for listing in the National Register of Historic Places, or other unique characteristics of the region. No highly uncertain or controversial impacts, unique or unknown risks, significant adverse cumulative effects, or elements of precedence were identified. Implementation of the NPS selected action will not violate any federal, state, or local environmental protection law.

Based on the foregoing, it has been determined that an environmental impact statement is not required for this action and thus will not be prepared.


DECISION REACHED AND RATIONALE

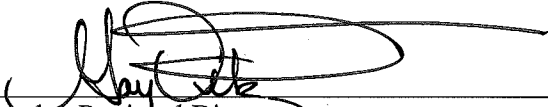
The NPS has selected action alternative 1 (the proposed action and NPS preferred alternative) for implementation, as described in this Finding of No Significant Impact.

The National Park Service identified the selected action (action alternative 1 in the EA/AoE) for implementation because it will provide a rehabilitated building with administrative and exhibit space for NPS and non-NPS use while preserving the historic and character-defining elements of the Sheriff's House. It will also provide universal accessibility into the building and throughout the first floor, including fully-accessible restrooms. The NPS selected alternative will achieve the project's purpose and need more effectively than the no-action alternative or action alternative 2. The no-action alternative would not meet the project's purpose and need because without rehabilitation there would be no possible occupancy of the building and it would remain vacant and continue to deteriorate.

Although action alternative 2 would meet the purpose and need for the project, the visitor entrance location at the rear courtyard of the building would result in a greater degree of adverse impacts on visitor use and experience because they would have to travel a farther distance to the entrance at the rear of the building when compared to the NPS selected alternative. In addition, the rear courtyard is known to be archeologically sensitive and action alternative 2 could result in a greater degree of adverse impact on potential intact resources because it would require some ground disturbance on land not previously disturbed.

For these reasons and in consideration of the likely environmental impacts described in the EA/AoE and this Finding of No Significant Impact, I have decided to select action alternative 1 for implementation.

Recommended:  6/26/2018
Ethan McKinley, Superintendent DATE
First State National Historical Park

Approved:  July 2, 2018
Gay Vietzke, Regional Director DATE
Northeast Region, National Park Service

- Appendix A Mitigation Measures and Permits and Approvals Needed
- Appendix B Agency and Tribal Consultation
- Appendix C Public Involvement and Comments Received on the Environmental Assessment/Assessment of Effect
- Appendix D Non-Impairment Determination

APPENDIX A MITIGATION MEASURES

MITIGATION MEASURES

To avoid and minimize potential adverse impacts associated with the selected action, best management practices and mitigation measures will be implemented during the construction and post-construction phases of the project. This list provides a framework for mitigation measures that will be included in the contractor's specifications; however, the National Park Service (NPS) can modify the best management practices and mitigation measures as a result of permit requirements, or design plans that may necessitate modifications to best management practices identified below.

Various best management practices will be adopted as part of the selected action and will be incorporated into design plans and specifications. Any contractor retained for any phase of the action will abide by the conditions and procedures identified in this Finding of No Significant Impact and any required permits. Mitigation measures will be refined as the design of the project develops and as regulatory agencies define permit conditions. The following is a list of typical mitigation measures that could be applied:

- Instruct construction employees on the sensitivity of the general environment and monitor their activities. Corridors for construction vehicle movement will be established and defined on the ground. Staging of construction equipment will be restricted to the road corridor, parking lots, and other identified previously disturbed areas to avoid impacts on natural and cultural resources.
- Fence all work areas in order to keep related disturbances within an NPS-defined and minimal impact area. State all protection measures clearly in the construction specifications, and instruct workers to avoid conducting activities beyond the fenced construction zone.
- Implement standard noise abatement measures during construction. Standard noise abatement measures may include the following elements: a schedule that minimizes impacts on adjacent noise-sensitive uses, the use of the best available noise control techniques wherever feasible, the use of hydraulically or electrically powered impact tools when feasible, and location of temporary noise sources as far from sensitive uses as possible.
- Use geotextile fabric and gravel on The Green in Old New Castle in the event it is used for construction staging. At the end of the project, this will be removed, the top 2 inches of soil will be tilled, and the ground will be reseeded. If deemed necessary, an archeological monitor will be on site during any portion of this work.
- Reseed all areas that are temporarily disturbed during construction with native grasses and other native species as per NPS standards.
- Implement measures to prevent invasive plants from returning to sites where they have been removed, such as ensuring that construction-related equipment arrives at the site free of mud or seed-bearing materials, and certifying that all seeds and straw material are weed-free.
- Follow the *Secretary of the Interior's Standards for the Treatment of Historic Properties* for all rehabilitation and preservation efforts to the historic building.
- The selected action will result in an adverse effect on historic properties under section 106 of the National Historic Preservation Act. The NPS has entered into a programmatic agreement with the Delaware State Historic Preservation Office, Delaware Division of Historical and Cultural Affairs, City of New Castle, Delaware Nation, and the Delaware Tribe of Indians. The

programmatic agreement outlines mitigation measures required to resolve the adverse effect on historic properties at the Sheriff's House.

APPENDIX B AGENCY AND TRIBAL CONSULTATION AND CORRESPONDENCE

SECTION 7 OF THE ENDANGERED SPECIES ACT

The National Park Service (NPS) reviewed species data for the project area through the US Fish and Wildlife Service (USFWS) Information for Planning and Consultation system. No federally listed or proposed species or critical habitat under the jurisdiction of the USFWS occur in the area that will be affected by the project; no further coordination with the USFWS is required.

SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT

Throughout the NEPA process, the NPS consulted with the Delaware State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation, and the New Castle Historic Area Commission.

Section 106 of the National Historic Preservation Act requires federal agencies to take into account the impacts of their undertakings on historic properties. The implementing regulations for Section 106 (36 CFR 800) permit federal agencies to use the NEPA process for environmental assessments in lieu of a separate Section 106 process to meet those requirements (36 CFR 800.8[c]). The National Park Service has made a finding of *adverse effect* for this undertaking (the proposed action). In compliance with Section 106, the National Park Service, through the environmental assessment/assessment of effect (EA/AoE), has provided the Delaware SHPO with an assessment of effect for historic properties and a request for concurrence with the NPS determination. On May 22, 2017, the SHPO concurred with the NPS determination of adverse effect on historic resources for the proposed project.

The NPS also submitted a letter and copy of the EA/AoE to the Advisory Council on Historic Preservation (ACHP) indicating that the selected action will have an adverse effect on historic resources. On August 4, 2017, the ACHP indicated that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of their regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking, and therefore ACHP will not participate in the resolution of the adverse effects unless a request for participation is received from the SHPO or other consulting parties.

The park initiated tribal consultation on April 25, 2017 by letters to the Delaware Nation, the Delaware Tribe of Indians, and the Stockbridge-Munsee Band of Mohican Indians. In response, the Stockbridge-Munsee Community responded that the project was not located within their cultural area of interest. The Delaware Nation and Delaware Tribe of Indians requested continued consultation with the NPS as the project progresses.

As a result, NPS entered into a programmatic agreement with the SHPO, Delaware Division of Historical and Cultural Affairs, City of New Castle, Delaware Nation, and the Delaware Tribe of Indians that outlines and agrees on mitigation measures required to mitigate the adverse effect on the historic properties. The programmatic agreement also determines the necessity and procedures for monitoring for archeological resources during construction. A draft programmatic agreement was circulated for public comment from February 22, 2018 through March 22, 2018. No comments were

received on the draft programmatic agreement. The programmatic agreement was signed by all parties in April and May of 2018.

APPENDIX C PUBLIC INVOLVEMENT AND COMMENTS RECEIVED

During preparation of the environmental assessment/assessment of effect (EA/AoE), the National Park Service (NPS) consulted with federal and state agencies, tribes, interested and affected parties, and the general public.

PUBLIC INVOLVEMENT

Interested public and agencies were provided an opportunity to review and comment on the EA/AoE during a 45-day review period from February 13, 2017, through March 31, 2017. Availability of the EA/AoE was announced on the NPS Planning, Environment and Public Comment (PEPC) website, the park's website, the park's social media pages, and through a press release. In addition, an open house public meeting was held at the New Castle Court House on March 8, 2017.

A total of eleven correspondences were received during the public comment period, including correspondences from agencies, organizations, and the general public. Agency correspondence is addressed in appendix B, and public correspondence is addressed below.

PUBLIC COMMENTS

In general, Alternative 1, the proposed action and NPS preferred alternative, received the most support from commenters. Some commenters provided recommendations for design features and interpretive programming that the NPS will take into consideration during future design stages and implementation of the selected alternative. Responses to more specific concerns raised through the public comment process are provided below. No changes were made to the EA/AoE as a result of comments received.

Concern: Several commenters expressed concern that the Sheriff's House would not be used as the administrative and interpretive headquarters for the park and inquired about the content of future exhibits within the Sheriff's House.

Response: As stated on page 15 of the EA/AoE, administrative and interpretive uses are listed as potential uses for the Sheriff's House. The proposed alternative is designed to provide flexibility in the use of the building as needs of the NPS evolve over time. Similarly, specific exhibits within the Sheriff's House will change over time depending on park and partner needs.

Concern: Some commenters inquired about removing interior walls within the Sheriff's House to allow for more interior open space.

Response: As described on page 11 of the EA/AoE, some walls and doors that are not original to the 19th century building will be removed in order to open up the building, primarily for accessibility purposes. Uses requiring larger spaces would likely not be considered if they had the potential to damage the historic character, layout and size of the building as stated on page 15 of the EA/AoE.

Concern: One commenter had concerns regarding the accessible entrance to the building, suggesting instead that the northern entrance be converted for use as the accessible entrance.

Response: This alternative was considered and dismissed as described on pages 21-22 of the EA/AoE.

APPENDIX D NON-IMPAIRMENT DETERMINATION

By enacting the National Park Service (NPS) Organic Act of 1916 (Organic Act), Congress directed the US Department of Interior and NPS to manage units "to conserve the scenery and the natural and historic objects and wildlife therein and to provide for the enjoyment of the same in such a manner and by such a means as will leave them unimpaired for the enjoyment of future generations" (54 United States Code [USC] § 100101). Congress reiterated this mandate in the Redwood National Park Expansion Act of 1978 by stating that NPS must conduct its actions in a manner that will ensure no "derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress" (54 USC 100101).

NPS Management Policies 2006, section 1.4.4, explains the prohibition on impairment of park resources and values.

While Congress has given the Service the management discretion to allow impacts within parks, that discretion is limited by the statutory requirement (generally enforceable by the federal courts) that the Park Service must leave park resources and values unimpaired unless a particular law directly and specifically provides otherwise. This, the cornerstone of the Organic Act, establishes the primary responsibility of the National Park Service. It ensures that park resources and values will continue to exist in a condition that will allow the American people to have present and future opportunities for enjoyment of them.

NPS has discretion to allow impacts on park resources and values when necessary and appropriate to fulfill the purposes of a park (*NPS Management Policies 2006*, section 1.4.3). However, NPS cannot allow an adverse impact that would constitute impairment of the affected resources and values (section 1.4.3). An action constitutes an impairment when its impacts "harm the integrity of Park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values" (section 1.4.5). To determine impairment, NPS must evaluate "the particular resources and values that would be affected; the severity, duration, and timing of the impact; the direct and indirect effects of the impact; and the cumulative effects of the impact in question and other impacts" (section 1.4.5).

This determination on impairment has been prepared for the selected action described in this Finding of No Significant Impact. An impairment determination is made for the resource topics of historic structures and districts and archeological resources. An impairment determination is not made for visitor use and experience because impairment findings relate back to park resources and values, and these impact areas are not generally considered to be park resources or values according to the Organic Act. Therefore, visitor use and experience cannot be impaired in the same way that an action can impair park resources and values.

HISTORIC STRUCTURES AND DISTRICTS

Although the introduction of modern materials into the exterior and interior of the building under the selected action will have adverse impacts on historic structures and districts, it will not impair park resources or values. The addition of an accessibility ramp in the side courtyard will introduce modern materials to the historic structure and will require changes to the original exterior doorway on the

south elevation. Neither the ramp nor modified door will be visible from the front façade, however, and therefore, neither will alter the historic appearance of the building's exterior in the surrounding historic district. Though the addition of modern elements and modifications required for the restrooms will change the appearance and floorplan of a portion of the first-floor interior, most material removed would be non-original to the building's construction in order to maintain as much historic material and character as possible. In addition, the rehabilitation of the Sheriff's House under the selected action will result in restored and preserved historic fabric and character, and will prevent loss of historic integrity due to deterioration.

Overall, under the selected action, the historic building will maintain its historic character and integrity and will remain eligible for listing in the National Register, including its role as a contributing structure to the New Castle Historic District. The historic fabric and character of the remaining jail cells and the relationship to the New Castle Court House Museum and The Green in Old New Castle will be maintained. There will be no impairment to historic structures and district because the adverse impacts from the introduction of modern interior and exterior materials will not diminish the overall historic integrity of the structure. The Sheriff's House will remain a fundamental resource of the park as well as a contributing structure to the historic district and to the park's purpose and significance.

ARCHEOLOGICAL RESOURCES

The construction and use of the accessibility ramp on the south elevation has the potential to result in adverse impacts on archeological resources because it will require some ground disturbance; however, this will not result in impairment because the site for the ramp will generally be on the location of the existing ramp and walkway where the ground has been previously disturbed. Therefore, encountering intact archeological resources is unlikely and the action will not impair park resources or values. The selected alternative will also avoid the sensitive archeological resources in the courtyard that were identified by previous investigations. Additional archeological surveys will be completed as required, and disturbance to any newly identified intact archeological resources will be avoided to the extent practicable. In addition, the NPS entered into a programmatic agreement with the Delaware State Historic Preservation Officer, Delaware Division of Historical and Cultural Affairs, City of New Castle, Delaware Nation, and the Delaware Tribe of Indians that outlines and agrees on measures required to mitigate any adverse effect on archeological resources. There will be no impairment to archeological resources in the vicinity of the Sheriff's House because the integrity of relevant archeological resources will not be lost and the park will continue to protect existing resources in situ to prevent degradation and loss.