

Question 1:

Do you agree that a policy for the protection and sustainable management of historic battlefields is necessary? If not, what alternative course of action would you suggest, and why?

Yes. Given the vulnerability of some sites it is considered that a national policy and strategy should be prepared. However, if they are considered to be of national significance they would be better protected through additional primary legislation, as are Listed Buildings or Scheduled Monuments.

Question 2:

Do you agree with the scope and definition? If not, what changes would you propose and why?

We would agree in part with the definition and the reasoning, and the need to start with nationally significant sites. However, we would ask that it be broadened to include lesser battles, skirmishes etc where there is local evidence and support and would the call for a tiered classification system to be considered, similar to listed buildings i.e. Category A, of National importance; B Regional; and C Local. The local authorities and Historic Scotland have policies and mechanisms in place to accommodate the tiered approach.

Question 3:

Are there other reasons for valuing battlefields that should also be considered?

The above comments highlight the sense of ownership held by local communities as well as a national feeling for a site and in particular to lesser sites giving rise to place names, street names and local community facilities.

Question 4:

Do you support the proposal to create a non-statutory Inventory of nationally important battlefields? If not, what alternative approaches should be considered?

We would support an Inventory of Battlefields, although it should be broadened to a tiered system as described above. Moreover, it should be backed by primary legislation especially if they are to be confined to only nationally important sites.

Question 5:

Should an Inventory of Historic Battlefields be given the same status currently enjoyed by Gardens and Designed Landscapes within the planning system (see Note 6)?

It would be an added and explicit security layer, but would still fall short of **Statutory** protection under primary legislation.

Question 6:

Do you agree with the purpose of the proposed Inventory? If not, what changes would you suggest and why?

Yes, we would agree with the purpose, but would call for a broader scope to include a tiered approach for the reasons mentioned above.

Question 7:

Do you believe that the criteria set out in Annex A are suitable? If not, what alternative criteria would you suggest and why?

Yes, but again this is for nationally important sites.

Question 8:

Do you agree with the proposed definition of the area of interest? If not, what changes would you suggest and why?

It is accepted that you have to draw a line somewhere and this would be based on written and archaeological evidence. However, could thought be given to amenity zones or, in the case of World Heritage Sites, Buffer Zones or other spheres of influence and the effect on the site's setting?

Question 9:

Do you agree that policies are needed for both the overall area of the battlefield and specific areas within it? If not, what changes would you suggest and why?

Given that the SHEP proposes no added primary legal protection, it would be essential to have as much non-statutory added protection as possible, whether it be through nationally or locally administered policies via the local planning process or development management. This could be compared with the setting of listed buildings or the curtilage of a building or a buffer zone of a World Heritage Site.

Question 10:

Do you agree that best practice guidance would be useful? If so, who should lead in developing this? If not, what alternative approaches should be considered?

If this to be for National sites then the best practice guide should be applicable to all areas of the country and should be produced by Historic Scotland in partnership with stakeholders. This should then form the basis for each Local Authority's Supplementary Planning Guidance on Battlefield sites, be they national, regional or local.

Question 11:

Do you agree with the roles identified here? If not, what changes would you propose, and why? Are there other key stakeholders who have significant roles to play?

Broadly speaking we would agree but other issues may have to be considered e.g. scheduled and non scheduled areas, listed buildings within sites with statutory protection whereas the battlefields have none, sites in guardianship, non co-operative or responsive landowners, compulsory acquisition powers, Section 75 agreements, grants or tax incentives. Stakeholders and owners could be broadened and classified into: statutory undertakers, power generators, infrastructural organisations, road, rail and air transport providers and forestry enterprise companies.

FALKIRK COUNCIL

**SUBJECT: SCOTTISH HISTORIC ENVIRONMENT POLICY (SHEP) ON
HISTORIC BATTLEFIELDS: CONSULTATION RESPONSE**
MEETING: FALKIRK COUNCIL
DATE: 25 JUNE 2008
AUTHOR: DIRECTOR OF DEVELOPMENT SERVICES

1. BACKGROUND

- 1.1 On 30th April 2008, Historic Scotland launched a public consultation in the Scottish Historic Environment Policy (SHEP) series entitled: **SHEP on Historic Battlefields**: a consultation document which sets out Scottish Ministers' proposed policies for significant historic battlefields. This consultation seeks the views on options in the draft SHEP and closes on 25th July 2008.
- 1.2 The Scottish Historic Environment Policy (SHEP) series sets out Scottish Ministers' policies for the historic environment and are a response to the review of Historic Scotland in 2004 which recommended that an 'Executive endorsed policy statement for the historic environment in Scotland should be developed in consultation with stakeholders'. The SHEPs have the same authority as the Scottish Planning Policy series and other relevant Ministerial policy documents.
- 1.3 SHEP 1 *Scotland's Historic Environment* set out strategic policy for the historic environment. It provided the framework for more detailed Ministerial and operational policies that inform the day-to-day work of a range of organisations that have a role and interest in managing the historic environment. These include the Scottish Government, local authorities and the range of bodies that is accountable to Scottish Ministers, including Historic Scotland.
- 1.4 Whilst some SHEPs deal in more detail with established areas of policy and are intended to bring together and explain existing policy, while providing an opportunity for public comment on a range of policy and some operational issues; others deal with less-developed areas of policy and are intended to explore a wider range of issues and options and the consultation versions will often include more questions about operational matters.
- 1.5 This consultation document sets out Scottish Ministers' proposed policies for significant *Historic Battlefields* in respect of their identification and protection, the management of change and development within them, and the implementation of these policies.

2 SHEP ON HISTORIC BATTLEFIELDS CONSULTATION

- 2.1 Scottish Ministers recognise battlefields as an important element of Scotland's historic environment: that contributes to our sense of national identity. Major battles have often been commemorated through memorials, music, poetry and literature, keeping the memory of the event alive in the national consciousness.
- 2.2 Battlefields have value for the physical remains and artefacts they contain, which can tell us much about important aspects of Scottish history. The landscape in which a battle took place is important to our understanding about the course of events, and often contributes to our sense of place and history.
- 2.3 Battlefields have the potential to be a valuable resource for education, recreation and tourism, allowing visitors to experience and understand the location of a major and dramatic historical event first-hand. To be effective, though, this requires active management and interpretation.
- 2.4 The SHEP recognises that battlefields are vulnerable to a range of impacts. They are affected by natural processes of erosion and human actions that can diminish their value and potential, and although there is no primary legislation in place to give protection to battlefields at present, they can be a material consideration in the planning process, for instance through policies in local or development plans. Whilst battlefields do not currently have the same level of recognition as Gardens and Designed Landscapes in the planning process it is, nevertheless, essential to have in place a policy for their protection, sustainable management and promotion. It suggests therefore that Local Authorities are best equipped to provide this protection through a more robust and rigorous Local Plan and Development Management process.
- 2.5 Our considered response is that if they are considered to be of national significance they would be better protected through additional primary legislation, as are Listed Buildings or Scheduled Monuments.
- 2.6 The SHEP considers the scope and definition of a battlefield, concluding that it is the area of land over which a battle was fought and an action involving wholly or largely military forces, normally deployed in formal battle array, with the number of combatants expected to have been in the order of at least 500 on each side. Moreover, it recognises that other types of conflict, such as sieges, massacres, riots, civil actions or sea battles, although, may have been significant historical events, they should be excluded from the scope of this policy. This definition would therefore not support the inclusion of some of the Battles fought within the Falkirk Council area, but, it is considered, should reinforce the call for an alternative tiered protection system, similar to Listed Buildings' A, B and C categories: i.e. national, regional and local.

- 2.7** Scottish Ministers propose that Historic Scotland should compile and maintain an Inventory of Historic Battlefields, comprising a list of battlefields considered to be of national importance, that can be located accurately and whose value has not been seriously compromised by subsequent land use. This Inventory will be non-statutory. It acknowledges that alternative means of commemoration may need to be considered for other sites. Again this seems to support the need for a tiered statutory process administered by Historic Scotland at a national level along the lines of the Listed Building system rather than as proposed, by the local authority, through planning policy and development management. Furthermore, a nationally administered system would give added credence when battlefield sites would be seen competing with proposed nationally significant developments such as major power generating stations, wind farms, power lines, airports and transport links etc.
- 2.8** Local planning authorities will be encouraged to recognise nationally important battlefield sites in their development planning process, ensuring that impacts upon them are a material consideration in development management and to develop specific policies to achieve this. Falkirk Council has been pre-emptive in recognising the importance of the site of the Battle of Falkirk Muir and including it as a policy in the finalised draft of the Falkirk Council Local Plan: probably the first Scottish Local Authority to do so. The corollary would be that Local Plans would not be approved by ministers or succeed at Public Local Inquiry if the local authority had not included the Inventory site and developed the specific policies.
- 2.9** The consultation document acknowledges that other battlefields will be important in a more local context but recommends that it is a matter for planning authorities and others who may wish to identify, protect and manage such sites through the mechanisms available to them.
- 2.10** If an Inventory is established it is proposed that the principles used for Scheduling and Listing should be adapted to underpin the selection of sites. This selection process will be ongoing and kept under review. This again suggests a greater responsibility should be taken at a national level through primary legislation.
- 2.11** The Inventory will include a description of the overall area within which the battle took place encompassing the area of the initial core of the fighting and a wider area of secondary fighting or skirmishes. It will include key landscape and built features associated with the battle, and may include burials and memorials likely to be dispersed across the area. It may include areas that have already been disturbed or developed. Consequently, it will be necessary to ensure that policies for protection and development management consider the overall area of the battlefield, but also include more targeted policies for parts of it where necessary, particularly for areas which have already been disturbed by development. Scottish Ministers invite Historic Scotland, planning authorities and other key stakeholders to work together to establish best practice guidance.

3 ROLES, RESPONSIBILITIES AND IMPLEMENTATION

3.1 Protecting and managing Inventory battlefields involves many stakeholders, each of whom has an important contribution to make.

3.2 It is proposed that Historic Scotland will:

- create, maintain and publish the Inventory;
- consult planning authorities on proposals to include sites in the Inventory;
- advise other government departments and agencies on the development of appropriate policies;
- work with planning authorities and other key stakeholders to establish best practice guidance on the protection and management of Inventory sites.

3.3 It is suggested that planning authorities will:

For Inventory sites:

- comment on proposals to include sites in the Inventory;
- develop and implement appropriate planning policies for Inventory battlefields and consider significant setting issues within strategic planning;
- consider the impact of development proposals on Inventory sites and their settings;
- work with Historic Scotland and other key stakeholders to establish best practice guidance on the protection and management of Inventory sites;
- promote battlefields as part of the local historic environment wherever possible.

For sites of more local importance:

- consider identifying battlefields of more local importance; and
- consider including appropriate policies for these within strategic planning to secure their appropriate treatment in the development management process.

4 HISTORIC BATTLEFIELDS IN FALKIRK COUNCIL AREA AND THEIR PROTECTION THROUGH SHEP PROPOSALS

4.1 There are 3 locally recognised Battlefield sites within the Falkirk area, each having a memorial cairn or monument commemorating the battle:

- **Battle of Falkirk, 1298:** Traditionally thought to be in the Grahamston area with a monument at Victoria Park and also a cairn erected last year in Callendar Park.
 - **Battle of Falkirk Muir, 1746:** In the Bantaskine Park area with a monument at the corner of Greenbank Road/Lochgreen Road.
 - **Battle of Bonnymuir 1820 :** South of Bonnybridge with a commemorative cairn north of Lochgreen Road
- 4.2 Of the three, however, the Battle of Bonnymuir is probably best referred to as a skirmish between the Radicals and government troops and would not qualify as a significant battlefield site under Historic Scotland’s proposals. Nevertheless, it would, however, reinforce the call for a tiered classification system similar to listed buildings i.e. Category A, of National importance; B Regional; and C Local, as highlighted in the attached proposed response.
- 4.3 Falkirk Council’s Local Plan Finalised Draft (deposit version) recognises the significance of the **Battle of Falkirk Muir** in:
- **Policy FAL 1: Site of the Battle of Falkirk Muir, *whereby*; “There will be a presumption against development which would destroy or adversely affect the site of the Battle of Falkirk Muir and its setting”.**
- 4.4 During the Plan’s consultation, Historic Scotland advised that it was giving consideration to the preparation of a Register of Battlefields throughout Scotland, and confirmed that the site of the **Battle of Falkirk Muir** would be likely to fall within the top category of such a register, on the basis that a substantial part of the field of battle remains in the form which allows the course of the battle to be appreciated by an informed observer. The Plan’s **Opportunity ED.FAL18 Bantaskine Park** provides for the interpretation of the battle for visitors as part of wider proposals to improve Bantaskine Park.
- 4.5 The inclusion of the **Battle of Falkirk Muir** site in the Local Plan together with **Policy FAL 1 and Opportunity ED.FAL 18 Bantaskine Park** places the emphasis of protection on the local authority, rather than Historic Scotland through primary legislation. This apparent dilution of a significant national asset and transfer of responsibility is the preferred course of action proposed in the consultation document whereby the presence of the battlefield site is regarded only as a material consideration in assessing a planning application as it always has been. It is interesting to note that the Monument erected in 1926 is a category B Listed Building with statutory protection, but the Battlefield site of 1746 would not enjoy the same protection under the draft proposals.
- 4.6 The two other battlefield sites would not feature in the register: the **first Battle of Falkirk** site, presumably because of the difficulty in defining the site’s exact boundary; and the **Bonnymuir** site because it is regarded, under Historic Scotland’s proposed criteria as a skirmish and not a significant battle. Accordingly, unless a tiered system is considered, the status quo would prevail and there would be little, if any, additional protection, statutory or non-statutory,

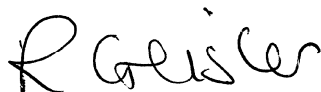
for both sites under the SHEP proposals. The presence of the plaques or cairns may be the only material consideration in determining any planning application.

5 IMPLICATIONS

- 5.1 Policy: The draft proposals contained in the SHEP have already been accommodated in part within the Falkirk Council Local Plan, Finalised Draft and the Council's Heritage Strategy.
- 5.2 Legal: none
- 5.3 Financial: none
- 5.4 Personnel: none

6 RECOMMENDATION

- 6.1 **That Falkirk Council approves the response to the Scottish Historic Environment Policy (SHEP) on Historic Battlefields as appended to this report.**



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Director of Development Services

Date: 16 June 2008

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LIST OF BACKGROUND PAPERS

- 1. Scottish Historic Environment Policy (SHEP) on Historic Battlefields. Consultation Document, Historic Scotland

