

The following is Stirling Council's response to the 11 questions posed in the consultation.

## **The legal and administrative context**

**Q1 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?**

### **Response**

Yes, there is a need for a national policy for the protection and sustainable management of historic battlefields. The policy should include reference to the importance of their wider landscape context and actively encourage their promotion and interpretation for education and tourism. Mention should also be made in any national policy promoting the sustainable management of battlefields to the potential damage which the use of metal detectors on battlefield sites can cause and consider the restriction of their use on Inventory sites.

### **Detail**

Battlefields rarely have surviving readily identifiable physical remains. This is because the land on which many battles were fought was often farmland at the time of the battle. The landscape has continued to evolve over time and many battlefield sites now have current land uses which range from agriculture and forestry, to housing and industry, and have been fragmented by boundaries, differing land ownerships and the establishment of infrastructure such as roads and railways. Battlefields, therefore, provide a complex and challenging as well as an emotive subject for both study and protection.

Stirling Council has been concerned with the issue of development proposals and battlefield protection for some time. In 2000 the Council commissioned a study into the site of the Battle of Bannockburn. Additionally, the impact of the overhead pylons on site of the battle of Sheriffmuir and its setting was one of the key reasons for the Council's objection to the Beaulieu to Denny Power Line, which was the subject of a public inquiry in 2007.

There is no mention in the consultation of the issue of the potential detrimental effect of unrestricted metal detecting on battlefield sites. Recent research on battlefield archaeology has confirmed that the surviving evidence is often in the form of unstratified artefacts in the plough soil. These have provided key evidence for the re-interpretation of a number of battles. Unrecorded or poorly recorded metal detecting is rapidly destroying such artefact scatters. Any policy designed to offer protection to historic battlefields should therefore also include protection of such artefact scatters. The draft heritage protection legislation for England and Wales aims to restrict the use of metal detectors on registered Heritage Open Spaces such as battlefields.

## **Proposals for Scottish Ministers' policy for historic battlefields**

**Q2 Do you agree with the scope and definition? If not, what changes would you propose and why?**

For the purposes of the proposed policy a battlefield is defined as 'an area of land over which a battle was fought. A battle is defined as an action involving wholly or largely military forces, normally deployed in formal battle array. The number of combatants will have varied, but is expected to have been in the order of at least 500 on each side.'

The proposed definition is agreed.

**Q3 Are there other reasons for valuing battlefields that should also be considered?**

No. The list is comprehensive. It covers:

Contribution to historical developments

Archaeological potential  
Resting places of fallen combatants  
Role of landscape in military strategy and tactics  
Contribution to landscape character and sense of place  
Significant place in our national consciousness and culture

**Q4 Do you support the proposal to create a non-statutory Inventory of nationally important battlefields? If not, what alternative approaches should be considered?**

**Response**

Yes. At present there is no primary legislation that gives protection to battlefields. While supporting the proposal to create a non-statutory Inventory of nationally important battlefields, it is noted that there is no consideration in the consultation document of the option of providing statutory protection for battlefields. It is suggested that, in line with SHEP 3, Gardens and Designed Landscapes, Scottish Ministers agree to include this as an option for keeping under review.

**Detail**

Following adoption of a policy on Historic Battlefields by Scottish Ministers, Historic Scotland intends to compile and maintain a non-statutory Inventory of historic battlefields considered to be of national importance.

A similar consultation on Historic Gardens and Designed Landscapes in 2006 asked for comment on the possibility of that being a statutory register. However, the final policy document (SHEP 3 Gardens and Designed Landscapes 2008), confirmed that Scottish Ministers did not intend to legislate in this area in the immediate future but would keep this under review.

The English Heritage Register of Historic Battlefields, created in 1995, identifies forty-three important English battlefields. It is non-statutory at present but draft Heritage Protection legislation currently under consideration for England and Wales will allow for the registration of battlefields as Heritage Open Spaces which will give them statutory protection by their inclusion as part of a Heritage Asset Consent system managed by the local planning authorities. This legislation will also require account to be taken of the setting of registered battlefields when considering planning applications.

In Ireland a research project is currently underway looking into 75 battlefields, which will ultimately assist in identifying the appropriate statutory protection for relevant battlefield sites under the national monuments legislative code. This will allow battlefield areas to be designated as protected sites by amending National Monuments legislation.

**Q5 Should an Inventory of Historic Battlefields be given the same status currently enjoyed by Gardens and Designed Landscapes within the planning system? (note 6)**

**Response**

Yes. Inclusion of a site in the Inventory will mean that it receives recognition and a degree of protection through the planning system. It is recommended that local communities be included in any public consultation on proposed inclusions and amendments to the Inventory.

**Detail**

A non-statutory Inventory will place much of the responsibility on the planning authority to manage the protection of the Inventory sites. If given the same status as Gardens and Designed Landscapes the Inventory of Historic Battlefields will be enacted through the General Development Procedure (Scotland) Order and include the provision for Historic

Scotland to be a statutory consultee on planning applications for developments which may affect an Inventory Battlefield site.

Planning authorities will be encouraged to develop specific policies with regard to nationally important battlefields to ensure that they are recognised in the development planning process and that impacts upon them are a material consideration in development management. The First Alteration to the Structure Plan on Renewable Energy (June 2004), policy ENV16, gives specific protection to the setting of Bannockburn Memorial and Battlefield and Sheriffmuir Battlefield from the inappropriate siting of wind turbines. The Consultative Draft on the Third Alteration to the Structure Plan of March 2007 proposes to redefine the historic environment to include battlefields and amend policy ENV7 to extend protection to battlefields and their setting. The sensitivity of battlefields in relation to forestry is also mentioned at paragraph 3.8.8 of the Draft Plan.

### **The proposed Inventory of Historic Battlefields**

**Q6 Do you agree with the purpose of the proposed Inventory? If not, what changes would you suggest and why?**

#### **Response**

The purpose of the Inventory is to identify sites of national importance and to raise awareness of battlefields and their need for protection as an important part of the historic environment of Scotland.

The purpose is agreed.

**Q7 Do you believe that the criteria set out in Annex A are suitable? If not, what alternative criteria would you suggest and why?**

#### **Response**

To be worthy of inclusion in the Inventory, a battlefield must:

- a) be associated with historical events or figures of national importance; and/or
- b) have significant physical remains and/or archaeological potential; and/or
- c) have a clear landscape context that allows the events of the battle to be understood or interpreted; and
- d) be capable of definition on a map.

These criteria are accepted.

#### **Detail**

Compliance with all of the first three criteria is not a pre-requisite and this flexibility is welcomed. It is agreed that the fourth criterion, that of being able to map the boundaries, is an essential criterion.

**Q8 Do you agree with the proposed definition of the area of interest? If not, what changes would you suggest and why?**

#### **Response**

The terms for defining the area of interest are agreed but should be extended to include battlefields where, despite later alterations to the landscape, there is still exists the potential for archaeology to throw light on different elements of the battle. The concept of core and outer areas is considered useful, as is the potential to identify alternative options for the core.

## **Detail**

This section raises the issue of the area of a battlefield core, where the armies are likely to have formed up, and an outer area, within which additional events such as secondary fighting or skirmishes are likely to have taken place. This outer area may encompass key landscape and built features associated with the battle and may include burials and memorials. Paragraph 5.9 raises the issue of alternative battle core sites and this may be particularly relevant in relation to defining boundaries for the Battle of Bannockburn.

### **Q9 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?**

#### **Response**

In managing Inventory sites, the creation of different approaches and therefore different policies for the overall area of the battlefield and specific areas within it is considered worthy of further discussion. However, this should not necessarily result in any policies developed for the outer area being seen as weaker than those that relate to the core. Both areas may incorporate visually sensitive areas and the importance of protecting the setting of the core and any key views of and from the battlefield should also form an important element to consider when looking at policies for the wider area. As well as developing policies that provide Inventory sites with protection there should also be policies that aim to promote a better understanding of their significance through interpretation etc.

### **Q10 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?**

#### **Response**

Best practice guidance would be welcomed and Historic Scotland should take the lead role in drafting this in consultation with local authorities and other key stakeholders.

## **Detail**

Best practice guidance should

- define what is meant by the terms sustainable use and sustainable management?
- provide a framework that establishes general principles that could equally apply to the identification and management of non-Inventory battlefield sites.
- specify what management plans should include – such as the identification of the key interests of each site and individual management objectives, considering issues such as the nature conservation interests of the site, potential for access and recreation as part of a green network, and through interpretation for education and tourism.
- establish standards for fieldwork including the use of metal detectors
- encourage community involvement
- consider offering financial assistance with the development of management plans c.f. that in place for Gardens and designed Landscapes.
- Advice on what might constitute the setting of a battlefield

## **Roles, responsibilities and implementation**

### **Q11 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?**

The roles that have been identified are agreed but Historic Scotland could adopt a promotional role for Battlefields at a national level to complement that expected from planning

authorities at a local level. Mention should be made under 6.4 of the key role to be played by local communities particularly in respect of the future management of Inventory sites.