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CONSULTATION RESPONSE: HS GUIDANCE NOTES – MANAGING CHANGE IN THE HISTORIC ENVIRONMENT

Dear Gordon

This response is structured in four stages:

- 1) A brief overview across the draft guidance notes documents
- 2) Specific comments on the draft guidance note for Setting
- 3) Specific comments on a subsidiary document introduced within the draft guidance note for Setting, which would be implicitly given Ministerial approval if its citation in the Setting document is allowed to continue
- 4) Conclusion

1] A brief overview across the draft guidance notes documents

The request to structure responses within 4 main questions is noted and repeated here.

Consultation Questions

Q1. In what capacity are you involved, or have you previously been involved, with seeking advice on the Historic Built Environment (e.g. applicant, agent, amenity body, planner, etc)?

Q2. Do you think the guidance notes present Scottish Minister's advice on the Historic Environment in a clear and consistent manner? Please explain why/why not.

Q3. What are your views on the layout and use of images of the guidance notes? It would be useful if you could consider:

- how easy the documents are to read?
- are the documents accessible?
- do you think the images are appropriate for the issues they illustrate?

Q4. The 14 Guidance Notes replace guidance from the withdrawn Memorandum. What aspects of the Historic Environment should be considered for inclusion in an expanded series in the future?

Q1 I am an archaeological consultant, advising on the Historic Environment implications of planning proposals. This usually involves small windfarms in Northern Scotland, with my role focussed on providing the Historic Environment report within the Environmental Impact Assessment for planning consideration. I am also an archaeological enthusiast, with 30 years of interest and involvement.

Q2 In terms of presentation of advice, my response is positive. The series looks cohesive and relevant, the language is concise and targeted at mainstream audiences, and the coverage is wide-ranging. Advisory documents should in my mind be helpful and raise awareness, and on that basis, this series achieves those objectives. However, where they blur the distinction between advice and policy as in the Setting draft, then the generally positive welcome has to be qualified with detailed comment on the policy implications.

Q3 The documents are generally easy to read, accessibly written, and usefully illustrated with good imagery and relevant caption information. However, again the Setting draft warrants specific discussion in the next section.

Q4 No response at this stage, although the opportunity to suggest new topics is welcomed.

2] Specific comments on the draft guidance note for Setting

I am treating this document separately for two reasons. The first is that it has a clear underlying purpose which differs from the others, in that it is starting to define the rules of engagement within the planning process, rather than being a helpful summary of attributes. The second is that it is the only one which substantially influences my areas of work, and if it is ratified as the thinking of Scottish Ministers, then would in its present form create problems and conflicts within the planning process.

My first comment is that the document has a lack of direction. Providing a general description of Setting with some interesting examples is a missed opportunity. A more useful contribution

to the planning process would be to explore how to avoid or minimise development impacts on setting attributes – what sort of problems can development proposals cause on settings? For whom and in what circumstances? How do Scottish Ministers want to see those impacts resolved within the planning process to achieve the best balance of a planning decision? What values should planning participants use when preparing and considering information and reports? It would be particularly useful if it could identify generic situations or thresholds where HS and Scottish Ministers would make their strongest objections.

These are issues which the text could address in a much more focussed fashion for mutual benefit instead of the current fairly anodyne descriptive tone. An emphasis on the scenarios we all want to avoid would be much more helpful; the choice of pictures could become a dynamic means of illustrating some of these scenarios, with appropriate explanatory referencing in the captions. The selection of such pictures would clearly have to be sensitively handled, and while I list some examples below, they are more illustrations of the type of depiction which would be informative than definitive cases. Examples could include:

- Crosskirk in Caithness with an industrial estate and windfarm behind,
- Scalloway Castle in Shetland with adjacent harbour development and fish processing buildings,
- Inchcolm Abbey with the Forth rail bridge towering above it,
- Dounreay castle within the atomic complex,
- Newark castle within Port Glasgow docks,
- The photo-montages HS created for viewpoints from key monuments in the Orkney World Heritage Site for the Merranblo public inquiry,
- The Aviemore stone circle within a modern housing estate,
- Embo chambered cairn within a caravan site forecourt.
- Broomend of Crichton henge within an encroaching urban and industrial landscape,
- Any one of the huge selection of sites with settings affected by forestry,
- Any one of the huge selection of sites with settings affected by pylon lines
- A stately home and formal garden with a carpark alongside
- Edinburgh castle with the temporary grandstands for the annual Tattoo.

The precise selection is not particularly important at this stage, but the power of a set of images which clearly demonstrate situations where settings impacts are problematic should not be underestimated.

My other comments are specific to sections of text:

P3 The “*What contributes to setting*” heading and discussion would be more usefully in this context reconstructed as “*What damages setting*”, to explain how impacts exert their effect on setting attributes. The underlying message of the current text suggests only a tangible concern for visual impactors, but other experiential agents such as noise, smell, turbine shadow flicker, and vibration are also relevant and should be mentioned.

P4 “*This assessment should not be constrained to those historic structures that fall within a pre-defined zone*”. Why not? There are two major problems within that attempted policy statement. The first is procedural in that it contradicts other planning guidance material issued on behalf of Scottish Ministers, which defines the expected distance ranges and conditions within which various impactors operate. Unilaterally attempting to sweep them aside for Historic Environment interests will inevitably cause chaos and confusion, not clarity.

The second problem is that impactors can be shown with a high degree of real world plausibility to operate within certain ranges, with minimal or nil effect at greater distances. While the numerical definitions of those thresholds can be debated, the principle is fairly solid, so for a coherent planning consideration why should such practical measures be dismissed? Without their use, the planning authority is doomed to dealing with swathes of pointless additional information instead of being able to focus on those sites and degrees of impact which could be pivotal to an appropriate and balanced decision. Good decisions rely on relevant evidence which is derived from focussing attention rather than overwhelming the decision makers with volume of analysis.

P7 (top) The conjunction of the final two sentences of this Stage 2 causes me severe concern. These are “*Historic structures have a setting whether they are visited or not. However, the use of a historic structure as a visitor attraction may be relevant in a planning authority’s wider consideration of an application.*” I agree with the first sentence, but not with the way it sets up the second which is very disingenuous with its implication that visitor attraction attributes are a whim which the planning authority might indulge. It ignores two major elements:

1] HS, presumably acting on behalf of Scottish Ministers, make strong planning interventions on behalf of visitor attractions when HS Properties In Care or UNESCO World Heritage Sites are involved. Why is this role, with the accompanying criteria used when pursuing these interventions, airbrushed out of the discussion? HS rhetoric seems to want to take two simultaneous stances depending on whether one of their own sites is involved or not, and this contradiction needs to be unravelled before it becomes the policy of Scottish Ministers.

2] the reference to visitor attractions is too narrow, as it excludes a vast number of other historic sites and situations where setting is experienced by large numbers of people. Examples include local community use of a church and graveyard or a school, as well as high use of infrastructure such as railway stations, bridges, hospitals, prisons etc. How should these scenarios be recognised and presented for planning consideration?

I suggest that the document needs a new Stage 4 to conclude the discussion on *Assessing the impact of new development*, which largely follows the three currently identified stages with a final discussion on **Assigning values within the planning process** for the results of the investigations produced by the preceding three stages. This would cover the themes outlined as my issues of concern, with some recognition for criteria which Scottish Ministers would want to see used by planning authorities in reaching appropriate and accurately balanced decisions when Setting issues are involved.

In its present form, the draft document gives no indication of how “bad” decisions can be avoided, and therefore it does not achieve anything significant in relation to its purpose. Instead it reads as being preoccupied with describing setting in every way possible and preventing coherent research and investigation strategies because it takes little or no account of the practicalities of its context or the needs of the various audiences and the end-users. I suggest that it is withdrawn until its role and purpose is given a substantial reappraisal, and then rewritten and redesigned to take advantage of the opportunity it presents to deliver a useful product. Its format and language are good and should be carried through to any new version, but the current content lacks direction and is at times contradictory with other policy and real world situations. The change in status from an institutional series of aspirations to a politically enshrined claim on behalf of Scottish Ministers is too great a step for the current messages and any hope of a longer term credibility for the document as it stands.

3] Specific comments on a subsidiary document introduced within the draft guidance note for Setting

The document is *Scoping of Development Proposals – Assessment of Impact on the Setting of the Historic Environment Resource: Some General Considerations*, which is introduced on page 8 of the draft setting guidance in a sidebar as a further resource; as a pedantic point the reference should be updated from 2008 to reflect the April 2009 version on the HS website. For this consultation exercise, the problem is that if the draft Setting guidance is ratified as Scottish Ministerial policy, it implicitly confers a similar status on whatever supporting documents are formally cited within the text, even if they have not been explicitly proposed for debate. In the case of this *Scoping etc.* document, there are fundamental concerns about some of its contents which have not been tested by open debate, and if it is to be slipped into becoming ministerial policy as a result of this consultation, addressing these issues becomes the responsibility of the consultation exercise.

At a general level some positive comments can be made about the *Scoping etc* document; it is well written with an easily understood style, and would sit neatly behind the Setting draft as an appropriate source of further explanation. It is also noted that its availability for the last few years has shown HS as trying to be rather more proactive in issuing helpful material than counterpart organisations elsewhere in the UK. Until now the status of the *Scoping etc.* document has always been uncertain so a resolution would be useful, but as outlined below certain of its themes need explicit scrutiny before it can be ratified.

The critical portion of text occurs on page 2 under the heading of **Assessing Impacts on Setting** with the lead statement that “*In assessing the impact of developments on the setting of historic environment assets the focus of the assessment must always be the asset within its surroundings and context. In terms of Environmental Impact Assessment (EIA) it is the asset which is the receptor of the impact.*” This can be described as the site-as-receptor ethos, and the text continues by claiming a clear separation from “*measuring impacts on landscape. The latter will be the subject of separate assessment within EIA and that will subsume, where appropriate, the historic dimension of the landscape*”.

These statements are very idiosyncratic perspectives for a planning context. The idea of site-as-receptor for setting impact is counter-intuitive – surely it can only be people who are receptors if and when they encounter the setting and therefore experience the impact? If the setting is encountered by large numbers of people then there is a potential for planning concern, but if nobody encounters the setting, then the planning significance of the impact is minimal or nil. This illogicality is perpetuated by the second extract which creates an artificial distinction with landscape assessment as a separated process; there is no explicit acknowledgement of any people-as-receptor criteria as relevant for planning purposes, although in practice they are one element of many within landscape assessment methodologies. Effectively the message of these extracts is that HS want to see an artificial concept as the sole Historic Environment target of EIA, and to exclude the real world setting experience elements of people-as-receptor as entirely someone else’s responsibility. However there is much practical unease that landscape assessment is not appropriately equipped nor designated to provide the relevant Historic Environment perspectives, and many planning consultees want integrated assessment for coherent planning consideration instead of the fragmented approach espoused by HS.

The *Scoping etc.* document earlier incorporated a contradiction to their stance within a list of 20 elements to characterise setting with the inclusion of a bullet point to cover “*recreational/leisure value of the site within its surroundings either formally or informally*” (p2). This is however qualified by a footnote that “*numbers of visitors to sites or visitor perceptions should not in themselves be interpreted as indicators of the relative importance of the asset, its public value or the significance of the impact.*” which is supposedly justified by a House of Commons select committee report in 2006 about levels of financial support given to English Heritage, which remarked in passing that “*the number of visits to designated sites is a partial and rather unsatisfactory measure of the public value of heritage.*” This extrapolation of context and jurisdiction can be questioned as the quote concerns funding allocations to managing bodies, not reaching balanced asset values for an indirect impact in a development application and has a dubious status for Scottish policy contexts, even though its sentiments can probably be endorsed within its original context.

A more specific contribution was made by the independent Reporter’s findings from the Clyde Windfarm Public Local Inquiry [PLI]. These were delivered in May 2007 by the Principal Reporter in Scotland, David Gordon, and released in July 2008 on behalf of Scottish Ministers when the application was consented. Within the PLI report, under Chapter 9’s heading of *Findings of Fact* and subheading of *Archaeology – indirect impacts* (pp125-28) Gordon states:

“HS argued that, when considering the impact of the windfarm on the setting of a Scheduled Ancient Monument, the receptor is the SAM, not the person viewing or visiting the monument; and that, accordingly, the question of whether the SAM is visited is irrelevant. I do not accept this last point. In my opinion, the impact of a windfarm on a SAM that is visited and enjoyed by many people will be significantly greater than in a situation which is similar except for the fact that there are no visitors.” [para 9.67]

Although couched as a personal opinion, this finding stands as the highest status comment from the Scottish planning hierarchy about what setting assessments should target. Its complete omission from the *Scoping etc.* document is startling, particularly when it already stands as a perspective held by Scottish Ministers.

To summarise, the *Scoping etc.* document contains flaws which operate at two levels. It takes a philosophical stance which adheres doggedly to site-as-receptor but which is very difficult for external audiences to understand, and tries to marginalise any people-as-receptor approaches into invisibility despite the concept being much more in tune with external understanding. This is therefore a debate which needs open discussion to reach consensus

on what the issues are, how they create concerns, and how those concerns should be treated within balanced decision-making processes. The second level is that the *Scoping etc.* document creates contradictions with other established planning statements, and therefore would bring uncertainty rather than clarity. If it remains a low-key institutional advice document, the ripples from this confusion can be contained to some extent, but the transformation to Ministerially-approved policy would bring out these contradictions into heavily spotlighted and adversarial arenas. Therefore, these comments conclude with the suggestion that the *Scoping etc.* document should not be mentioned within the Setting guidance note until the appropriate debates have taken place and the current flaws resolved.

4] Conclusion

This response is positive at an overarching level about the proposed series of Guidance notes as a general series of helpful contributions to raising awareness about how the Historic Environment can be productively managed. The notes are well written and designed, concise and appropriately focussed, and their recognition as Ministerial policy seems an appropriate accolade.

However the proposed Setting guidance document and the subsidiary *Scoping etc.* document both contain major areas of concern which need to be addressed before Ministerially approved status is given. These include some apparent confusion of purpose, some questionable philosophical stances, a lack of focus on user needs, and some clear contradictions with other planning statements. Unless these issues are resolved, both documents will create planning confusion and ultimately confrontation rather than coherence, as well as a high chance of subsequent political embarrassment.

As stated on the accompanying Respondent Information Form, I am happy to be contacted if my response and its contents prove useful to this consultation, and/or if I can help in resolving the issues I have raised.

David Lynn