



# Historic Battlefields

‘to SUSTAIN the BEST OF THE PAST and unlock the FULL  
POTENTIAL of the historic environment in promoting our  
ambitions for a BETTER SCOTLAND’

**CONSULTATION**

SCOTTISH HISTORIC ENVIRONMENT POLICY: CONSULTATION

# Historic Battlefields

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# 1. The consultation process

## Introduction

- 1.1 This draft Scottish Historic Environment Policy (SHEP) paper invites views on Scottish Ministers' policies for Historic Battlefields.

## Responding to this consultation paper

- 1.2 We are inviting written responses to this consultation paper by 25 July 2008. Please send your response to:

hs.shep@scotland.gsi.gov.uk

or

SHEP on Battlefields

Historic Scotland

Room 2.9

Longmore House

Salisbury Place

Edinburgh

EH9 1SH

or

By fax to: 0131 668 8987

If you have any queries contact Christine Kelly on 0131 668 8639.

- 1.3 This consultation is available on the consultation web pages of the Historic Scotland website at [www.historic-scotland.gov.uk/consultations](http://www.historic-scotland.gov.uk/consultations). The consultation, and all other Scottish Government consultation exercises, can also be accessed on line from [www.scotland.gov.uk/consultations](http://www.scotland.gov.uk/consultations). Printed copies of the consultation can be obtained from Historic Scotland's head office at the address given above. You can telephone Freephone 0800 77 1234 to find out where your nearest public internet access point is.
- 1.4 SEconsult is an e-mail system set up by the Scottish Government to alert you to new consultations. SEconsult is available at: [www.scotland.gov.uk/consultations/seconsult](http://www.scotland.gov.uk/consultations/seconsult). The system allows stakeholder individuals and organisations to register and receive a weekly e-mail containing details of all new consultations (including web addresses). SEconsult complements, but in no way replaces SG distribution lists, and is designed to allow stakeholders to

keep up to date with all SG consultation activity, and therefore be alerted at the earliest opportunity to those of most interest. We would encourage you to register.

## Handling your response

- 1.5 We need to know how you want us to deal with your response and, in particular, if you are happy for your response to be made public. Please complete and return the Respondent Information Form, which is either attached to this document or can be downloaded from the place you obtained this document, to ensure that we treat your response appropriately. If you ask for your response not to be published we will regard it as confidential, and we will treat it accordingly.
- 1.6 You should be aware that Historic Scotland, as an agency of the Scottish Government, is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and the Environmental Information (Scotland) Regulations 2004 and would therefore have to consider any request made to it under these Acts for information relating to responses made to this consultation exercise.

## Next steps in the process

- 1.7 If you have given permission for your response to be made public (see the attached Respondent Information Form), it will be made available to the public in the Scottish Government Library by 22 August 2008 and on the Scottish Government consultation web pages by 29 August. The responses will also be on the Historic Scotland website. We will check all responses where agreement to publish has been given for any potentially defamatory material before placing them in the library or placing them on the website. You can make arrangements to view responses by contacting the Scottish Government Library on tel: 0131 244 4556. Responses can be copied and sent to you, but a charge may be made for this service.
- 1.8 Following the closing date, all responses will be analysed and considered along with any other available evidence. We aim to issue an analysis report on this consultation process by 17 October 2008 and a final version of this policy as soon as possible.

## Comments and complaints

- 1.9 If you have any comments about how this consultation exercise has been conducted, please send them to Christine Kelly as detailed above.
- 1.10 Consultation is an important aspect of Scottish Government working methods. Given the wide-ranging areas of work of the Scottish Government, there are many varied types of consultation. However, in general, Scottish Government consultation exercises aim to provide opportunities for all those who wish to express their opinions on a proposed area of work to do so in ways which will inform and enhance that work.
- 1.11 The Scottish Government encourages consultation that is thorough, effective and appropriate to the issue under consideration and the nature of the target audience. Consultation exercises take account of a wide range of factors, and no two exercises are likely to be the same.
- 1.12 Typically, Scottish Government consultations involve a written paper inviting answers to specific questions or more general views about the material presented. Written papers are distributed to organisations and individuals with an interest in the issue, and they are also placed on the Scottish Government web site and on Historic Scotland's website, enabling a wider audience to access the paper and submit their responses.
- 1.13 Consultation exercises may also involve seeking views in a number of different ways, such as through public meetings, focus groups or questionnaire exercises. Copies of all the written responses received to a consultation exercise (except those where the individual or organisation requested confidentiality) are placed in the Scottish Government library (K Spur, Saughton House, Broom house Drive, Edinburgh EH11 3XD, tel: 0131 244 4556).
- 1.14 All Scottish Government consultation papers and related publications (eg, analysis of response reports) can be accessed at: Scottish Government consultations ([www.scotland.gov.uk/consultations](http://www.scotland.gov.uk/consultations)). Those related to Historic Scotland can also be found on the agency's website ([www.historic-scotland.gov.uk/index/consultations](http://www.historic-scotland.gov.uk/index/consultations)).

1.15 The views and suggestions detailed in consultation responses are analysed and used as part of the decision-making process, along with a range of other available information and evidence. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review;
- inform the development of a particular policy;
- help decisions to be made between alternative policy proposals;
- be used to finalise legislation before it is implemented.

1.16 Final decisions on the issues under consideration will also take account of a range of other factors, including other available information and research evidence.

**While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.**

## 2. Introduction

- 2.1 The Scottish Historic Environment Policy (SHEP) series sets out Scottish Ministers' policies for the historic environment. The SHEPs have the same authority as the Scottish Planning Policy series and other relevant Ministerial policy documents.
- 2.2 The SHEPs 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...'. Historic Scotland is an executive agency of the Scottish Government and its Framework Document sets out the roles and responsibilities of Scottish Ministers and the Chief Executive, who is accountable to Ministers for the operation of the agency.
- 2.3 SHEP 1 *Scotland's Historic Environment* (see Note 1) sets out strategic policy for the historic environment. It provides 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.
- 2.4 Other 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. Some SHEPs deal with less-developed areas of policy, such as *Gardens and Designed Landscapes*. These are intended to explore a wider range of issues and options and the consultation versions will often include more questions about operational matters.
- 2.5 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.
- 2.6 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.

- 2.7 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.
- 2.8 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.

### 3. The legal and administrative context

- 3.1 Like other elements of the historic environment 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, disturbing or destroying key evidence which, once lost, can never be recovered. Such impacts can also affect their landscape context, sense of place, amenity value and tourism potential.
- 3.2 Although there is no primary legislation in place to give protection to battlefields at present, existing measures have been applied to parts of battlefields where this has been deemed appropriate.
- 3.3 Parts of some battlefields, usually clearly visible physical or built features, have received direct protection as scheduled monuments (see Note 2) and listed buildings (see Note 3). Battlefields can be recognised within the planning system. NPPG 18: *Planning and the Historic Environment* (see Note 4) recognises that ‘...historic battlefields and memorials are particularly significant’ in helping to give an area its particular identity and character. They can be a material consideration in the planning process, for instance through policies in local or development plans, or through designation as Conservation Areas (see Note 5). However, battlefields do not currently have the same level of recognition as Gardens and Designed Landscapes in the planning process (see Note 6).
- 3.4 Some battlefields may lie within areas designated for other interests, including National Parks and National Scenic Areas, or within an area designated for its local landscape value. In these landscapes, battlefields could have some indirect protection if acknowledged as part of the special qualities of the designated area, though this is seldom the case in practice.
- 3.5 The factors outlined above underpin the need for a policy for the protection, sustainable management and promotion of significant battlefields in their landscape context. The measures introduced below seek to address this policy need.

#### 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?*

## 4. Proposals for Scottish Ministers' policy for historic battlefields

- 4.1 This section of the consultation document sets out some common policies, expressed in some form in most of the SHEPs, and also explores possible policies specifically for historic battlefields.
- 4.2 Scottish Ministers are committed to the sustainable use and management of the historic environment. This means meeting the needs of today without compromising the opportunity for future generations to understand, appreciate and benefit from the historic environment.

### Scope and definition

- 4.3 A battlefield is defined here as the 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.
- 4.4 Scottish Ministers recognise that other types of conflict, such as sieges, massacres, riots, civil actions or sea battles, may have been significant historical events. However, as these present greater issues of definition, location and evaluation than battlefields, they are excluded from the scope of this policy.

### Question 2:

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

### Recognising value

- 4.5 It is important to recognise that battlefields may be valued for a variety of reasons. The battle may have contributed to historical developments, including military history, both within Scotland and beyond. The battlefield may contain physical remains or the potential to yield important archaeological evidence that can add to documentary records and provide

details about events not available through other sources. Some battlefields may contain the final resting places of fallen combatants. The landscape of the battlefield usually played a role in military strategy and tactics and helps to explain why events unfolded as they did: the association of a landscape with a battle can be very strong and a battlefield can contribute to the character of a landscape and to its sense of place. Finally, battlefields can hold a significant place in our national consciousness and have a strong resonance in Scottish culture, expressed, for example, through art, music and literature.

4.6 These values underpin the identification of significant battlefields below.

### Question 3:

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

## Protecting and managing battlefields

4.7 Existing designations rarely cover entire battlefields. Scottish Ministers propose the following policy measures to ensure that important battlefields enjoy better protection as coherent entities.

## Nationally important battlefields

4.8 To protect our most significant sites for the future, 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. It is proposed that the Inventory will be non-statutory.

4.9 As these battlefields usually cover extensive areas in a changing landscape, Ministers consider that their protection can be most effectively managed through the planning system, both in the development planning process and by ensuring that impacts upon them are a material consideration in development management.

4.10 To ensure that this policy measure is effective in practice it is proposed that it will apply only to nationally important battlefields that can be located accurately and whose value has not been seriously compromised by subsequent land-use. Alternative means of commemoration may need to be considered for other sites.

4.11 More detailed proposals for the Inventory are outlined in section 5.

#### 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?*

#### 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)?*

### Selection

- 4.12 If an Inventory is established, it is proposed that the following principles, adapted from those used for Scheduling and Listing, will underpin the selection of sites for the Inventory:
- a. selection will follow the consistent application of clear criteria (proposals set out in Annex A – see also para 5.4);
  - b. all aspects of Scotland’s past is worthy of study and should be considered for the identification of significant battlefields;
  - c. decisions on inclusion in and removal from the Inventory will be made on the basis of the best evidence available;
  - d. the selection process will be kept under review to ensure that all sites meet the standards set out in the criteria for inclusion;
  - e. selection will be an ongoing process that recognises our changing level of knowledge and that every generation will have its own view on what comprises its heritage;
  - f. all decisions relating to inclusion in and removal from the Inventory will be explained in clear language.

- 4.13 Planning authorities, landowners and experts will normally be consulted on proposed inclusions and amendments to the Inventory, in line with Scottish Ministers' policies for public consultation.

### Battlefields of local importance

- 4.14 While it is proposed that only sites of national importance will be included in the Inventory, Scottish Ministers recognise that other battlefields are important in a more local context. This is a matter for planning authorities and others who may wish to identify, protect and manage sites of more local importance through the mechanisms available to them.

### Managing change

- 4.15 Scottish Ministers wish to ensure that nationally important battlefields are fully considered in the processes of development and land-use management and that effective policies are developed to support this. They therefore encourage planning authorities to recognise nationally important battlefields in the development planning process, to ensure that impacts upon them are a material consideration in development management, and to develop specific policies to achieve this. Other relevant public bodies will be expected to ensure that nationally important battlefields are considered within strategies and plans relating to, for example, landscape and land-use management. Planning authorities may also wish to give similar consideration to battlefields of more local importance.
- 4.16 Highlighting battlefields in this way will ensure that the process of change is actively managed, reducing inadvertent damage and adverse impacts, and mitigating the effects of development. It will also provide a framework for engaging stakeholders in discussion about the value and significance of battlefields and in exploring opportunities for developing their potential for education and tourism.

## 5. The proposed Inventory of Historic Battlefields

### Purpose

- 5.1 The purpose of the proposed 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 Inventory will provide information on identified sites as a basis for their understanding, protection and the sustainable management of change. It will also act as a resource for interpretation, education and research.

### Question 6:

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

### Selecting sites

- 5.2 The selection of sites for the Inventory will follow the general principles set out in 4.12 above. These emphasise that all aspects of Scotland's past are worth consideration, that decisions will be made on the basis of the best evidence available, and that selection will follow the consistent application of clear criteria that are kept under review to ensure that they remain relevant.
- 5.3 Further to these general principles, it is proposed that battlefields will be included in the Inventory if they are considered to be of national importance in relation to the following specific criteria.
- 5.4 To be worthy of inclusion in the Inventory, a battlefield must:
- a. be associated with historical events or figures of national significance; and/or
  - b. have significant physical remains and/or archaeological potential; and/or
  - c. have a clear landscape context that allow the events of the battle to be understood or interpreted; and

d. be capable of definition on a map (see below).

These criteria and guidance on their application are set out in more detail at Annex A.

### 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?*

### Defining area

- 5.5 It is often difficult to define accurately the area in which a battle took place. Historical accounts were not necessarily concerned with locating events precisely in the landscape and are often subjective or schematic descriptions, either written in the immediate and often confused aftermath of the battle or some considerable time later. Furthermore, post-battle changes in the landscape often make it difficult to relate original descriptions to today's landscape. This is especially true of early battles, which may never be pinpointed with enough accuracy to ensure adequate protection. Even when the broad area of landscape associated with a battle can be identified, it can be difficult to locate specific elements of the battle more precisely within the general area.
- 5.6 Nevertheless, to allow a battlefield to be protected, and change within it to be managed, its location must be identified and its extent and boundaries mapped, based on informed interpretation of available knowledge. Sites that cannot be defined in this way will not be included in the Inventory, even though they may have witnessed nationally important events.
- 5.7 Similarly, a battlefield may be excluded from the Inventory where the landscape has been so heavily disturbed that it is no longer possible to understand the events in context or where it is no longer possible to establish an effective framework for change management for the battlefield as a whole.
- 5.8 Where a battlefield is included in the Inventory, there will be a description of the overall area within which the battle took place. This battlefield landscape will encompass the area of the initial core of the fighting and a wider area within which additional events, such as secondary fighting or skirmishes, are likely to have taken place. It will include key landscape and built features associated with the battle, and may include burials and memorials. Such evidence is likely to be dispersed across the area.

- 5.9 In some cases it may be possible to define the battlefield core more precisely. This is the area where the armies are likely to have formed up, where the main fighting took place and within which the densest concentration of archaeological evidence may be expected. However, it may not always be possible to define the battlefield core, while in some cases there may be alternative options, equally valid on the basis of current knowledge.

### Question 8:

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

### Managing Inventory sites

- 5.10 Inclusion of specific battlefields in the Inventory is intended to highlight their importance as significant elements of the historic environment of Scotland, to promote their protection and provide information on individual sites to support the sustainable management of change affecting them. It is proposed that effective policies should be developed to meet Scottish Ministers' policy that nationally important battlefields should be fully considered in the process of development and land-use management and that effective policies should be developed to this end.
- 5.11 The battlefield landscape defined in the Inventory 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.

### 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?*

## 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?*

## Reviewing the Inventory

- 5.12 The information base is not complete, and battlefields usually cover wide areas in a dynamic landscape that is subject to processes of change. It will be necessary, therefore, to keep the Inventory under review to allow sites to be added or removed as further information becomes available, and for details to be modified in the light of new information or significant change in the condition of the site.

## 6. Roles, responsibilities and implementation

- 6.1 Protecting and managing Inventory battlefields involves many stakeholders, each of whom has an important contribution to make.
- 6.2 It is proposed that Historic Scotland will:
- a. create, maintain and publish the Inventory;
  - b. consult planning authorities on proposals to include sites in the Inventory;
  - c. advise other government departments and agencies on the development of appropriate policies;
  - d. work with planning authorities and other key stakeholders to establish best practice guidance on the protection and management of Inventory sites.
- 6.3 It is suggested that planning authorities will:
- For Inventory sites:
- a. comment on proposals to include sites in the Inventory;
  - b. develop and implement appropriate planning policies for Inventory battlefields and consider significant setting issues within strategic planning;
  - c. consider the impact of development proposals on Inventory sites and their settings;
  - d. work with Historic Scotland and other key stakeholders to establish best practice guidance on the protection and management of Inventory sites;
  - e. promote battlefields as part of the local historic environment wherever possible.
- For sites of more local importance:
- f. consider identifying battlefields of more local importance; and
  - g. consider including appropriate policies for these within strategic planning to secure their appropriate treatment in the development management process.

#### 6.4 Other key stakeholders include:

- a. the owners of land within battlefield sites;
- b. the Royal Commission on the Ancient and Historical Monuments of Scotland and local Historic Environment Records, which gather, maintain and provide access to information in support of the identification, protection and management of battlefields of both national and more local importance;
- c. the voluntary sector which manages and interprets sites in their direct ownership or care, and helps raise awareness of battlefields in general;
- d. developers and consultants who can ensure that the impacts of development proposals on battlefields are properly considered and mitigated, including, where appropriate, through the process of Environmental Impact Assessment;
- e. the academic sector which provides a focus for research on battlefields, both specifically and as part of wider research agendas, and can help establish appropriate methodologies for the assessment and investigation of battlefields.

#### 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?***

## 7. Contacts

- 7.1 Further information on battlefields can be found on Historic Scotland's website [www.historic-scotland.gov.uk](http://www.historic-scotland.gov.uk).
- 7.2 Queries on specific battlefields should be directed to:  
Historic Scotland's Inspectorate  
Longmore House  
Salisbury Place  
Edinburgh  
EH9 1SH  
Tel 0131 668 8770  
[HS.Inspectorate@scotland.gsi.gov.uk](mailto:HS.Inspectorate@scotland.gsi.gov.uk)

## Notes

- Note 1. SHEP 1 can be consulted at [www.historic-scotland.gov.uk/index/policyandguidance/sheps/shep1](http://www.historic-scotland.gov.uk/index/policyandguidance/sheps/shep1)
- Note 2. Ancient Monuments and Archaeological Areas Act 1979. The Act can be consulted at [www.statutelaw.gov.uk](http://www.statutelaw.gov.uk)
- Note 3. Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. The Act can be consulted at [www.statutelaw.gov.uk](http://www.statutelaw.gov.uk)
- Note 4. NPPG 18 will be replaced by Scottish Planning Policy 23 during or shortly after this consultation.
- Note 5. Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.
- Note 6. Section 15(1)(j)(iv) of The Town and Country Planning (General Development Procedure) (Scotland) Order 1992 (the GDPO) requires planning authorities, prior to granting planning permission, to consult Scottish Ministers on 'development which may affect a historic garden or designed landscape'. The GDPO and its amendments can be consulted at [www.statutelaw.gov.uk](http://www.statutelaw.gov.uk)

# Annex A

## Criteria and guidance for determining whether a battlefield is of national importance for inclusion in the proposed Inventory

1. Further to the general principles set out above, it is proposed that battlefields will be included in the Inventory if they are considered to be of national importance in relation to the specific non-statutory criteria set out below.
2. In applying these criteria, it will be necessary to distinguish between sites of national importance and those of more local importance. While further refinement will be necessary, it is likely that a battlefield of national importance will make a contribution to the understanding of the archaeology and history of the nation as a whole, or have the potential to do so. A site will be of more local significance where its contribution or potential lies in understanding the archaeology and history of a specific area.
3. To be worthy of inclusion in the Inventory, a battlefield must meet at least one of the following three criteria:

**(i) be associated with historical events or figures of national significance.**

The historical association of battlefields relates to the contribution of the battle to historical developments, including military history, of significance to the nation as a whole. Key considerations are:

- a. whether there were significant military innovations associated with the battle, in terms of tactics or technology;
- b. whether there is a direct association with nationally significant historical figures or events;
- c. whether the battle played a key role in a campaign, for instance the start, end or turning point.

**(ii) have significant physical remains and/or archaeological potential.**

This relates to surviving physical remains associated with the battle and the archaeological potential of the battlefield. Archaeological evidence can amplify documentary records and provide details about events, weaponry

and combatants that are not available through other sources. Evidence may include:

- a. physical features that were present at the time of the battle, whether natural elements such as hills or ravines, or constructed elements, such as field walls or buildings;
- b. elements resulting from the battle itself, including earthworks, graves and artefacts such as bullets, arrowheads and personal effects;
- c. other buried archaeological deposits, such as the remains of camps or entrenchments.

The potential survival and quality of evidence will be affected by a range of factors, including the period within which the battle took place, the scale of the battle, numbers of fallen, the physical properties of any upstanding remains or buried deposits, the soil conditions and post-battle land-use.

**(iii) have a clear landscape context that allows the events of the battle to be understood or interpreted.**

The landscape context of the battlefield reflects the fact that battles were seldom fought in small clearly-defined areas, but were more often events ranging across the landscape. It is important for understanding military strategy and tactics and for explaining why events unfolded as they did. Landscape context includes:

- a. the area where the armies deployed and fought initially;
- b. the wider landscape where associated events occurred, including secondary skirmishes, associated earthworks, camps and burials, and lines of advance and retreat;
- c. additional detached elements such as memorials.

The association of a landscape with a battle can be very strong and a battlefield can contribute fundamentally to our sense of place even when no physical evidence is present or visible. However, the significance and quality of the landscape context may have been affected by the degree of change since the event. A nationally important battlefield may be excluded from the Inventory where the landscape has been so heavily disturbed that it is no longer possible to understand the events in context or where it is no longer possible to establish an effective framework for change management for the battlefield as a whole.

4. The following criterion must also be met in every case:

**(iv) be capable of definition on a map.**

To merit inclusion, it must be possible to identify the location of the site and map its boundaries, based on informed interpretation of available knowledge. Sites that cannot be defined in this way will not be included in the Inventory, even though they may have witnessed nationally important events.

The Inventory will include a description of the overall area of interest within events of the battle occurred.

The battlefield landscape is the overall area of interest. This will include the initial core of the fighting and the wider area within which additional events are likely to have occurred. These may include secondary fighting or skirmishes; lines of advance and retreat; associated earthworks and camps; burials and memorials. Evidence may be dispersed across the battlefield landscape.

The battlefield core is the area within which the armies are likely to have been arrayed and where the main fighting took place. The densest concentration of archaeological and physical evidence will be expected in this area. It is not always possible to define the battlefield core, while in some cases there may be alternative options, equally valid on the basis of current knowledge.

In some cases, battle memorials may lie outside the battlefield landscape.

# Annex B

## Partial Regulatory Impact Assessment

### 1. Title of proposal

#### 1.1 **Scottish Historic Environment Policy (SHEP) for Battlefields.**

### 2. Purpose and intended effect

#### 2.1 **Objectives**

Scottish Ministers wish to take forward proposals for new policies for important historic battlefields in respect of their identification and protection, the management of change and development within them, and the implementation of these policies.

#### 2.2 **Background**

Scottish Ministers recognise battlefields as an important element of Scotland's historic environment that contribute to our sense of national identity. They 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 **Rationale for government intervention**

Like other elements of the historic environment battlefields are vulnerable to a range of impacts. Although existing measures have been applied to parts of battlefields where this has been deemed appropriate, there is no primary legislation in place to give protection to battlefields. Similarly, although battlefields can be recognised as a material within the planning system, they do not currently have the level of recognition afforded to Gardens and Designed Landscapes in the planning process. The factors outlined in this consultation document underpin the need for a policy for the protection, sustainable management and promotion of important battlefields in their landscape context.

### 3. Consultation

This SHEP consultation provides opportunities for the Scottish Government and public to comment on the proposals and how they will relate to Scotland.

### 4. Options

In this area of work the Scottish Ministers have the following options available to them:

**Option 1 – do nothing.**

If nothing is done then Scottish Ministers through Historic Scotland will continue to encourage the consideration of battlefields through the planning process. However, this will fall short of providing a clear framework for their protection, promotion and sustainable management. Stakeholders with a legitimate interest in battlefield sites may continue to experience dissatisfaction with existing provisions.

**Option 2 – create a non-statutory Inventory to identify sites of national importance and to ensure that battlefields are a material consideration in the planning process.**

This Inventory would be comparable to the level of recognition afforded to the non-statutory Inventory of Gardens and Designed Landscapes in the planning process.

If Scottish Ministers did not do this Scotland's most important battlefield assets would be put at risk from a wide range of human and natural drivers of change, to the detriment of the economic, cultural and social fabric of Scotland.

In relation to the two options outlined:

- a risks – there is a risk that the Scottish Government's reputation could be damaged by a failure to protect Scotland's most important battlefield sites;
- b compliance and enforcement – local authorities will consider important battlefields as a material consideration in the planning process;

- c unintended consequences – if the proposed policy is itself not fit for purpose then it is possible that battlefields will not be adequately protected;
- d implementation and ownership – Historic Scotland will be responsible for consistent and transparent implementation of this new policy and for developing and distributing widely clear guidance to accompany these new provisions.

## 5. Costs and Benefits

### 5.1 Sectors and groups affected

There are many diverse groups with a legitimate interest in battlefield sites. Therefore, the policies discussed in this consultation will have some relevance to a wide range of stakeholders including farmers and other landowners, developers, regulators, curators, advisory bodies, archaeological institutions, the museum sector, industry, and the general public.

### 5.2 Analysis of costs and benefits –

#### **Option 1- do nothing.**

There will be no additional costs and benefits associated with this option.

#### **Option 2 – create a non statutory inventory to identify key sites to ensure that battlefields are a material consideration in the planning process.**

There would be little additional burden on local authorities associated with this option, as this policy encourages the recognition of battlefields as a material consideration within the existing planning system. Scottish Ministers would be responsible for the costs associated with creating and maintaining the Inventory and the production of guidance and supporting information. Battlefields may feature as a consideration more frequently in planning consultations.

## 6. Small Firms Impact Test

Historic Scotland does not consider that any changes to the system coming out of this consultation will have a significant impact on small firms. We anticipate that there might be benefits to the tourist industry through the promotion of important national battlefield sites. On the other hand, there may be a negative impact on a small number of individual planning applications. We would, however, welcome comments from small firms who think it may have an impact. Historic Scotland will liaise with businesses and/or their representatives if we become aware of any costs or impacts further down the line

## 7. Competition assessment

Historic Scotland is not aware of any competition impact but would welcome comments from anyone who thinks there might be.

## 8. Enforcement, sanctions, monitoring

Battlefields will be a material consideration in the planning process and subject to relevant enforcement provisions. The relevant General Development Procedure Order may be amended in due course to include a provision for battlefields. Historic Scotland will be responsible for undertaking a review of the effectiveness of the new policy within three years of it coming into force.

# Annex C

## Equality Impact Assessment

Historic Scotland considers it may have to produce an Equality Impact Assessment for this SHEP on battlefields and invites your views on this policy in that regard. We would also welcome any information which may assist us with an assessment and recognise that this assessment might mean that changes to this policy will be required as a result of the consultation. In your response it would be helpful to know what you consider the equality issues to be.