



the National Trust  
for Scotland  
a place for everyone

SHEP on Battlefields  
Historic Scotland  
Room 2.9  
Longmore House  
Salisbury Place  
Edinburgh  
EH9 1SH

23 July 2008

Dear Sir/Madam

### **Scottish Historic Environment Policy (SHEP) Historic Battlefields**

The National Trust for Scotland (the Trust) welcomes this opportunity to comment on Historic Scotland's consultation on the Historic Battlefield SHEP and the proposals it contains.

Since shortly after its inception in the 1930s the National Trust for Scotland has been involved in actions to conserve the sites of key battles and to improve public access to them. Today the organisation plays a significant role in safeguarding and promoting several of Scotland's key battlefields. The most high profile of these are Culloden and Bannockburn, where parts of the fields of battle are in Trust ownership. The Trust also has a role, through part ownership of the sites or surrounding areas, at other battlefields including Killiecrankie, Dunkeld, Fyvie, Glen Shiel and Auldearn and at other historic fields of conflict such as Glencoe and at sites associated with battles, such as Glenfinnan. Earlier in 2008 the Trust unveiled the results of the Culloden Battlefield Memorial project which has improved understanding of the battle and created a new benchmark in imaginative battlefield interpretation.

Historic Battlefields are an important part of Scotland's cultural heritage, having been witness to key moments in its history. They can be important in terms of Scotland's identity and as a valuable resource for research, education, leisure and tourism. The Trust therefore welcomes this well thought out SHEP and the proposals it contains.

#### **Key points on the document overall**

- As an organisation that promotes the safeguarding and protection of Scotland's landscape as well as its historic environment the Trust welcomes the emphasis placed on the need for policies for the protection, sustainable management and promotion of significant battlefields in their landscape context (paragraph 3.5). However, the Trust feels that the document has underplayed the intangible values and associations of battlefields that survive despite subsequent disturbance to the landscape.
- The Trust supports the combination of criteria put forward to identify sites worthy of inclusion in the Inventory. However, the Trust opposes the statement in paragraph 5.7 which appears to undermine the

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proposed basis for selection by requiring a clear landscape context in every case and precluding sites where there can be no *guarantee* that an effective framework for change management for the whole battlefield site can be established. This would exclude several significant historic battlefields from the Inventory, despite the clear intention as stated in paragraph 2.5 that these sites should be better protected.

- The proposed Inventory must carry weight and have at least the same status as the Inventory of Gardens and Designed Landscapes, so that included battlefields become a material consideration in the planning process. Inventory sites should also be given special consideration by public bodies and Statutory Undertakers in the execution of their duties. However, if it proves that the proposed non-statutory approach does not work in practice, then the Government should enshrine protection in law.

Detailed comments follow that relate to specific parts of the text or answer the questions posed in the consultation document.

### ***Introduction***

Paragraph 2.6 mentions national consciousness, but should go further and refer to international consciousness in order to incorporate the diaspora, and relevance of various battles to, for example, American or English History.

The commemorative and memorial values could be brought out in paragraph 2.7.

The potential in terms of tourism is mentioned in paragraph 2.8 but is underplayed. Whilst the Trust is keenly aware of the benefits of imaginative interpretation and active management in engaging with large numbers of people, it is also aware that interested individuals and specialised battlefield tours also visit sites that have minimal interpretation.

### ***Legal and administrative context***

This should include a reference to the European Landscape Convention and make clear that battlefields are cultural landscapes. It should also be emphasised that the ‘perception’ people have of these cultural landscapes can be just as, or even more important, than the survival of physical remains.

### ***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?***

Yes, for the reasons stated in the consultation document a policy is needed. However, if the proposed policy proves not to be working in practice, then the Government should introduce a means of statutory protection.

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

On the whole the scope and definition seem logical. However, it is recognised that this definition does exclude consideration of the sites of many smaller actions and of other types of conflict. These sites may also have national importance stemming from their archaeological potential, military or political significance or interpretive potential which far outweighs their original military scale. Stating the figure of 500 combatants on each side (whilst more inclusive than 1000) does seem arbitrary and must be considered as a guideline rather than a minimum.

Historic Scotland should be in a position to say which ‘battles’ would not make the list using this definition (and the following criteria) and there should then be an opportunity for debate about whether any of them merit this level of protection. (See also comments on a tiered approach to the Inventory under ‘Battlefields of local importance’ and comments on ‘Roles’).

Similarly there is some disquiet about the exclusion of all the other types of conflict. For instance some sieges can reasonably be defined as battles and whilst there may be potential for siege sites to be protected, by scheduling, their inclusion in the Inventory would add to its strength as a resource for

interpretation, education and research, especially where a siege was part of wider campaign. More broadly it is hoped that assessing significance of sites of other types of conflicts and developing appropriate policies may be considered at a later date.

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

Yes, there are some additional values that should be considered in terms of assessing the significance of a site for inclusion in the Inventory and other values that may not have bearing on the decision to include a site in the Inventory but which should be recorded in the Inventory as a tool for future management.

The intangible aspects of the significance of battlefields are not fully brought out in the current text. In particular the atmospheric and emotional responses that people have in relation to them, especially if, like Culloden and Bannockburn, they were turning points in history. Such places may have strong emotive connections, be synonymous with certain ideas or be associated with national identity. Celebration and romanticisation, often through commemoration, song, poetry, etc., lead to strong associations and feelings, which aren't necessarily grounded in tangible facts but are still particularly important to a great many people.

Considering to whom a site is significant, as well as how significant a site is and why it is significant, can be worthwhile. This is implied in the criteria here but not clearly stated as an element of the methodology. For instance a site may be of particular significance to specialists such as archaeologists or military historians but not well known by the general public. Another site may be particularly prominent in the national psyche and importance to the public. Certain sites may be more important to different parts of the Scottish public or even be of importance to people of Scots extraction living abroad, whose ancestors emigrated in the aftermath of a battle.

In para 4.5, as well as containing 'the final resting place of fallen combatants' battlefields should be recognised as places where the ancestors of the fallen may still come to commemorate them as individuals or as part of a group or clan. This reverence for the fallen is underlined by genealogical connections to the living.

Areas of battlefields may have additional values that, whilst not critical in determining national significance in this context, should be recorded in the Inventory as a guide to future management. For example these might include value to the local community in terms of open spaces for access and recreation, value as green corridors, and current biodiversity values in context.

There is significant tourism potential for some sites and for linked sites (eg Jacobite campaigns). This commercial value is worth noting.

Battlefields also have significant educational value which can be much broader than interpreting the military actions on the field. Some battles are specifically included in the current history curriculum and others are so close to the core of the Scottish identity that they will always be popular destinations and topics. Culloden will always be relevant to Scottish schools. However, battlefields and the information associated with each conflict form a potentially valuable resource for exploring ideas about the wider human impacts of conflicts and putting them in context for pupils today. For example, with the Curriculum for Excellence aiming to develop confident individuals, the educational potential of a battlefield can develop from just describing a historical conflict to raising awareness of the reasons why conflict arises, and how ordinary people become caught up in conflict and the resulting personal consequences for them and their families.

***Protecting and managing battlefields***

The commitment to ensuring protection for battlefields as coherent entities is welcomed but there should be recognition in paragraph 4.7 that this will not be feasible for all sites.

### ***Nationally important battlefields***

The Trust is supportive of the proposals in paragraphs 4.8 and 4.9.

The Trust feels that paragraph 4.10 might be reconsidered. The second half of the first sentence (‘whose value has not been compromised by subsequent land-use’) seems to imply that all the different types of value that a site may have will be compromised by land use change, whereas the Trust feels that many of the intangible values referred to above (Q3) will still be appreciable and that below-ground archaeology may survive substantially intact, even though the surface land use may have changed. The second sentence refers to the consideration of ‘alternative means of commemoration [that] may need to be considered for other sites’ but could be usefully expanded to clarify whether this refers to sites which fail to meet the definition of battlefield or sites which would otherwise be included in the Inventory but where the “value” has been compromised.

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

The Trust supports the proposal to create an Inventory of nationally important battlefields, but there is concern that a non-statutory Inventory, largely restricted to the vagaries of the planning system, may not offer sufficient protection. Appendix B (Partial Regulatory Impact Assessment) should therefore include the option for fully statutory protection, including protection beyond the planning system, which will be required if it is shown that the non-statutory protection is not working in practice. In addition, it is hoped that the Historic Battlefields SHEP will be cross-referenced in Scottish Planning Policy 23.

Currently there are two other options being used for the protection of battlefield sites or parts of them: the use of Conservation Area designation (as at Culloden), and the stronger protection of scheduling features such as graves or structural remains of the battle. The former offers limited protection and is not suitable for all sites whilst the latter is rarely used because of the restricted scope of the Ancient Monuments & Archaeological Areas Act 1979. At present artefacts in the ground without associated structural or physical remains seem not to be able to be scheduled. It is understood that Scottish Ministers are considering amendments to the AM&AA Act *in Scotland only*, in which case the Trust would strongly recommend that artefact scatters from battlefields (and other contexts, such as Mesolithic knapping sites) should be able to be protected through scheduling as sites of national archaeological importance.

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

Yes, as stated above the Inventory should have the same status as the Gardens and Designed Landscape Inventory at the very least. Even the most well-known battlefield sites suffer the pressures of encroaching development and those deemed of national importance should be given recognition and protection within the planning system.

The Inventory needs to cope with the management of change outside the planning system too e.g. forestry. This could be reflected in paragraph 4.9 as well as in the later statement under paragraph 4.15.

### ***Selection***

The Trust supports the principle set out in paragraph 4.13 on consultation over proposed inclusions and amendments to the Inventory. However, this commitment is not fully repeated in Section 6 on roles where paragraph 6.2b only commits Historic Scotland to consulting with planning authorities over the same proposals. The Trust would suggest that it could be worthwhile considering a broader approach to consultation given the range of values different people attach to battle sites.

### ***Battlefields of local importance***

The implication of paragraph 4.14 is that battle sites that meet the definition of a battle but fail to fulfil enough of the national importance criteria in Annex A for inclusion in the Inventory are considered of only ‘more local’ importance. The Trust feels that any battle that is already known to meet the SHEP

definition is likely to be of at least regional importance. If this is the case the Trust wonders if there is scope for recording these sites within the Inventory, in effect as a second tier of sites, which would give more recognition both to the sites and to the level of knowledge about them, without giving them the same level of protection? This may make it easier for planning authorities to give similar consideration to battlefields of more local importance, as is suggested at the end of paragraph 4.15.

### ***Managing change***

In paragraph 4.15, the use of the word ‘encourage’ in the second sentence is not strong enough and it would be more appropriate to say ‘They therefore expect planning authorities to recognise nationally important battlefields...’. This paragraph also mentions strategies and plans of relevant public bodies, but the Trust believes it should go further in expecting all public bodies and Statutory Undertakers to have regard for the Inventory in the execution of their duties.

Paragraph 4.16 suggests ongoing work of engaging with stakeholders and developing education and tourism potential but unfortunately these roles are not taken forward in Section 6 and it is not clear who is intended to take on these roles.

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

Yes. However, there is very little information in the SHEP about the Inventory in terms of how it will act as a resource for interpretation, education and research (in terms of level of detail, sources of information and how rigorously it will be updated).

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

On the whole the Trust finds the criteria in Annex A suitable. However, the Trust is not supportive of paragraph 5.7 in the main text and the similar wording in Annex A, (end of section 3) which appear potentially to undermine the criteria.

The Trust appreciates that many of the sites of significant battles have had their landscape context eroded and damaged over time. This makes interpretation more challenging (in the same way that lack of another sort of evidence e.g. archaeology or historical documentation, might limit it) but not impossible. It seems sensible for the criteria for inclusion in the Inventory to include landscape context as is suggested in paragraph 5.4 (and the start of Annex A, section 3), where it is one of three criteria, where at least one of the three has to be met for a site to merit inclusion. However, the approach outlined in paragraph 5.7 undermines the balance between different values represented by the three criteria, by implying that, in practice, criterion ‘c’ (or (iii) in Annex A) *has* to be met in every case. Furthermore this approach does not take into account intangible values associated with being in a place where something momentous happened.

The additional statement in paragraph 5.7 (and repeated in Annex A) of ‘where it is no longer possible to establish an effective framework for change management for the battlefield as a whole’ is given with no explanation and appears to be a ‘hostage to fortune’. Many battlefield sites are in multiple ownership which may mean that establishing such a framework is difficult, but it would not seem to be a logical step to therefore remove a nationally important site from the Inventory, and hence from protection within the planning system.

The Trust acknowledges in the property statements it has prepared for its Bannockburn property that the battlefield has been compromised by the encroachment of housing developments but argues that this means that protection of the remaining known areas associated with the battle take on even greater importance. In the case of somewhere like Bannockburn, rather than writing it off as having already been

compromised, it is even more important to ensure that no further inappropriate development takes place to further dilute the significance of the site.

Criterion (i)b does refer to a ‘direct association with nationally significant historical figures or events’ but it may be worth clarifying in the SHEP that this might encompass the case when the outcome of a battle and the effects of its aftermath were long-lasting and far-reaching rather than leading to a specific event.

Please also see response to Q8 below regarding criterion (iv).

### ***Defining area***

Is the use of ‘initial’ in paragraph 5.8 appropriate terminology in relation to the ‘core’ when some battles will have taken place over several days or several phases? The Trust envisages that at some sites there may be several areas of core importance, for a variety of reasons.

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

The Trust agrees that the definition of the area of interest should include the wider battlefield area and one or more core areas. Similarly, the Trust is supportive of Annex A section 4 and the approach set out for meeting criterion (iv). The flexibility of the proposed system of defining a wide overall area of interest and one or, in some cases, several, core areas within that seems a realistic approach.

At Bannockburn there are areas which are closely identified with the battle, and others which are vague or speculative and still contested. We can define areas involved on the first day, but perhaps not the second. It is to be hoped that a partial battlefield area or a battlefield area that includes several alternative cores, could be covered by the alternative options suggested in paragraph 5.9.

The requirement to define boundaries will highlight the need for ongoing research into the extent of battlefields which in turn will almost certainly result in a requirement for updating the Inventory. Even at Culloden the recent research carried out in conjunction with the development of the new visitor centre has led to a significant reappraisal of the area of the battlefield.

What is currently unclear from the proposed definition of the area of interest is whether the wider battlefield and the core area(s) will receive the same degree of protection. However paragraph 5.8 seems to recognise that evidence is likely to be dispersed across the wider area.

### ***Managing Inventory sites***

The repetition in the second sentence of paragraph 5.10 could be removed and it should be clarified whether the policies that are to be developed are collective or site specific.

### ***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?***

Policies are needed for both the overall site and specific areas within it, such as those already disturbed by development. It would be helpful if the SHEP gave some guidance as to what they might be based on (e.g. related to significance values that must be explicitly identified, collectively agreed and documented).

### ***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?***

Yes – Historic Scotland should lead in developing best practice guidelines, with the assistance of a stakeholder group. The stakeholders will vary depending on the subject matter. The guidelines should be revised from time to time in light of experience.

The following are examples of areas where best practice guidance or advice may be useful:

- minimum standards for rescue archaeology and topographical recording at battlefields

- a clear statement on how the SOAC code is interpreted on a battlefield
- how best to record points in the surrounding area, such as key views which would impact on the battlefield context if modified and other forms of potential visual or aural intrusion.

***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?***

There appears to be no clear indication as to how Historic Scotland will engage with other key stakeholders over the creation and maintenance of the Inventory. However, paragraph 4.13 suggests that landowners and experts will normally be consulted on proposed inclusion and amendments to the Inventory and this duty to consult should be set out as part of Historic Scotland's role.

In addition to the stakeholders listed it must be acknowledged that the public are also key stakeholders who need to be engaged, either collectively through groupings such as clan societies, Community Councils and Scottish diaspora groups etc or individually.

There may be a role for SNH to be involved in the development of any guidance relating to areas such as maintenance of landscape and biodiversity or access issues.

#### ***Annex A***

In paragraph/section 2, the distinction between a site that makes a contribution to the history of the nation as a whole and those relating to the history of specific area will often be difficult to make, given that regional events often affected the wider context.

#### ***Annex B***

An option for statutory protection should have been included.

I hope that this response will be helpful. Please contact me if any of my colleagues or I might be able to provide any additional information or clarification.

Yours faithfully



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Director of Policy & Communications



the National Trust  
for Scotland

a place for everyone

The conservation charity which protects and promotes Scotland's natural and cultural heritage for present and future generations to enjoy

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