



## Scottish Planning Policy SPP 23: Planning and the Historic Environment Workshop

Report of workshop held 18<sup>th</sup> April 2008

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## **1 Executive summary**

This workshop examined the content of the consultative draft on Scottish Planning Policy 23: Planning and the Historic Environment. The following key issues were identified: clarification on the philosophy of the document; use as a framework/need for clear cross-referencing to other documents; weakening in some wording, changes of emphasis and omissions to be reinstated; expansion on the role of local authorities; model policies to be presented as a starting point for developing outcomes tailored to the locality.

## **2 Introduction**

This workshop took place on Friday 18<sup>th</sup> April 2008 and brought together stakeholders with a role in Scotland's historic environment. The purpose of the workshop was to provide an opportunity for discussion on, and identification of key issues relating to, the Scottish Government's consultative draft on Scottish Planning Policy SPP23 — Planning and the Historic Environment.

## **3 Outline of the consultation draft**

Steve Dowell, Principal Planner in the Directorate of the Built Environment, introduced the consultation document. SPP 23 is a consolidation of the two policy documents NPPG 5 – Archaeology and Planning, and NPPG 18 – Planning and the Historic Environment. The following key points were made:

- As a consolidation of two existing documents, the document does not promote any significant policy change.
- The consultation draft has been prepared in conjunction with Historic Scotland.
- The Government has reviewed these documents because it is committed to reviewing all planning guidance. The existing guidance was in need of updating because it did not reflect Scottish Ministers' objectives for sustainable place-making as set out in SHEP 1. It also needed to be updated in order to relate to the development suite of policy statements on Scottish Historic Environment Policy (the SHEP series).
- The document does not seek to be comprehensive – rather it serves to set markers and direct the user to additional sources of information. In this respect it does not replicate other guidance, but will serve to signpost to other guidance instead.
- A change in emphasis is reflected in the introduction which makes reference to the value of the historic environment in impacting on everyday life.
- The document recognises the value of the historic environment in economic terms and encourages a positive and proactive approach to managing change.
- The consultation closes on 9<sup>th</sup> May 2008. Following the consultation period, the document will be revised over the summer, with publication expected in the autumn. Following this, Planning Advice Notes are to be reviewed as well.

Gordon Barclay, Head of National Policy at Historic Scotland, explained the policy context for the current Scottish Historic Environment Policy (SHEP), making the following key points:

- The development of the suite of SHEP documents arose following the review of Historic Scotland in 2004-5 which recommended the development of a Government-endorsed policy statement on the historic environment.
- SHEP 1 on the Historic Environment provides the framework for all subsequent SHEPs, which focus in on particular elements of the historic environment. Some of the SHEPs elaborate on existing themes, while others are more exploratory in nature. SHEPs have been developed on Scheduling, the Scheduled Monument Consent process, Listing, the Listed Building Consent process, Properties in Care, and Gardens and Designed Landscapes. There is a forthcoming consultation on Battlefields which will be published on 30<sup>th</sup> April. The SHEPs on Listing and Listed Building Consent are expected to be published in June or July.
- SPP 23 will align the overarching vision for the historic environment, as set out in SHEP 1, with the planning system's vision for the historic environment.
- SPP 23 has the same status as SHEP 1 – the documents will have equal weight in a Public Local Inquiry.
- Joint working between Historic Scotland and the Directorate of the Built Environment will ensure that these two policy documents mesh together.

The following questions were raised with the speaker:

- Q What is the status of supplementary guidance? [Participant] would welcome this having the same status as the local plan.
- A *The status is the same, and these documents can stand alone. Some of the supplementary guidance is to be updated.*
- Q What will be the approach taken given likely changing circumstances in relation to the historic environment legislation?
- A *The situation is always evolving. It is possible to review the planning guidance quite quickly.*
- Q The importance of model policies was highlighted. How were these arrived at?
- A *These were informed by a study in 2006 which looked at best practice. It is important to note that authorities do not have to abide by these model policies.*

One participant observed that a key challenge is to ensure that good practice remains a priority. There are large variations in practice; for example there are those authorities with very detailed conservation plans while others have nothing.

## **4 Key issues**

The break out discussions considered the key issues arising from the consultative draft. The points raised in the course of discussions are documented below, initially grouped into generic themes with more detailed comments provided in line with the structure of the consultation.

### **4.1 General comments**

It was observed that there is much cross over between the two existing documents – this consolidation exercise is therefore to be welcomed.

*Philosophy:* In bringing together two documents which focus on the one hand on preservation and on the other on managing change, the philosophy of the document needs to be more clearly articulated.

*Tone and language:* Many participants raised concerns over changes in tone and language used within the draft, compared to the two previous versions; with resulting changes in emphasis (use, for example, of ‘can’ or ‘may’ rather than ‘must’ or ‘shall’). It was recognised that the wording used is coming from different contexts but that overall the strength of the document is weaker than its predecessors. It was strongly suggested that the wording be revisited with this in mind, to ensure that the document is sufficiently robust to enable effective use at a Public Local Inquiry.

*Signposting/cross referencing:* It is important for this document to consistently cross refer to other relevant legislative and policy material, including the relevant international documentation. Such cross referencing must be comprehensive and easy to use.

*Omissions:* Participants identified various items that have been omitted from this document that were in the previous two documents, including information on core parts of ‘process’. To avoid a weakening of the current policy position, the former documents will need to be checked to ensure that all elements previously included are transferred to the new policy.

*Modern policy:* The question was posed by one participant: Does this constitute a modern planning policy for the historic environment?

### **4.2 Roles of local authorities and others (paragraphs 5-8)**

The roles and responsibilities of key players within the historic environment sector need to be covered in a consistent way. It was suggested that the role of Local Authorities should be specifically highlighted in ensuring the effective management of the historic environment. Sufficient resourcing of Local Authorities to deliver on SPP 23 must be a priority. The role of Local Authorities in holding and maintaining records on the historic environment, through a Sites and Monuments Record (SMR) or Historic Environment Record (HER), was raised and noted as not being adequately addressed in the document. Local Authorities are also owners and managers of large parts of the historic environment and it was suggested that this should be recognised within the

document. It was observed that identification of specific bodies in the voluntary sector (at paragraph 7) should cover the full range of types of organisations and areas of interest. Reference to 'others' could identify key bodies such as health trusts.

#### **4.3 Legislation, statutory and non-statutory designations (paragraphs 10-18)**

A key point made is the fact that most of the historic environment is undesignated – it is important that the document makes this point and that this is restated in the section on policy below.

Varying views were put forward on whether designations on battlefields and national parks should be included within the section on non-statutory designations. Reference was made to National Scenic Areas (included within the Planning etc. (Scotland) Act), and also cultural areas, which are to be included within SPP 14 (to which this document should cross refer). Participants were keen to see reference to 'setting' in this document, and for a definition of 'setting' to be developed<sup>1</sup>.

#### **4.4 Policy (paragraphs 19-21)**

Some concern was expressed that the focus of this section is oriented towards managing change, with limited reference to the protection of assets that cannot accommodate change. The philosophy of the document needs to be very clearly explained at this point, emphasising that successful management will depend upon understanding the value of the asset and therefore the scope to accommodate change.

*Conservation Areas (paragraph 20):* It was observed that this paragraph should advocate more positively the preparation of conservation area appraisals and townscape audits.

*Specialist advice (paragraph 21):* Again, the important role of Local Authorities needs to be emphasised at this point. It was suggested that greater emphasis should be placed on analysis and interpretation. Specialist advice is crucial, and Local Authorities need to be able to provide or access such advice if SPP 23 is to be delivered effectively.

#### **4.5 Development planning (paragraphs 22 – 27)**

*Strategic Development Plans (paragraph 23):* It was highlighted that the historic environment does need to be referenced at the strategic level.

*Detailed policies (paragraph 24, second bullet):* It was observed that 'setting out detailed policies and criteria for assessing development proposals' would 'ensure the protection, conservation and enhancement of the historic environment'.

*Supplementary guidance (paragraph 25):* It was suggested that the wording in this paragraph be strengthened to give stronger encouragement to planning

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<sup>1</sup> It was noted that the Institute of Field Archaeologists is exploring this issue.

authorities to produce more detailed appraisals, development briefs and design guides, as supplementary guidance in relation to new development ('planning authorities should produce...' – rather than 'may produce...'). It was also noted that the document should refer to General Permitted Development.

*Model Policies (paragraph 26 and appendix):* In general varying views were offered on the usefulness of the model policies – some specific points are given below. There is concern that they do little to encourage more than the 'lowest common denominator' and that they infer that this is all that needs to be considered, which can have damaging consequences for the historic environment. On the other hand they can be considered 'better than nothing'. Given these views, it would be appropriate for the document to stress that these be used as a starting point for local authorities to go on to develop more detailed policy outcomes within the Local Development Plan that are tailored more towards the local area. It is also suggested that these be termed 'model outcomes' rather than 'model policies'.

MP1 Listed Buildings: It was suggested that the wording of this model policy is particularly problematic.

MP2 Conservation Areas: The application of the 'demolition test' (model policy 1A) which was mentioned as a positive approach.

MP3 Archaeology: participants discussed whether the term 'significant' might be more appropriate than 'important'. It was recognised that ultimately, decision-makers will make value judgements and that the wording used is intended to guide decision-makers.

MP4 Gardens and Designed Landscapes: It was suggested that the wording in this model policy is too vague.

#### **4.6 Development management (paragraphs 28 – 47)**

*Pre-application discussion (paragraph 29):* pre-application discussions are viewed as essential. It was suggested that a requirement could be included here for applicants to produce Statements of Significance.

*Statutory consultation (paragraph 30):* it was noted that public consultation should be included within this paragraph.

*Listed Buildings (paragraphs 31-35):* participants identified the management of development within the setting of listed buildings as a key issue. There is a need for further examination of this issue (the need for a definition of 'setting' has been identified above). At paragraph 32 it was noted that the wording should read 'preserving the building or its setting, and (rather than 'or') any features of special architectural or historic interest which it possesses'. At paragraph 33 it was highlighted that there is a need for further guidance on enabling development, and for this to be referenced from SPP 23.

*Conservation Areas (paragraphs 36 – 39):* In general it was felt that the new wording is weaker than the previous advice. For example at paragraph 37,

through use of the word 'encouraged' rather than 'required' (Planning authorities are required to undertake conservation area appraisals). In addition paragraph 38 would be improved if it were to read 'Where appropriate, planning authorities are urged to put in place Article 4 Directions to maximise the protection of an area of historic value'.

*Designated Wreck Sites (paragraph 41):* It is very important that the document should cross refer to the UK and Scottish legislation on the marine environment, and the SHEP on the Marine Historic Environment. These are all currently being developed and will have a significant effect on management of the marine historic environment, along with significant resource implications for local authorities.

*Other non-designated heritage assets (paragraphs 42 – 45):* In general access to information on non-designated sites needs to be encouraged. It was highlighted that reference to Buildings at Risk has been omitted from the document and should be reinstated. Paragraph 43 should refer to powers relating to the management of listed buildings, such as compulsory purchase orders, repairs notices and urgent works notices. Reference to cultural landscapes in paragraphs 43 and 44 is particularly weak. Paragraph 45 focuses on the information available to support the development management function. It was argued that the document should provide more emphasis on the effective interpretation of the data which is provided by people with appropriate knowledge and expertise; PASTMAP provides a useful starting point but should not be used as a substitute for professional advice.

*Planning conditions and agreements (paragraph 46):* The wording of paragraph 46 in relation to recording archaeological remains prior to development, was queried. Also, as stated above, there is a need for guidance on enabling development – practitioners currently use English guidance.

*Enforcement (paragraph 47):* There is a need for more specific reference, or better cross-referencing, on enforcement powers (practitioners currently refer a number of different sources of information on enforcement). The wording should be strengthened such that 'Local authorities use the enforcement powers available to them'.

#### **4.7 Conclusion (paragraph 48)**

The wording here should be strengthened to highlight the cultural value of the historic environment; it is suggested that the wording 'not just' devalues this cultural value.

### **5 Conclusion**

The workshop reached the following conclusions:

The philosophy of the document (bringing together preservation and change philosophies) needs to be more clearly articulated, acknowledging the dynamic

nature of the historic environment and that management of change must be based on an informed understanding of the value of the resource.

To be used effectively, the document will need to consistently cross refer to all other relevant documentation – and the relationship with the SHEP series in particular explained.

Regarding wording, content and structure, some specific points regarding wording and changes of tone/emphasis need to be addressed. The document must be sufficiently robust to be effectively employed at Public Local Inquiry. In addition, there are items that were in the predecessor documents that have been omitted – these need to be re-instated. A hierarchical approach in structuring the document might improve the readability of the document adopting three levels - statutory, non statutory, undesignated.

Explanation of the key role and responsibility of local authorities in managing the resource needs to be expanded upon.

Model policies would be more appropriately termed 'model outcomes' and presented as a starting point for developing outcomes for the historic environment tailored to the local area.

## **6 Acknowledgements**

The workshop was facilitated by BEFS (with support from Historic Scotland), and hosted by the Association of Local Government Archaeological Officers in Scotland at the City of Edinburgh Council's Business Centre, Edinburgh.

Thanks go to everyone that participated in the workshop, and in particular to Steve Dowell (Directorate for the Built Environment) and Gordon Barclay (Historic Scotland) for the presentations; John Lawson (Association of Local Government Archaeological Officers in Scotland) for chairing; and Ian Baxter (Glasgow Caledonian University – Heritage Futures), Colin Tennant (Scottish Stone Liaison Group), Vicky Cairns (National Trust for Scotland), Jo Robertson (Built Environment Forum Scotland) and Anne Wilkinson (Built Environment Forum Scotland) for administration and facilitation of the event.

## **7 Participants**

The workshop was attended by individuals from the following organisations:

ALGAO Scotland

AOC

Architectural Heritage Society of Scotland

Association for the Protection of Rural Scotland

CFA Archaeology

Directorate for the Built Environment

Glasgow Caledonian University - Heritage Futures  
GUARD  
Historic Scotland  
Institute of Historic Building Conservation - Scottish Group  
National Trust For Scotland  
North Lanarkshire Council  
Royal Town Planning Institute in Scotland  
Scottish Borders Council  
Scottish Civic Trust  
Scottish Stone Liaison Group  
Stirling Council  
Strathclyde Building Preservation Trust  
University of Dundee  
West Lothian Council  
West of Scotland Archaeology Service

## **8 Appendix: Index Cards Transcript**

Participants were asked to write on index cards their top issues, omissions, and possible improvements to the draft document (note: where exactly the same point is made, this is listed just once).

- Concerns over some of the wording, which will give greater scope for ambiguity.
- The wording in section 46 covering watching briefs is too weak. That a skilled archaeologist be given access does not mean that the developer will pay for it. This wording will mean that work on unexpected discoveries will have to be done by the Council or Historic Scotland archaeologist.
- Battlefields should be included in the lists of archaeological sites, rather than as a landscape in section 44. Battlefields should get explicit mention in sections 9 and 45.
- The Valetta Convention should be mentioned as the UK is a signatory.
- More emphasis is needed on enhancement and the proactive side of planning/heritage policy.
- Definition – content and setting description is good, but this is not fully reflected in the policy section.
- Model policies 1, 1a & 2
  - (1) “appropriate to the character and appearance” could lead planning officials to accept /encourage weak practices. Wording should refer to potential of good contemporary design.
  - (1A) Some threatened buildings not likely to be marketed at this stage if ‘in the way’ for example of proposed infrastructure development. Further statement needed to build up pre- application discussion (para 29) to ensure that all potential for adjustment/ alternative siting of, for example, public work schemes has been explored.
  - (2) Setting of Conservation Area needs consideration in this wording (as noted in para 37).

- This SPP represents an overall dilution of the status of the historic environment whether intended or not, and does nothing to address fundamental current omissions, for example, guidance on enabling development as offered by English Heritage. There are no guarantees that SHEPs or other guidance will plug the gap.
- Emphasis on managing a change environment, not preserving a designated environment.
- Weaker than NPPG 5.
- Too much emphasis on statutory designation; non-statutory is lost.
- Policy section is particularly weak – archaeological policy is lost in para 42
- No timetable to update PAN 42.
- Relationship with the climate change should be included; recent consultation specifically discussed re-use of historic buildings.
- Non-statutory designation is not continued to World Heritage Sites and Gardens and Designed Landscapes. The European Landscape Convention covers the wider Historic Environment.
- Flagging up the need for advice is not consistent in SPP 23 i.e. need for conservation and archaeological advice.
- Role of RCAHMS in recording Listed Buildings to be demolished must be clear.
- In the introduction, public benefits should include understanding and interpretation.
- The document does not deal with historic buildings that are not listed.
- Preservation by record – the term has been removed.
- Formerly a whole document on archaeology - now reduced to four paragraphs.
- Para 45: PAST MAP does not cover all archaeological assets.
- Why mention Architecture + Design Scotland and by comparison ignore AHSS etc and also the local authorities' own skilled conservation officers, archaeologists etc.
- Nothing at all on important issues of finance.
- Should there be something on National Parks?
- Nothing on Buildings at Risk.
- The simplification of the documents puts a requirement to cross refer to other documents. Is this realistic?
- Are planning authorities sufficiently resourced with experienced historic environment staff to deliver?
- Important policy guidance in NPPG 18 & NPP 5 has been removed in the attempt to streamline.
- Government responsibility for World Heritage Sites has been omitted (refer to NPPG 18 para 15 – this needs to be re-instated).
- Clarification on Gardens and Design Landscapes is required, SPPP 23 should apply to all important Gardens and Designed Landscapes - not just those included in the Inventory.
- Non-statutory protected sites are not included.
- The actual role of various stakeholders should be described.
- The roles of local authorities, Historic Scotland and voluntary sector are weakly defined.
- Cross refer to the forthcoming Battlefields SHEP and other SHEP's.
- PAN 42 needs to be updated.
- There is a risk that model policies become the 'maximum' requirement for policies, making it legally challenging to achieve anything beyond the content of the model policy. There should be bullet pointed elements presented as a 'minimum' for the policy to be accepted.
- Further detail required on Urgent Works and Repair Notices and Buildings at Risk.
- It would be useful to have a SHEP on Enabling Development, and on Enforcement in relation to the Memorandum of Guidance.
- Should refer to Buildings at Risk, especially as they are likely to be one historic environment measure in the National Performance Framework.
- Para 13 Listed Buildings – not enough mention of setting. PLBCA notes in s45 that this needs to be considered.

- Para 30 should outline the process for statutory public consultation as per the Planning etc (Scotland) Act.
- Should not imply that PAN 42 and 71 are current.
- There should be a model policy for World Heritage Sites and their buffer zones.
- More emphasis in pre determination works, either archaeological or building recording. This could improve the quality or determine the application.
- Good idea for consultation of documents and simplification.
- A more specific explanation of the relationship between the various guidance documents is required.
- Policy needs to identify what happens when management is not an option and destruction is the decision. What is the process and levels of recording required to allow destruction?
- Needs to make reference to permitted development.
- Needs to cross refer to SPP 14 – Cultural Landscapes/NSAs.
- Definition of setting required.
- Need for reference to buildings archaeology and the need to record.
- Need to accommodate the uncertainties about known sites.
- GDPOs and other exemptions need to have regard to historic environment assets.
- Para 38 – does not help Conservation Areas.
- Recording of demolition of unlisted buildings (cf NPPG 18 para 52) should be included.
- Substantial demolition (ref NPPG para 49) – the damage to conservation areas caused by some partial demolition is of great concern.
- Historic Buildings at Risk – encouragement to use Urgent Works and Repairs Notices should be included (ref para 56/7)
- Planning Authorities to have the ability to ask for Conservation Statements and Statements of Significance – an addition.
- Reference to a Duty of Care on public bodies who own heritage assets and should be included, and to best practice upon dispersal.
- Duty of Planning Authorities to prepare P & E proposals (ref NPPG para 14)
- Acceptance of temporarily unused historic buildings (preferable to unsympathetic change) (ref NPPG para 21).
- Helpful guidance in NPPG para 38.
- Para 21 – should include archaeological advice.
- Should make mention of GDPO – impact of utilities.
- Model policy for building recording required.
- Role of community planning should be mentioned.