

PE1696/D

Historic Environment Scotland submission of 23 January 2019

HES Views on the Petition including current practice and application of Policy – understanding how battlefield policy is taken into account in plans and decision making

Under the *Ancient Monuments and Archaeological Areas Act 1979* (Section 32B) as amended by the *Historic Environment Scotland Act 2014* the maintenance of an Inventory of Battlefields is a statutory duty of Historic Environment Scotland.

The inventory was established in 2011. It identifies sites that can be located with certainty where a nationally important battle occurred, soldiers fought and died, and where other significant activities took place. There are now 40 sites on the inventory. They range in date from the first battle of Dunbar in 1296, through to Culloden in the Highlands, where the final pitched battle in Britain took place in 1746.

The effect of a proposed development on inventory battlefields is a material consideration in the planning system. *Scottish Planning Policy* sets out the matters planning authorities should seek to protect in determining planning applications affecting historic battlefields. The *Historic Environment Scotland Policy Statement 2016* provides more specific information to aid decision-makers in the planning system and in other relevant contexts such as landscape and land-use management.

In terms of strategic decision making, all planning authorities with historic battlefields in their area have specific planning policies that seek to protect, conserve and enhance their special characteristics. Sites on the Inventory are also now routinely considered during the preparation of Local Development Plans, which is crucial for ensuring their significance is considered in long-term spatial growth strategies and when allocating land for development.

In line with planning regulations, HES only objects where the impacts of a proposed development are sufficient to raise issues which we believe to be of national interest. This leaves planning authorities otherwise free to consider applications against their own policies for protecting battlefields, and they may refuse applications based on lesser impacts (see Response 2 below for more details).

As a consequence of this policy framework, assessment of the potential impact on historic battlefields is now much more routinely and explicitly included in the environmental assessments and appraisals undertaken by developers and their agents in support of planning applications.

Where development is not within the planning system – for example, forestry or Trunk Roads proposals - the *Historic Environment Scotland Policy Statement* states that other public bodies should ensure that nationally important battlefields are given consideration within relevant strategies, plans and programmes.

Historic Environment Scotland also works in collaboration with local authorities, community groups and others to raise awareness and promote understanding of

historic battlefields in local areas, for example through commissioning of research, development of interpretative materials, and outreach work.

Policy Review

In 2017, HES carried out a user survey to inform consideration of any changes required to battlefields policy, inventory records, operational programmes, or guidelines. There were 78 responses capturing views from across a wide range of historic battlefields stakeholders, from landowners, to community interests, and professional advisors who work with the planning system on a daily basis.

An analysis report is available on our website at <https://www.historicenvironment.scot/archives-and-research/publications/publication/?publicationId=55b84002-7477-4dd5-bd29-a8b700b53074>.

The survey found that the Inventory is used for research and planning/management, but also for general interest, tourism and commemoration.

The survey indicated general support for the current level of protection through the planning system, where the emphasis is on managing change in an informed way that takes account of the value of inventory battlefields. While responses from battlefield interest groups generally advocated stronger controls, we considered that this is not a view shared more widely. Our overall impression is that stakeholders generally believe that creation of the inventory has been a useful first step, but that improvements can be made as to how the inventory is working in practice as a planning tool: for instance, redressing the impression that everything within the designation boundary is of equal importance.

Consequently, in direct response to the survey feedback, we are considering how inventory records and maps could provide clearer information on the key characteristics/surviving elements of battlefields. We are also considering how we draw battlefields boundaries to distinguish more clearly between battlefields and elements of them which survive to a substantial degree, and those which are 'lost' – for example within built up urban areas.

Any changes we propose to inventory battlefields policy will be subject to public consultation in the usual way.

Current Levels of Protection

The policy intent of the inventory was not to stop development on designated battlefields. As a result they are often relatively large and can encompass heavily-populated and urban areas, areas where we are less sure about their contribution to the battle events, and areas which contribute to the battle's wider context. The areas where battles took place are living, working landscapes that have evolved continually ever since. These landscapes must now be managed proactively and positively to keep pace with modern life. The planning process provides the context for informed decision-making and it was with that intention that the inventory was established and is maintained.

We are content that Local Authorities give adequate consideration to their own policies regarding the protection of battlefields and that they and other decision-makers give sufficient weight to our advice.

We therefore believe that the statutory protection currently afforded to inventory battlefields within the planning system provides an adequate level of protection and the relevant policies also provide sufficient weight to considering potential impacts upon inventory battlefields when considered against other Scottish Government objectives for sustainable development. We recognise, however, that there is some work we can do for our advice to be more effective and helpful to communities and decision makers, and we plan to review this in the near future.

“Statutory consultees” and the impact that HES can potentially have on any plans that come forward

Historic Environment Scotland is a statutory consultee in the planning and Environmental Impact Assessment systems in regards to inventory historic battlefields. This means that local planning authorities are required to consult HES where any non-householder development proposals may affect a site on the Inventory of Historic Battlefields.

HES’ views carry material weight, and local planning authorities are required to take our advice on board. If a planning authority is minded to grant planning permission for a development proposal where HES has objected, the case has to be referred to Scottish Ministers for a final decision. Applicants can also appeal the decision of local planning authorities, in which case the application would also be referred to Scottish Ministers to determine.

In most such cases, Scottish Ministers would refer the application to a Reporter, who would consider the case through a Site Visit, Written Submissions, a Hearing, or Public Local Inquiry. HES may be required to submit further material or to represent themselves throughout this process where we have objected.

On how many occasions has an objection from HES meant that a development has not happened and on how many occasions has an objection simply been heard and a development gone ahead?

A new casework handling system was developed upon the creation of HES. Prior to the new system coming online in 2017, Historic Scotland and HES did not systematically record all the information requested. However, we hope the following figures are helpful.

Between 2013 and 2017 HS and then HES objected to seven planning applications due to the potential impacts on inventory battlefields. We cannot confirm the final outcome of all of these applications, but at least two were withdrawn by the applicant, two remain undetermined, and at least one objection was sustained by a Reporter.

Subsequent to 1 April 2017, HES has responded to 1,292 planning consultations affecting a range of designated historic assets. We objected to 25 (1.93%) of these.

Four of these objections (0.31% of the total planning consultations we have received, 16% of the total number of objections) were made on the basis of potential impacts on inventory battlefields. In two instances, the application was withdrawn by the applicant; a third application was refused by a Reporter; and the fourth awaits determination.

In most cases where the planning application was withdrawn by the applicant it is likely that the applicant supplied further information to allow us to make a decision, or amended their scheme and the potential impacts sufficiently to allow us to withdraw our objection (i.e. the impacts were no longer likely to raise issues of national interest).