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Dear Sirs,

## **CONSULTATION ON SCOTTISH PLANNING POLICY 23 – PLANNING AND THE HISTORIC ENVIRONMENT (SPP23)**

The Institute of Historic Building Conservation (IHBC) is the professional body of the United Kingdom representing conservation specialists and historic environment practitioners in the public and private sectors. The Institute exists to establish the highest standards of conservation practice, to support the effective protection and enhancement of the historic environment, and to promote heritage-led regeneration and access to the historic environment for all.

The Scottish Branch of the Institute welcomes the opportunity to comment on this consultation paper, and has the following comments to make on the main document and Annex A Model Policies.

We are broadly supportive of much of the contents of the consultation paper, and our particular comments on the text and Model Policies are set out in the first and second sections below. We are, however, greatly concerned at quite a lot of omissions from the current NPPG 18 and NPPG 5, and the failure to take the opportunity to clarify and strengthen guidance on the historic environment where we feel this is needed; these concerns are set out in the third and fourth sections below respectively.

Whilst we appreciate the desire for simplification in government guidance, we would also recommend that, if this narrowing of focus is to remain effective, that it is essential that cross references between the information in the SPP and related legislation and other guidance is specified in the margins, to assist in providing continuity between this document and others that relate to it.

### Comments on the text of Consultative Draft SPP23

#### **Sustainable Development and the Historic Environment**

Paragraphs 3 and 4 should be strengthened. The following amendments are requested:  
Add to end of Paragraph 3: "This contrasts with the scenario where potentially useful historic buildings have in the past often been needlessly replaced by new buildings using modern materials

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rather than adapted and re-used, at a much greater cost in terms of energy use and sustainability. It is the policy of Scottish Ministers that the waste caused by unnecessary demolition and replacement, with consequent loss of embodied energy, the need for landfill and the sourcing and transport of new materials, should be avoided wherever possible. The conservation of the historic environment can thereby help in the mitigation of climate change.” (NB: penultimate sentence above is taken directly from SHEP 1 para 6.4 2<sup>nd</sup> sentence).

Amend 1<sup>st</sup> 2 lines of paragraph 4 as follows:

‘The historic environment can play a key part in promoting sustainable economic growth and regeneration including through....

### **Role of Local Authorities and Others**

Paragraph 5. Suggest amend 1<sup>st</sup> sentence to state: “The Government encourages local authorities and others to maintain and strengthen their commitment to investing in the care, management, enhancement and improvement of the historic environment, and to reflect this planning guidance in their policies and their allocation of resources and in their management of assets.”

Paragraph 21. Suggest this is amended to state: “Planning authorities should also ensure that they can call on sufficient specialist conservation advice to inform their decision-making and in their many different roles in the conservation and enhancement of the historic environment, including to advise owners of historic assets and other members of the public.” This statement should also be amended to make clear that ‘specialist conservation advice’ includes archaeological advice. The statement (as revised) would be better located after Paragraph 5, in the section on the role of Local Authorities (as currently the case in NPPG 18 paragraph 18).

The current section on the role of Local Authorities is disappointingly weak. A more substantial summary description of the pro-active roles that LA historic environment services undertake is desirable.

Paragraph 6’s statement in its 2<sup>nd</sup> sentence on the role of Historic Scotland “it can offer advice” needs greater substance, to clarify when, to whom and how the advice will be offered.

Paragraph 8 on the role of Architecture and Design Scotland is welcomed.

### **Legislation Section**

Paragraph 12 with its suggestion that Local Authorities should make policy provision for the historic environment, which should cover both statutory and non-statutory designations, is welcomed, but this paragraph would be better located after Paragraph 5.

However, we are also opposed to the weakening from the statement in NPPG5 para 25 that “The preservation of ancient monuments and their setting is a material consideration in determining planning applications, whether a monument is scheduled or not” as the new draft SPP23 para 12 which only says this “can be” a material consideration.

### **Gardens and Designed Landscapes**

Paragraph 18 2<sup>nd</sup> sentence requires clarification and it is suggested this should say: “The effect of proposed development on an important garden or designed landscape is a material consideration in the determination of a planning application.” It is also suggested the paragraph heading should say “Important Gardens and Designed Landscapes”

Note of explanation: clearly it is not any garden that is a material consideration, but we suggest it is more than just Inventory gardens that have material implications, as supported by the inclusion of policies on non-statutory designations within paragraph 12.

## Policy

Paragraph 19 line 3 should be amended to say “resource is actively protected and managed and its value....”

Paragraph 20 line 3 should be amended to say “in many cases, the historic environment can accommodate change...”

This section on Policy should be extended to better cover archaeological policy, including by adding a cross reference to PAN 42 Archaeology, and by including key policy objectives from NPPG5 – as summarised in the final sentence of its para 4: “Archaeological remains should be preserved wherever feasible and that, where this proves not to be possible, procedures should be in place to ensure proper recording before destruction, and subsequent analysis and publication.”

## Local Plans

Paragraph 24 Inclusion of the following elements is welcomed in the guidance on what Local Plans should cover:

- outline **management processes** including:
  - proposals for designating conservation areas and for reviewing their boundaries
  - details of existing and proposed Article 4 Directions
  - priorities for enhancement programmes, including opportunities for regeneration or revitalisation
  - identification of sites that will require more detailed guidance such as a development brief, design guide or character appraisals
- include in their **action programmes** (under the Planning etc. (Scotland) Act 2006) details of what action will be taken to deliver the policies and proposals on the historic environment over at least the following 2-year period.

## Supplementary Planning Guidance

Paragraph 25 on the status of supplementary guidance is welcomed with two requested amendments: “Planning authorities are encouraged to produce more detailed appraisals, development briefs and design guides as supplementary guidance to ensure that new development or other works are appropriate in terms of use, design and location. Under the Planning etc. (Scotland) Act 2006, supplementary guidance may form part of the development plan, when requirements on consultation and approval have been met.”

## Model Policies

Paragraph 26 is supported, but with some reservations. We consider that it should be made clear that the model policies must be carefully considered and structured to ensure they are fit for purpose for the individual Local Authority area, and that they should not be taken as a standard template for inclusion without this full consideration as to whether they represent best practice for the particular area. The application, in Policy 2, of the demolition policy to non-listed buildings which contribute positively to Conservation Area character, is welcomed. Some detailed suggested amendments to the Model Policies are made below.

## Strategic Environmental Assessment

Paragraph 27’s clarification contained in the statement “It is unlikely that an SEA will be required for conservation area appraisals and management plans” is welcomed.

## Pre-application Discussion

all heritage assets directly or indirectly affected, together with an assessment of their significance. They will be expected to take the preservation of this significance explicitly into account in their proposals."

### **Listed Buildings**

We suggest that this section should commence with a reference to the categories of listed buildings (at present this is explained only in the Annex).

Paragraph 32's 2<sup>nd</sup> sentence should be amended as follows: "There is a presumption against development that adversely affects the character of a listed building or its setting."

Note of explanation: the above change is sought to reflect current government policy as expressed in NPPG18 para 43 (1<sup>st</sup> sentence after bullets): no change to this is warranted and the extra words being proposed in draft SPP23 (which this Institute wants deleted) could be interpreted as a significant weakening of policy.

It is requested that the start of paragraph 33 on enabling development be amended to say: It may be appropriate to consider enabling development if this can be shown to be the only means of retaining a listed building. It would also be highly desirable for a commitment to be added to this paragraph that Historic Scotland will prepare guidance on Enabling Development, similar to the helpful advice produced by English Heritage.

### **Conservation Areas**

Paragraph 36 The clear statement that "proposed development that fails to preserve or enhance the character or appearance of the area should be refused planning permission" is welcomed. The 3<sup>rd</sup> and final bullet point should be amended and its intention clarified by adding the following words at the end: "by the Local Authority in determining any planning application."

Paragraph 38 deals with Article 4 Directions and this Institute would request amendment of the second sentence as follows: "Planning authorities are urged to put in place Article 4 Directions as appropriate, to maximise the protection of an area of historic value."

Paragraph 39 – 2 requested amendments are:

Amend 1<sup>st</sup> sentence as follows: In considering the demolition of an unlisted building within a conservation area, the merits of the building itself and its contribution to the character and appearance of the area is are the key considerations.

Amend 3<sup>rd</sup> sentence as follows: The general presumption should be in favour of retaining buildings that make a positive contribution to the conservation area, particularly where it can be demonstrated that the building is able to support a new viable use, or might be so capable in the future.

Other Archaeological Sites etc

Paragraph 42's 3<sup>rd</sup> sentence should be amended as follows to reflect existing government policy in NPPG5: "Where this proves impossible, planning authorities should ensure that procedures are in place in order that appropriate recording, analysis and publication is undertaken before and/or during development."

### **Conclusion**

Paragraph 48's inclusion in its second sentence of the following statement is welcomed: "The historic environment is important in itself and can bring added value, not just as a cultural add-on, but as a real economic driver, attracting inward investment, helping communities to regenerate and playing a vital part in our tourist industry."

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## Suggested Amendments to the Model Policies

### **Model Policy 1**

A small amendment to the first sentence is requested for clarity of intention:

*“Development affecting a listed building, or its setting, shall preserve the building, its setting, and any features of special architectural or historic interest which it possesses.”*

#### Model Policy 1A

Amend 2<sup>nd</sup> point to expand on evidence required to support demolition, as follows:

*2) is incapable of physical repair and re-use through the submission and verification of a thorough report from a recognised conservation professional to include an assessment of (a) the detailed structural condition; (b) the costs of repair, economic viability and future options for the building; and (c) any other physical constraints to repair and re-use of the building.*

Note of explanation: It is considered that a thorough assessment of future options for the building should also be required (whether listed or a non-listed building contributing positively to Conservation Area character), which might include a building lying empty for a period. There may be physical constraints to refurbishment work eg restricted construction vehicular access to a site.

#### Model Policy 2

The following small amendments to the 2<sup>nd</sup> and 3<sup>rd</sup> paragraphs are requested:

*The design, materials, scale and siting of any development shall be appropriate to the character of the conservation area and its setting. Trees which are considered by the planning authority to have amenity value shall normally be preserved. Given the importance of assessing design matters, outline planning applications will not be considered appropriate for developments in conservation areas.*

*Where an existing building, listed or not, contributes positively to the character of the conservation area, policy 1A on demolition shall apply. No proposal for demolition will be considered in the absence of a detailed planning application for a replacement development that enhances or preserves that character. Demolition will not begin until evidence is given of contracts let for the approved development.*

Notes of explanation: (i) It is suggested that trees of amenity value should normally but not universally and forever be retained.

(ii) It is considered that outline applications are *never* appropriate within a Conservation Area.

(iii) It is considered that the last two sentences of Model Policy 2 should apply to *all* demolition: even if a building is not contributing positively, a vacant or part demolished site may be even more to be avoided.

### **Model Policy 4**

Two small amendments as follows are requested for clarity of intention:

*Development affecting important Gardens and Designed Landscapes shall protect, preserve and enhance such places and shall not impact adversely upon their character, upon important views to, from or within them, or upon the site or setting of component features which contribute to their value.*

## Comments on Omissions in Consultative Draft SPP23, as compared with NPPG 18

### **Duty to prepare Preservation & Enhancement Proposals**

Paragraph 14 of NPPG 18 states: “Planning authorities also have a duty to bring forward proposals for the preservation or enhancement of conservation areas” and we consider this duty from Section 63 of the 1997 Act should be repeated in SPP 23.

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### **Acceptance of temporarily unused historic buildings**

Paragraph 21 of NPPG 18, in its final sentence (“The fact that a building is obsolete for a short period is not in itself justification for unsympathetic change.”), gives some acceptance of temporarily unused historic buildings. The removal of this is opposed, as this option is not contained clearly elsewhere in government policy, and having a building temporarily vacant can be preferable to allowing unsympathetic changes to a building.

### **Omissions from the guidance on Development Control**

Paragraph 38 of NPPG 18 contained the following guidance to Planning Authorities on Development Control and we consider this should be included somewhere within the new SPP 23:

- **highlight the benefits that can result if proposals are formulated and presented in association with an experienced professional adviser, such as an architect, with knowledge, understanding and an appreciation of the historic environment**
- **ensure that applications are accompanied by sufficient information on the historical, architectural, environmental and archaeological significance of the site along with details of the nature of the proposed development so that the impact of the proposals can be assessed and proposals justified**
- **ensure proposals are based upon detailed knowledge of traditional building materials and methods of construction and their performance**
- **have due regard to Government policy and advice contained within the Memorandum of Guidance on Listed Buildings and Conservation Areas** (note could add “ or its successor documents” to allow for its planned updating)
  
- **ensure that development is of a high quality in terms of construction and design. It should pay respect to siting, density, scale, massing, proportions, materials, landscape setting, access arrangements, local design characteristics and historic character of adjacent buildings and the surrounding area**

### **Partial/ substantial demolition**

Paragraph 49 of NPPG 18 discusses the meaning of substantial demolition and we consider this should be included and further clarified somewhere within the new SPP 23, otherwise removal of boundary walls or parts of buildings which are publicly visible should require consent in the issues raised by the Shimizu case are not addressed. The Institute considers that demolition or Conservation Areas, as this can have significant adverse effects.

### **Recording Buildings**

Paragraph 52 of NPPG 18 contains requirements and policy guidance on notifying RCAHMS of demolition and significant alteration works to listed buildings and unlisted buildings in Conservation Areas, and on planning conditions to require recording. The Institute considers this should be included in the new SPP23.

### **Historic Buildings at Risk**

Paragraphs 56/ 57 of NPPG 18 discuss Historic Buildings at Risk and we consider such a section should be included within the new SPP 23, in particular highlighting the Urgent Works and Repairs Notices options set out in the Act and encouraging their use, and also encouraging Planning Authorities to work with the Scottish Civic Trust on buildings at risk in their area.

### Comments on Omissions in Consultative Draft SPP23 in terms of other missed opportunities

The Institute of Historic Building Conservation considers that the new SPP23 should take the opportunity to clarify and strengthen guidance on the historic environment in certain areas, where this is needed. We suggest that the following matters should be addressed:

### **Conservation Statements or Statements of Significance**

The ability of Planning Authorities to require such statements to accompany planning proposals affecting the built heritage should be highlighted, also their usefulness in demonstrating how a proposal will preserve or enhance the character or appearance of a conservation area.

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**Duty of Care for Public Bodies**

The Institute considers it would be desirable to set out a duty of care for the management and any disposals of the historic environment assets it owns, on all public bodies. This could be added within the section on the role of Local Authorities and Others (paragraphs 5-8).

The Scottish Branch of the Institute of Historic Building Conservation is glad to have the opportunity to input to this very important consultation, and would be grateful if you could consider these points in the revisions to be made to this Scottish Planning Policy Guidance on Planning and the Historic Environment for the final version of the document.

Yours sincerely,

Richard Cartwright  
Scottish Consultations Secretary  
Institute of Historic Building Conservation