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Dear Sir/ Madam,

### **CONSULTATION ON SCOTTISH PLANNING POLICY (SPP) CONSULTATIVE DRAFT**

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 I attach our responses which are focussed on questions 1-6, para 38 on Subject Policies, question 14 and paras 82-91 on Historic Environment, and paras 189-191 on Outcomes. However, following consultation across our membership, we have elected to supplement these responses with a more general observations on the application of the National Planning Framework which we hope also may be of use in informing the further development of the policy, and its practical operation as a tool for planning authorities and regulators. We have also made a response to question 2 of the consultation on the Strategic Environmental Assessment.

The Scottish Branch of the Institute of Historic Building Conservation is glad to have the opportunity to input to this consultation, and would be grateful if you could consider these points in the revisions to be made to the SPP.

Yours sincerely,

Richard Cartwright  
Scottish Consultations Secretary  
Institute of Historic Building Conservation

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## GENERAL OBSERVATIONS

The IHBC is concerned that as a whole the SPP fails to address the priorities for place management that are central to the National Planning Framework (NPF, 2004; Proposed Framework, 2008). The IHBC fully endorses the position identified in the proposed Framework, which states that

'The environmental quality, built heritage and cultural life of Scotland's cities and towns are therefore strong economic assets and planning policies must place emphasis on promoting their quality and connectivity.' (para 12)

Something between 60% and 90% of existing buildings are expected to be in use in 2050 – according to different statistics – while the developing Framework document highlights the 'statutory requirement that the National Planning Framework should contribute to sustainable development'. Clearly this SPP must reinforce appropriate planning policies for managing, promoting and enhancing our existing buildings and places – designated or otherwise – not least so that the historic environment can achieve its potential in addressing economic ambitions, climate change and quality of life,

The widespread recognition of the importance of the effective and environmentally-aware management of our built environment within a planning framework is best reflected in the joint professional bodies' response to the Draft Heritage Bill for England. Though developed in the narrow context of that legislation, the position was agreed by key professional and related built environment organisations across the UK, altogether representing some 250,000 memberships. These bodies concluded that:

'Adopting conservation approaches when managing change in historic places can:

- address economic and fiscal aspirations across society, from supporting sustainable SMEs to enabling heritage led regeneration;
- mitigate environmental pressures, through promoting low-waste practices, conserving embodied energy in existing structures and encouraging traditional, low carbon footprint design materials; and
- resolve social pressures, through embracing diversity, inclusion, quality of life indicators and associated cultural values. (Response to the Draft Heritage Protection Bill, RTPI, IHBC, RICS, RIBA, POS, CIOB, 2008,)

The IHBC was one of the key authors of that response. It considers that the position agreed between the signatories is wholly in line with the principles articulated in the NPF, and that historic and built environment interests across Scotland could endorse much of the document.

The important and valued modernisation and research programmes in Historic Scotland - not least the progress there in working with the diverse communities that live in and care for our historic places as well as the detailed research carried out by the Technical Conservation Group - help underpin and implement the economic and environmental benefits of conservation strategies across planning by developing substantial processes and hard facts. Indeed the widening understanding of the values of conservation strategies is well demonstrated by the increasing pressure on government to reduce VAT on repairs – an initiative developed within historic environment interests under a 'flat VAT' campaign – which is now formally supported by bodies such as the RIBA and British Property Federation, albeit often with narrower terms of reference.

Yet despite the ever-expanding support for more environmentally aware and conservation-friendly strategies – precisely because of their wider benefits – the current draft SPP fails to recognise or respond to how historic places, properly managed, can promote a sustainable and, by definition economically viable, future for Scotland.

The SPP must both articulate and facilitate the integrated management of current and future built and historic stock within planning. Otherwise it will fail to effectively support the management of our places within the planning system, and as such undermine the National Planning Framework rather than support it.

As a consequence we would strongly urge:

1. Supplementing the SPP draft with introductory and contextual paragraphs that establish and formalise the importance of managing the current building stock – designated and otherwise - in line with place-management and environmental priorities that are identified in the NPF and in the statements above.
2. Integrating the SPP more effectively with policy documents that sit above it (in particular the National Planning Framework); alongside it (notably a revised and updated SHEP) and below it (including technical and policy guidance, much of which has value for managing the extensive traditional built stock that is not subject to designation), This can be done most effectively by specific cross-reference across the documents, so that users can more easily work their way through the different parts of the otherwise separate documents. Also it demands a concurrent development of web-based policy documents with 'live links' to help cross-reference between the relevant parts of the different areas of advice.
3. Setting a strict and urgent programme for updating the related policy documents – in particular the SHEP and under-pinning technical guidance – in light of the proposed re-casting of the SPP.
4. Planning for future policy development – as part of the on-going up-dating of the policy documents – by supporting a widespread consultation on how best to frame the management of the existing built stock given the priorities agreed in the National Planning Framework. We would also note that no consultation was carried out on SPP parts 1 and 2 and consider this to have been a serious omission, which should be rectified.

## GENERAL QUESTIONS IN CONSULTATION

Q1. Overall, is national planning policy clearer and easier to understand in the consolidated SPP compared with existing SPPs and NPPGs?

**NO**

Q2. Do you support the proposed structure and format of the consolidated SPP?

**NO**

Q3. Do you agree with the removal of advice and background information from the consolidated SPP?

**NO, it is helpful to have rather more background than has been retained, including cross referencing to relevant government legislation and advice, including via the Scottish Government website.**

Q4. Does this paragraph provide a clear overview of the expectations for community engagement in the modernised planning system?

**YES**

Q5. Is the status of this section in relation to the Planning etc. (Scotland) Act 2006 sufficiently clear?

**YES**

Q6. Is the role of the planning system in assisting climate change mitigation and adaptation clearly highlighted throughout this SPP?

**NO, it would be helpful to include some reference in the Built Heritage section of the SPP to the role that built heritage preservation (as opposed to demolition and redevelopment) can play in assisting climate change mitigation.**

## HISTORIC ENVIRONMENT QUESTION

Q14. Have the main elements of national planning policy relating to the historic environment been included and are they clearly explained?

**NO. What is included is insufficient. See our comments below both on the text that is included, and on omissions. Existing key historic environment policy matters contained in SPP23 must not be excluded in the new SPP, unless and until they are adequately covered in an updated SHEP. If policy points are to be lost by the review of SPP (as they are in the draft) it is essential that an urgent revision of the SHEP is undertaken in the light of the new SPP, to ensure that the suite of SPP and SHEP together maintain policy, in line with what the draft SPP states.**

## COMMENT ON SUBJECT POLICIES TEXT OVERALL

Para 38 states that "These subject planning policies... can be a material planning consideration". This should state rather that they are material considerations.

## COMMENT ON OUTCOMES TEXT

This section (paras 189-191) is generally supported, in particular its references to:

Creating high quality, sustainable places and the protection of built heritage assets (para 189);

Planning Authorities being clear about their expectations on quality, Supplementary Guidance the ability to refuse solely on design grounds, & to Designing Places and Designing Streets (latter to be finalised) (p190).

## COMMENT ON SUBJECT POLICIES TEXT ON HISTORIC ENVIRONMENT

The IHBC would make the following comments and suggestions (as annotated below in the following pages) on the text which is included in the SPP in paragraphs 82-91 on Historic Environment, and in addition is submitting comments on key policy issues from SPP23 which we consider have not been properly addressed in the Consultation Draft SPP.

## **IHBC's Suggestions for amendments to the proposed text of new SPP on Historic Environment**

82. The historic environment is a key part of Scotland's cultural heritage and it enhances national, regional and local distinctiveness, contributing to sustainable economic growth and regeneration. The Scottish Government's policy on the historic environment and guidance on relevant legislation is set out in the Scottish Historic Environment Policy (SHEP) **together with this SPP**.

**START NEW PARA HERE** The historic environment can often be adapted to accommodate new uses whilst retaining its special character. Planning authorities should support the best viable use that is compatible with the fabric, setting and character of the historic environment. ~~83.~~ In some cases the importance of the historic environment and its setting ( Setting is more than the immediate surroundings of a site or building and, for example, may be related to the function or use of a place or how it was intended to fit into the landscape or townscape, the view from it or how it is seen from around, or areas that are important to the protection of the place, site or building) is such that change may be difficult or inappropriate. However, in most cases the historic environment can accommodate change which is informed and carefully managed.

**NEW PARA** Development plans ~~should~~ **must** provide a framework for the protection, conservation and enhancement of all elements of the historic environment **and** to allow the assessment of the impact of proposed development on the historic environment and its setting. When preparing development plans or considering development proposals with a potentially **significant adverse** impact on historic character, planning authorities should consider whether further and more detailed **information and** assessment is required to establish the capacity of ~~an area~~ **the historic environment** for and sensitivity to change.

**83A. Planning Authorities have other important roles in preserving the historic environment. The Government expects Local Authorities to maintain a commitment to historic environment and reflect the SPP (and SHEP) in their policies and resource allocation (from SPP23 para 5). Planning Authorities should ensure access to a Sites and Monuments Record (SMR) or Heritage Environment Record (from SPP 23 para 23). Planning Authorities must notify Scottish Ministers before granting Category A or B Listed Building Consent or demolition of a Category C Listed Building (from SPP 23 para 35).**

### Listed Buildings

**84A. There is a presumption against demolition or other works that adversely affect the special interest of a listed building (including its interior) or its setting. Where listed buildings are at risk, Planning Authorities are strongly encouraged to use Building Preservation Notices, Urgent Works and Repairs Notice powers and compulsory purchase to minimise loss within the historic environment. No listed building shall be demolished unless it can be clearly demonstrated that the building is not of special interest; or the building is incapable of repair; or the demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or the repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable period.**

84. Change to a listed building should be managed to protect its special interest while enabling it to remain in active use. Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building. The resulting development must be of a high design quality, protect the listed building and its setting and be the minimum necessary to enable its conservation and re-use. The new development should be designed to retain and enhance the special interest, character and setting of the listed building.

### Conservation Areas

85. Conservation areas are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Their designation provides the basis for the positive management of an area and for proposals for their preservation or enhancement. Permission should normally be refused for development, including demolition, within a conservation area that fails to preserve or enhance the character or appearance of the area. **(OR better for previous sentence-use the original phrasing from SPP23 para 39). 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 (SPP23 para 42 wording). Where it does not, proposals for demolition will not 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 of contracts let for the approved development. Given the importance of assessing design matters, outline planning applications will not normally be considered appropriate for developments in conservation areas (text from existing SPP23 in Model Policy 2).

86. Planning authorities are encouraged to undertake conservation area appraisals. Appraisals can assist owners and developers in formulating proposals and should inform development plans and development management decisions. Where necessary planning authorities can put in place Article 4 Directions to increase the protection of an area of historic value. Planning authorities also have powers to preserve trees in conservation areas.

#### Scheduled Monuments and Designated Wrecks

87. Scheduled monuments are archaeological sites, buildings or structures of national importance and shall be preserved in situ, and within an appropriate setting. Developments which have an adverse effect on scheduled monuments or the integrity of their setting shall not be permitted unless there are exceptional circumstances. Where works requiring planning permission affect a scheduled monument, the protection of the monument and its setting are material considerations. Where planning controls extend offshore, planning authorities should ensure that development will not adversely affect the integrity and setting of scheduled wreck sites or wrecks designated under the Protection of Wrecks Act 1973 or the Protection of Military Remains Act 1986.

#### Non-statutory Designations

88. There are a range of non-designated sites, monuments and areas of historical interest which do not have statutory protection. These resources are, however, an important part of Scotland's heritage and planning authorities should identify and protect them as far as possible including by a local policy framework.

89. Archaeological sites are a finite and non-renewable resource and should be protected and preserved in situ wherever feasible. Where this is not possible planning authorities should ensure that appropriate excavation, recording, analysis, publication and archiving is undertaken has been arranged by the developer (as SPP23 para 49) before and/or during development. If archaeological discoveries are made during any development, a professional archaeologist should be given access to inspect and record them.

90. World Heritage Sites are inscribed by UNESCO as cultural and/or natural heritage sites which are of outstanding universal value. The impact of a proposed development on a World Heritage Site and its setting is a material consideration. The development plan should set out the factors that will be taken into account when deciding applications for development proposals which may impact on a world heritage site.

91. Planning authorities have a role in protecting and enhancing gardens and designated landscapes included in the current Inventory. The effect of a proposed development on a garden or designed landscape can be is (change as per existing SPP23 para 46) a material consideration in decisions on planning applications. Development affecting gardens and designated landscapes shall protect, preserve and enhance such places and shall not impact adversely upon their character, upon important views to, from and within them, or upon the site or setting of component features which contribute to their value (wording from SPP 23 Model Policy 4). Local policies should be established to cover non-designated gardens and designed landscapes.

## **IHBC's Comments on important aspects of existing Historic Environment SPP23 that have been omitted in the new draft SPP**

1. Para 5 Government expects LA's to maintain a commitment to historic environment & reflect the SPP in their policies & resource allocation **Object to deletion of this reference**
2. Para 13 Imp clarification that listing includes interior and pre-1948 ancillary curtilage structures **Object to deletion of this reference. However, SHEP has the following references on this matter: SHEP para 2.21 makes clear interiors are protected SHEP Annex 6 para2a implies pre-1948 curtilage structures are protected (IHBC considers this needs to be clearer)**
3. Paras 19 & 47 highlight imp of non-designated assets- Govt. policy is to protect & preserve these wherever possible (para 47) **Para 88 of SPP weakens this reference to read "as far as possible" see suggested amendment above.**
4. Para 22 PI Authy's shd ensure sufficient specialist conservation & archaeological advice, incl to give advice to owners and the public. **Object to deletion of this specific reference. SHEP has only the following weaker references on this matter: SHEP para 1.16f,g 'Relevant bodies should ensure suitable knowledge, skills... are available... also support, advice and guidance'**
5. Para 29 PI Authy's are encouraged to use the Model Policies **Object to deletion of this reference**
6. Para 33 PI Authy's are expected to protect nationally imp sites & their settings **Object to deletion of this reference. See suggested text amendment to new SPP para 87**
7. Para 35 PI Authy's must notify Sc Ministers before granting Cat A or B LBC or demolition of a Cat C Listed Building **Object to deletion of this reference esp wrt Demolition of Cat C which is not covered elsewhere (SHEP Annex 6 para 5 covers Cat A and B)**
8. Paras 38 (& see 50) PI Authy's are encouraged to use Repair/ Urgent Works Notices where LB's are at risk **Object to deletion of this clear reference However, SHEP has the following references on this matter: SHEP para1.16b Relevant bodies with responsibilities shd ensure effective use is made of statutory provisions available**
9. Para 42 important: 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" **Object to deletion of this clear reference. SHEP only has the following reference on this matter: para 1.14a states that the policy of Scottish Ministers is that there should be a presumption in favour of preservation of individual historic assets Para 43 in the new SPP in Economic Development section says there should be a proactive approach to the reuse of buildings**
10. Para 46 Effect on a Garden or Designed Landscape is a material planning consideration **Object to deletion of this reference. However SHEP has the following reference on this matter: SHEP para 2.56 says that Historic Scotland's views on an application which may affect a G or DL will be a material consideration SHEP para 3.63 states: "As stated in SPP23, the effect of proposed development on a G or DL is a material consideration" See suggested amendment to para 91 of new SPP text above.**
11. Para 50 PI Authy's are strongly encouraged to use Building Preservation Notice, Urgent Works and Repairs Notice powers & compulsory purchase to minimise loss within historic Environment **Object to deletion of this reference However, SHEP has the following references on this matter: SHEP para1.16b Relevant bodies with responsibilities shd ensure effective use is made of statutory provisions available**
12. All the model policies are important and should be retained **Object to deletion of the model policies. See suggestions made above to retain the key text of Model Policy 3 on Archaeology and Model Policy 4 on Historic Gardens and Designated Landscapes.**
13. Model Policy 1 'Presumption against demolition' wording for LB's is particularly important **Object to deletion of this reference However, SHEP has the following references on this matter: SHEP para 1.33 states it is Sc Mins policy that the waste caused by unnecessary demolition shd be avoided wherever possible SHEP para 3.42 states clearly that there is a presumption against demolition or other works that adversely affect the special interest of a LB or its setting.**



14. Model Policy 2 The application, in Policy 2, of the demolition policy to non-listed buildings which contribute positively to Conservation Area character, is also of fundamental importance **Object to deletion of this clear and strong reference. SHEP has only the following references on this matter: SHEP para 3.60 has a ref that for a building of any value, the PI Authority shd make a positive attempt to achieve restoration BUT this is much weaker than the existing SPP23 ref. The SHEP ref goes on to list reasons why demolition may be thought appropriate eg if structural condition rules out retention at reasonable cost, or its form or location make its reuse extremely difficult. ALSO, the other aspects of Model Policy 2 are also important and should be retained (inc no outline applications; reqt for a detailed pl app to accompany any app for demolition).**

15. Para 23 of existing SPP23 states that Planning Authorities should ensure access to a SMR or Heritage Environment Record.

**We object to deletion of this reference**

## **COMMENTS ON SPP STRATEGIC ENVIRONMENTAL REPORT**

**Question 2 of the consultation section on this asks:**

**2. Do you agree that the SEA covers all of the significant policy changes within the SPP? If not, please highlight any other policy changes which could generate significant environmental effects. Should the Scottish Government agree that the SEA process has overlooked any significant policy changes, further environmental assessment work will be undertaken, to inform the finalisation of the policy. If necessary, this will include additional consultation on a revised environmental report.**

**The following changes should be fully considered as to whether they could generate significant environmental effects.**

### **1.Role of Planning Authorities**

**The loss of the following SPP policy points:**

1. Para 5 Government expects LA's to maintain a commitment to historic environment & reflect the SPP in their policies & resource allocation
8. Para 22 PI Authy's shd ensure sufficient specialist conservation & archaeological advice
24. Para 50 PI Authy's are strongly encouraged to use Building Preservation Notice, Urgent Works and Repairs Notice powers & compulsory purchase to minimise loss within historic Environment
33. Para 23 of existing SPP23 states that Planning Authorities should ensure access to a SMR or Heritage Environment Record.

### **2. Protection of Conservation Area Character**

**The loss of the following SPP policy point and Model Policy 2:**

20. Para 42 important: 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"

28. Model Policy 2 The application, in Policy 2, of the demolition policy to non-listed buildings which contribute positively to Conservation Area character, is also of fundamental importance

### **3. Protection of Historic Gardens or Designated Landscapes**

**The loss of the following SPP policy point and Model Policy 4:**

22. Para 46 Effect on a Garden or Designated Landscape is a material planning consideration

#### **MODEL POLICY 4: Historic Gardens and Designed Landscapes**

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

### **4. Protection of National and other significant archaeological resources**

**The loss of Model Policy 3:**

#### **MODEL POLICY 3: Scheduled Monuments, other Archaeological Sites and Monuments**

*Scheduled monuments and other identified nationally important archaeological resources shall be preserved in situ, and within an appropriate setting. Developments which have an adverse effect on scheduled monuments or the integrity of their setting shall not be permitted unless there are exceptional circumstances.*

*All other significant archaeological resources shall be preserved in situ wherever feasible...*