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HISTORIC ENVIRONMENT MANAGING CHANGE GUIDANCE – PRINCIPLES AND PRACTICE FOR DESIGNATION

Introduction

1. The Scottish Property Federation (SPF) is the voice for the real estate industry in Scotland. We include among our members: property investors, including major institutional pension and life funds; developers; landlords of commercial and residential property; and professional property consultants and advisers.

Key Interest

2. The SPF's main interest in the Policy is to assist Historic Environment Scotland (HES), through working effectively with the private sector, to remain in a position to support positive outcomes for the historic built environment. The private sector is the largest source of investment in the heritage sector and we are pleased to work ever more closely with HES, to drive the potential of the sector and its contribution towards sustainable economic growth.

Key Concerns

- The key tenet of the SPF's policy on the historic environment is our belief that the best way to maintain historic properties is through their effective retention in use. However, difficult decisions will occasionally need to be made regarding the continued use and existence of some buildings where this is not feasible, for a variety of reasons.
- The industry would welcome the support of HES to address the growing complexity and legacy of managing historic assets, where challenging economic conditions have tested viability considerations and their regenerative potential.

General Comments

3. We recognise and understand the need for preservation and note the assumption to conserve historic buildings. However, difficult decisions will occasionally need to be made regarding the continued existence of some buildings where this is not feasible. Clearly it will be preferable to adapt or manage buildings to alternative uses in order to preserve their existence, but it is important to recognise that sometimes historic buildings need to be adapted to fit modern requirements and standards, including regulatory requirements.
4. Our members are firmly of the view that reference to the legal obligations of statutorily designated assets should be incorporated into policy and guidance. There is a growing legacy of

historic assets where challenging economic conditions have tested viability considerations and their regeneration potential.

5. The SPF welcomes the opportunity to respond to this consultation and would be pleased to discuss our views and comments at HES's convenience. We are also happy for our comments to be shared with other public bodies. We have worked closely with our members who have made the following points in relation to the Designation: Principles and Practice for Designation consultation. I am aware that some of our members have responded separately, for example Turley, and we support these comments.

DESIGNATION: PRINCIPLES AND PRACTICE FOR DESIGNATION

Do you feel that there is anything missing from the document?

Our members are firmly of the view that listing should be reviewed regularly and should be considered upfront in the guidance; particularly whether buildings should be delisted. It would be helpful if the guidance could take account of this.

It is critical to be more explicit if it is considered that a building should no longer be listed. Our members are also of the view that listing should be separated from ability to demolish due to extensive timescales.

Our members have suggested that in the case of significant loss of fabric or features of interest by deterioration owners should be directed to HES's Designations Team to review the listing to determine if a building is still of special architectural or historic interest. The guidance should make it clear that HES may consider *de-listing* such a building.

A key issue is whether a listed building retains the merits it was listed for in the first instance. It is also important to understand whether an alternative use can be found. For example, many ecclesiastical buildings struggle to find an alternative use.

PRINCIPLES AND PRACTICE

To what extent do you agree or disagree with the principles for designation?

To what extent do you agree or disagree with how the principles for designation are to be applied?

Do you have any other comments on our principles for designation?

Assessing and interpreting cultural significance is a particular skill. Our members are of the view that while the Annexes to the guidance seek to explain how to assess cultural significance, a clearer definition of cultural significance would be helpful upfront in the main text of the guidance.

Our members are also of the view that the text in this section of the guidance implies that change in the historic environment should be prevented and does not imply that change should be managed. The use of the word 'ensure' should be avoided as this could leave decisions made open to legal challenge and suggests a guarantee that the benefits, understanding and enjoyment of the historic environment will override all other determining factors in decision makers, including the cultural significance of the historic environment asset or place.

HOW WE DO OUR WORK

To what extent do you agree or disagree with our priorities for designation?

Do you have any other comments on our priorities for designation?

Reviewing listed buildings and consideration of whether they can be delisted does not sit easily and, in the main, works counter to the development process and associated timescales. It would be helpful if the guidance could take account of this. Listing should be reviewed regularly and should be considered upfront in the guidance.

HOW WE ASSESS SITES AND PLACES

How clear do you find the explanation in this section of our approach to assessing sites?

Definition of types of designations and non-designated assets and clarity between these different types would be helpful, including the weighting afforded to different designations in the decision-making process, and assessments of harm.

Our members have expressed concern that it is not always possible to retain all the elements that contribute to the cultural significance of the heritage asset and to provide it with a sustainable long-term future. Sometimes loss/change is unavoidable, and a balance or compromise must be made, informed by the understanding of significance and other economic or environmental factors.

DEVELOPMENT PROPOSALS AND DESIGNATION

How clear is this explanation of our approach to designation where there are development proposals?

Do you have any other comments on the section on Development Proposals and Designation?

Our members are firmly of the view that LDP reviews and new development plan timescales need to be co-ordinated with the new policy and guidance framework – e.g. to ensure that they are within the correct timeframe and consistent with the new national policy and guidance.

They are also of the view that this section would benefit from further clarity on what constitutes or could constitute significant harm and how this relate to cultural significance. Clarification on how this should be measured and how can it be justified would also be helpful.

It can be difficult for a decision maker (whether as a developer or an LPA) to demonstrate conclusively that they have adopted a holistic approach to the historic environment and provided an inclusive understanding of its breadth and cultural significance. There must be some element of proportionality respective to the heritage asset and the proposals coming forward.

Awareness training and guidance in the application of the new national policy and guidance needs to be provided to local authorities and other decision makers, including HES in relation to significance and assessing levels of harm/impacts. Decision makers are unlikely to be familiar with these terms and their implications for decision making.

OTHER FORMS OF RECOGNITION

To what extent do you agree that the section on other forms of recognition is clear in its meaning?

To what extent do you agree that the section on other forms of recognition is helpful for local decision- making?

Our members are concerned that decision makers in the development process are not sufficiently trained to assess cultural significance, interpret assessments of significance and attributing values, or how these assessments can inform and contribute to the development process.

ANNEX 2: LISTED BUILDINGS

Annex 2 explains how we decide if a building is of special architectural or historic interest for listing. How clear do you find this explanation?

Reference to national, regional and local importance has been removed from the listing category definitions. This is to better reflect how listed buildings are designated the national level. How clear do you find the revised listing category definitions?

Our members are concerned about the definition of 'setting', which often extends beyond immediate property boundaries into the wider area. This always needs to be undertaken on a reasonable basis balancing the interests of regenerating the listed building, the setting and the factors that will make redevelopment economically viable for the building's specific circumstances. Setting can also be a challenge in relation to historic battlefields as discussed below.

As stated above our members are concerned that decision makers in the development process may not be sufficiently trained to assess cultural significance, interpret assessments of significance and

attributing values, or how these assessments can inform and contribute to the development process.

It is worth noting that in some instances buildings may have been poorly detailed or designed in certain areas and have inherent faults. There should be an acknowledgement of such flaws and a preference to correct issues given the advancements in building technology.

ANNEX 3: CONSERVATION AREAS

Local authorities are primarily responsible for designating conservation areas, but as the lead body for the Historic Environment we think it is appropriate to set out guidance on this topic. The guidance here closely follows that established in the Historic Environment Scotland Policy Statement. Do you have any comments on how this can be improved or changed?

Sometimes overlapping policies introduced for the purpose of conserving and preserving the historic environment can make it challenging to address issues of use and adaptation. For example, retrofit requirements as a result of the energy efficiency agenda. Some guidance on the approach to this in designating areas would be helpful. Guidance cross-referenced with a link to the Demolition Guidance would be helpful on how non-listed buildings in conservation areas should be dealt with.

ANNEX 5: THE INVENTORY OF HISTORIC BATTLEFIELDS

**Annex 5 explains how we decide if a battlefield is of national importance for including on the inventory. How clear do you find this explanation?
Do you have any other comments on Annex 5?**

Protecting broadly identified historic battlefields from inappropriate development is undoubtedly a good thing. However, the designations that have been made so far seek to capture the wider area of the battlefield and are often extensive. Further guidance clarifying this would be helpful. No notice or consultation is required for the listing of a battlefield, except after the event and commercial properties in these areas, including modern properties, may face additional planning controls when they next require a property refit.

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