

**THE HIGHLAND COUNCIL**  
**PLANNING, ENVIRONMENT AND DEVELOPMENT**  
**COMMITTEE**  
**21 January 2009**

Agenda Item	
Report No	

**Historic Scotland Consultation: Draft Joint Working Agreement with  
Planning Authorities in Relation to Statutory Casework and Consultation**

**Report by Director of Planning and Development**

**SUMMARY**

This report introduces a Historic Scotland consultation on a DRAFT Joint Working Agreement with planning authorities in relation to statutory casework and consultation. Responses are sought by 28<sup>th</sup> January 2009. Committee is asked to consider the draft response attached at Appendix 1 and to approve it as the Highland Council response, subject to any additional points Members wish to add.

**1. Introduction**

- 1.1 Historic Scotland is consulting on a draft Joint Working Agreement with planning authorities in relation to statutory casework and consultation. Responses, which should be submitted via COSLA, are sought by 28<sup>th</sup> January 2009. Copies of the full consultation are available in the members lounge and can be accessed at: [www.historic-scotland.gov.uk/index/about/consultations/currentconsultations.htm](http://www.historic-scotland.gov.uk/index/about/consultations/currentconsultations.htm) A copy is also available on the Members Bulletin.
- 1.2 Once the Joint Working Agreement is finalised planning authorities will be invited to sign it.

**2. Purpose of the Joint Working Agreement**

- 2.1 Scottish Ministers expect planning authorities and Historic Scotland to work in partnership to deliver their objectives for the historic environment. In this context, the joint working agreement sets out the basis for an effective partnership.
- 2.2 The aims of the Joint Working Agreement are to:
- Manage Scotland's historic environment effectively and efficiently;
  - Improve performance in handling statutory casework;
  - Empower planning authorities to provide advice and make decisions locally;
  - Add value to the development planning and management processes by encouraging planning authorities to engage Historic Scotland where appropriate and as early as possible;
  - Protect the outstanding universal values of Scotland's World

- Heritage Sites; and
- Encourage partnership between Historic Scotland and planning authorities

2.3 The draft Joint Working Agreement addresses three main themes – designations, development planning and development management and explains who is responsible for what and how local authorities and Historic Scotland should work together on each theme. The draft also sets out how more effective working relationships can be built and maintained through strategic liaison.

### **3. Roles and responsibilities**

#### **3.1 Designations**

##### Scheduling

Historic Scotland is responsible for scheduling monuments and determining applications for scheduling. Planning authorities may nominate sites to be considered for scheduling.

##### Listing

Applications for listed building consent are handled by planning authorities. Listing is carried out by Historic Scotland. Planning authorities are consulted on listing proposals, may propose buildings for listing and have powers to serve Building Preservation Notices.

##### Inventory of gardens and designated landscapes

Sites included in the inventory are of national importance. Planning authorities should consult Historic Scotland where development is proposed on or near such a site. Historic Scotland compile the inventory. Planning authorities may propose sites for inclusion.

##### Wrecks

Historic Scotland identifies wrecks for protection.

##### Conservation Areas

Conservation areas are designated by planning authorities in consultation with local residents, occupiers and other interested bodies. Historic Scotland should be consulted on proposals to designate conservation areas.

#### **3.2 Development Planning**

Planning authorities prepare development plans and should consult Historic Scotland when doing so. For their interest Historic Scotland can help ensure that development plans reflect national planning policy and guidance and reduce the potential for challenge during the consultation and inquiry stages of development planning.

#### **3.3 Development Management**

There are three main areas in which planning authorities must involve

Historic Scotland before a decision can be issued. These are:

- Listed Building Consent;
- Conservation Area Consents; and
- Planning Permission

There are three stages in the life of an application at which planning authorities **may** involve Historic Scotland in a proposal involving a historic asset or its setting. These are:

- Pre-application consultation;
- Consultation during the assessment of an application; and
- Post determination

#### 3.4 **World Heritage sites**

There are no legislative requirements for planning authorities to consult Historic Scotland on applications for planning permission purely because they lie within World Heritage Sites or impact on their setting. However if a planning authority believes that proposals may threaten the outstanding values of a World Heritage Site, it is expected to seek advice from Historic Scotland at an early stage.

#### **4. Highland Council response**

- 4.1 The consultation poses 11 questions related to the proposed Joint Working Agreement. A draft Highland Council response is attached at Appendix 1 for consideration and approval.

#### **5. Fit with the Programme for the Highland Council 2009 - 2011**

- 5.1 It is suggested that responding to this consultation assists the Council achieve its Programme priorities for the environment.

#### **6. Resource Implications**

- 6.1 There are no resource implications attached directly to this paper. Any potential implications flowing from an invitation to enter into a future Joint Working Agreement with Historic Scotland will be reported when appropriate

#### **RECOMMENDATION**

Committee is recommended to consider the draft response attached at Appendix 1 and to approve the response subject to any additional points members wish to add.

Signature:

Designation: Director of Planning and Development

Date: 5<sup>th</sup> January 2009

Author: G Hamilton (CHNRM) Ext 2568

Ref:

**Background Papers:**

1.0 Historic Scotland Consultation: A Joint Working Agreement between Historic Scotland and Planning Authorities in relation to Statutory Casework and Consultation Environment: October 2008.

**Historic Scotland Consultation  
Draft Joint Working Agreement between Historic Scotland and Planning  
Authorities in Relation to Statutory Casework and Consultation**

**Highland Council Response**

**General**

*Q1: Do you consider that the Joint Working Agreement will be useful? Please explain why.*

Highland Council welcomes the Joint Working approach proposed and recognises that one aim should be to support speedier, more responsive decision making, which is compatible with the Planning Etc (Scotland) Act 2006. Other aims are also supported.

However, as presently drafted the Joint Working Agreement is a useful position statement and summary of the respective responsibilities of local authorities and Historic Scotland. Highland Council would wish to see more detailed consideration of the future roles of local authorities and Historic Scotland. In particular, and in order to support assessment of resource implications, it would be helpful to describe some of the practicalities involved in future joint working. Without some further detail, the Highland Council is not clear how the Working Agreement as currently drafted will actually deliver the aims set out in paragraph 2

**Paragraph 8**

*Q2: Are there any other areas besides those listed where Historic Scotland works with you local authority?*

Highland Council currently administers the Thatched Building Maintenance Scheme under devolved arrangements on behalf of Historic Scotland.

Part of developing joint working, and with a focus on planning policy development, the Council would like to discuss the opportunity for the secondment of Historic Scotland staff to assist policy development.

Other areas where Highland Council works closely with Historic Scotland include:

Doors Open Day  
Buildings at Risk Register  
Wick Townscape Heritage Initiative

Conservation Area Regeneration Scheme Projects (Wick and possibly Dingwall)  
Archaeology Month Scotland and Highland Archaeology Fortnight

### **Paragraph 19**

*Q3: How effective are the current development plan consultation arrangements between Historic Scotland and your local authority?*

Current arrangements with Historic Scotland are reasonably effective. However, in line with the new Planning Act there is scope for considerable improvement. In particular, Historic Scotland should be more pro-active in their involvement in Development Plans. As currently drafted the Joint Working Agreement puts the onus firmly with the planning authority. Highland Council wishes to carry out early and effective engagement with Historic Scotland, rather than the current process which involves large amounts of correspondence. The Council would like to see more active Historic Scotland involvement in the preparation of plan strategies. Ideally there should be a dedicated contact for each Council area to support full discussion of the strategic policy approach required – this approach has worked well with agencies like Scottish Water. Such an approach would assist in delivering Development Plans more quickly than has historically been the case, which of course is also a requirement of the new Planning Act.

A major omission from the draft Working Agreement (for which it is difficult to see a reason) is any **substantial** reference to the role of Historic Scotland in Strategic Environmental Assessment. This is a key area for early engagement. The approach the Council wishes to take in relation to SEA is one which is based far more on active discussion, rather than the current system which relies on correspondence. If timescales are to be speeded up it is necessary to establish fit-for-purpose processes linked to SEA, which are practical and proportionate.

The Council would therefore welcome the opportunity to discuss with Historic Scotland how it can assist them in targeting SEA activity and the development of plan strategies.

### **Paragraph 30**

*Q4: Do you think Historic Scotland and local authorities should work together more closely to protect World Heritage Sites? If so how would you suggest we do this?*

Yes, this would be beneficial and could be achieved via the provision of training and awareness raising events, perhaps jointly run. It may also be helpful to establish (via COSLA perhaps) a working group that would draft protocols governing working procedures where projects within or adjacent to World Heritage Sites are proposed.

The response to question 3 above also refers.

### **Paragraph 32**

*Q5: How should Historic Scotland help resolve issues where they have objected?*

Where Historic Scotland has objected and is aware of an alternative proposal that would (or might) be acceptable, then it should guide local authorities towards the alternative. If there is no reasonable prospect of an alternative scheme being acceptable, then Historic Scotland should make that absolutely clear to the planning authority. Such an approach should both promote sensitive development and help minimise time on abortive work by the applicant.

Pre-application consultation would also minimise the number of objections received from Historic Scotland and the level of abortive work on behalf on the applicant's behalf.

The response to question 3 above also refers.

### **Paragraph 25 – 37**

*Q6: Do you think the current notification process could be improved? If so how?*

Yes. With other statutory consultees such as SEPA and SNH – and indeed Historic Scotland where they are consulted in terms of the GDPO – the Council consults on a planning application and, if they object but the planning authority is minded to approve, then, subject to the terms of the relevant Direction, the application must be notified to Ministers.

Is there any reason why HS should not be involved in the same way for applications for Listed Building Consent and Conservation Area Consent? This would have the benefit of speeding up the processing of applications in many cases and avoids the need for the planning authority to have to reach a view and thereafter notify Historic Scotland.

The development of e-planning should provide opportunities to improve the notification process.

### **Paragraph 42**

*Q7: Are there any other ways Historic Scotland and local authorities liaise at a strategic level? If not, should there be?*

The response to question 3 above refers.

### **Paragraph 43**

*Q 8: Do you think the local authority has the necessary expertise and polices to deal with development proposals relating to the historic environment without*

*reference to Historic Scotland? If so would you be interested in this should it be implemented*

Highland Council does not currently have the necessary in-house expertise and policies to deal with development proposals without reference to Historic Scotland. However, the Council is currently advertising to fill a recently vacated post which would provide expertise to partially support the delegated approach suggested. The Council is also considering the development of policies that would support the delegated approach and would be interested in further discussions with Historic Scotland on its implementation. In particular, the Council would welcome discussions on the possibility of secondments from Historic Scotland to the Council in support of policy development.

The Council's response to Question 2 above refers.

### **Appendix 1**

*Q9: Is the list of information required for consultation with Historic Scotland on proposals affecting the historic environment appropriate?*

Highland Council considers the information requirements set out in Appendix 1 of the draft Working Agreement to be appropriate and will endeavour to make sure that the information required is made available.

### **Appendix 4**

*Q10: Do you agree with the definition of specialist conservation advice provided in Annex 4? If not can you suggest how it should be changed?*

Highland Council agrees with the definition of specialist conservation advice provided in Appendix 4/5

### **Appendix 5**

*Q11: Which issues do you believe Historic Scotland should remain involved with and why?*

Historic Scotland should maintain its current role and its involvement in designation, development planning, development management and in the provision of general advice where appropriate.

Where possible devolution of functions should take place and Historic Scotland should be prepared to consider secondments to local authorities and to contribute to the development of local authority planning policy. Both activities should help facilitate further devolution of function.

The Council's response to questions 2, 3 and 5 also refer; in particular where Historic Scotland can provide pre-application advice, SEA input and advice on acceptable project alternatives.

Highland Council  
January 2009