

## Consultation on Scottish Planning Policy 23 – Planning and the Historic Environment (SPP 23)

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**Planning Committee**  
**15 May 2008**

### **1 Purpose of report**

- 1.1 To recommend the Council's response to the Scottish Government consultation on Scottish Planning Policy 23 – Planning and the Historic Environment (SPP 23)

### **2 Summary**

- 2.1 This report makes recommendations on the Council's response to a Scottish Government consultation on Scottish Planning Policy 23 – Planning and the Historic Environment (SPP 23), which sets out national planning policy for the historic environment with a view to its protection, conservation and enhancement and indicates how the planning system will contribute towards the delivery of Scottish Ministers' policies. The draft SPP23 encourages a positive approach by planning authorities to managing change in the historic environment, and much of the content is supported. However, there are issues which are considered to potentially lessen the effectiveness of the Planning system's approach to the management of the historic environment and archaeology. These relate particularly to the failure to carry forward relevant content from current Planning Guidelines and the need to provide additional clarification and guidance.
- 2.2 Critically, with Edinburgh at the core of a city region with a growing economy requiring development, the SPP must recognise that heritage can not be static and must allow cities to change and adapt.

### **3 Main report**

#### **Background**

- 3.1 National Planning Policy Guidelines (NPPGs) provide policy guidance for development management in Scotland, supported by detailed Planning Advice Notes (PANs), which contain advice on good practice. The NPPGs are being replaced by Scottish Planning Policies (SPPs), which will provide up dated policy guidance. The PANs will remain to provide best practice advice.

- 3.2 Scottish Planning Policies (SPPs) provide statements of Scottish Government policy on nationally important land use and other planning matters. Statements of Scottish Government policy contained in SPPs and Circulars may be material considerations to be taken into account in Development Plan preparation and Development Management. Existing National Planning Policy Guidelines (NPPGs) have continued relevance to decision making, until such time as they are replaced by a SPP.
- 3.3 Scottish Planning Policy 23 – Planning and the Historic Environment (SPP 23) will supersede and consolidate National Planning Policy Guidelines - NPPG 18 Planning and the Historic Environment and NPPG 5 Archaeology and Planning. It sets out the national planning policy for the historic environment with a view to its protection, conservation and enhancement and indicates how the planning system should contribute towards the delivery of Scottish Ministers' policies as set out in the Scottish Historic Environment Policy (SHEP) series produced by Historic Scotland.
- 3.4 Detailed advice will still be provided by PAN 42: Archaeology - the Planning Process and Scheduled Monument Procedures, which there are no plans to update. Scottish Historic Environment Policies (SHEP), issued by Historic Scotland, give the detailed historic environment policy background applicable to wider government activities in Scotland.
- 3.5 SPP 23 notes that the historic environment enhances national, regional and local distinctiveness, forges connections between people and places, promotes a positive image of Scotland across the world, and is a key resource contributing to Scottish Ministers' objectives for economic growth, sustainable development and successful place making. Scottish Ministers, therefore, place great weight on the proper protection of the historic environment through the planning system.
- 3.6 The contents of the draft SPP 23 are summarised in Appendix 1. The SPP also includes model Local Plan policies which are detailed in Appendix 2. The Council's comments on the draft are set out below under the main sections of the document.

**Sustainable Development and the Historic Environment  
(SPP 23 para 3-4)**

- 3.7 The draft SPP provides an holistic response to the Historic Environment and recognises the contribution and economic benefits which the conservation and management of this national resource can make to the sustainability objectives of national and local Governments. The holistic approach and recognition of the importance of good sustainable management of this finite resource is welcomed, and conforms with the aims and objectives of the Council.
- 3.8 Edinburgh is at the core of a city region to which the Scottish Government is looking for a lead in delivering its aspirations for the economy. To achieve these business and economic aims, people need to live, invest and study in

Edinburgh. To do that, the City must have a high quality of life - and the built environment and architectural heritage play an important part in that. The issue is encouraging new development of high quality design that enhances the built environment without compromising the qualities already here. This Scottish Government planning policy must recognise that heritage can not be static and must allow cities to change and adapt.

**Local Authorities and Legislation  
(SPP 23 paras 5-8, paras 10-14, 16 & 18)**

- 3.9 A summary of the legislative background to the historic environment is given. Emphasis is placed on the role of local authorities in the protection and enhancement through development management, and as owners and managers of historic assets. However, It is considered that this section is rather thin in discussing the role of local authorities, in comparison with the prominence given to the roles of other bodies. It is recommended that this section be expanded with a cross-reference to paragraph 4 of SHEP1 and also PAN 42 which details the key role of the local authorities. This section should also encourage local authorities to allocate appropriate, and sufficient, resources, ideally as full time staff and personnel for the provision of specialist advice on the historic environment within the planning system, as this Council has done.
- 3.10 There are significant concerns that the statement contained in NPPG 5 'the preservation of ancient monuments and their setting *is* a material consideration...' has been amended within para 12 of SPP 23 to read 'undesigned heritage assets, such as archaeological remains, *can be* a material consideration in the planning process'. This is a weakening of the force of the previous advice and could lead to the loss of significant archaeological and historic assets. If as stated in para 7 of the Strategic Environmental Assessment, the SPP is intended to be an amalgamation of existing policy, this apparent dilution of policy is not acceptable and should be amended in the final SPP.

**Statutory and Non-statutory Designations  
(SPP 23 paras 13-18)**

- 3.11 The Old and New Towns of Edinburgh were inscribed on UNESCO's list of World Heritage Sites in 1995. SPP 23 at para 17 retains the requirement that the impact of proposed development within a World Heritage Site is a material consideration in determining planning applications. This is welcomed.
- 3.12 Non-designated historic environment assets, which are included in the definition of the historic environment in SHEP 1 are not detailed in this section. It is recommended that an additional section be added after Non-Statutory Designations to give greater prominence to archaeological sites and landscapes, battlefields and vernacular buildings.

**Policy and Specialist Advice  
(SPP 23 paras 19-22)**

- 3.13 This section provides a brief summary of policy and discusses the importance both of the active management of the heritage resource and of informed change based on a clear understanding of any asset. However, whilst para 21 advises that Planning authorities should ensure that they can call on sufficient specialist conservation advice, it fails to specify the requirement for specialist archaeological advice. It is recommended that this wording be changed and in para 22 the wording should be similarly strengthened in terms of development plans.
- 3.14 Paragraph 20 states, "in most cases, the historic environment can accommodate change". This is welcomed in terms of some types of historic environment assets. However NPPG 5 makes clear that the archaeological asset is finite and non-renewable, which makes it vulnerable to change. Preservation in situ is, therefore, the dominant message of NPPG 5 and should be reiterated in SPP23.

**Local Plans  
(SPP para 24)**

- 3.15 The specified requirement for Local Plans to define the historic environment, establish detailed policies, management processes and action programmes appears to be at variance with Government guidance which recommends that Local Plans should be focused and concise.

**Model Local Plan Policies  
(SPP23 para 26 and Annex A)**

- 3.16 The SPP recommends model policies relating to heritage for inclusion in Local Plans. The perceived benefits are consistency; improved efficiency, resulting from potentially reduced time spent at public inquiry, and the sharing of best practice.
- 3.17 The Council's Local Plans contain policies which broadly conform with the intentions of the suggested model policies. However, Edinburgh has the greatest concentration of heritage assets in Scotland, and it is essential that the policies in the Local Plan reflect this. The concept of consistent model policies can be questioned in terms of the need to adapt policies to reflect regional and local distinctiveness, and the possible reduction in local commitment to such model policies.

- 3.18 However, if model policies are to be put forward:

- Model Policies 1, 1A and 2, relating to development and demolition of listed buildings and in conservation areas, do not include any reference to the need for a developer to ensure that an historic building survey is undertaken of a structure which will be significantly altered or demolished, as is presently common practice. It is recommended that the wording of these policies be strengthened to include reference to this.
- The introductory paragraphs to Model Policy 3, relating to archaeology, should include reference to developers' responsibility to provide sufficient information about the archaeological impact of a proposed development to the planning authority, in order that the authority can make an informed determination of the planning application. The normal mechanism for this is an archaeological assessment and evaluation (per NPPG5 para. 25).

### **Conservation Areas (SPP 23 para 36)**

- 3.19 The guidance on considering applications for planning permission within conservation areas addresses the issues raised by the conservation area test relating to preservation and enhancement. It is recommended that the statement: *'In considering applications for planning permission within conservation areas, planning authorities should have regard to the following:'* be amended to *'In considering applications for planning permission within conservation areas, planning authorities should **pay special attention** to the following:'*

### **Character Appraisals (SPP 23 para 37)**

- 3.20 The City of Edinburgh Council has completed a programme of Conservation Area Character Appraisals for all of its 39 conservation areas. The principal purposes of the Council's Character Appraisals are to define the key elements, essential features and special qualities that contribute to each areas architectural and historic interest, and to reinforce the Council's policy objectives of promoting, protecting and enhancing the environment. The appearance of the conservation area, its role and function within the wider urban context, the activity and vitality of its land uses and buildings, and its historic associations are all taken as contributing to the essential character.
- 3.21 The Council emphasises the role of Character Appraisals in assisting on-going management, if used in conjunction with existing statutory planning policies, detailed guidance and site-specific development briefs. They establish a framework against which development proposals can be assessed for their impact on character and appearance and provide a sound basis, defensible on appeal, for local plan policies and development management decisions. They are a material consideration when considering applications for development and it is a requirement that applications for significant new developments should be accompanied by a contextual analysis that demonstrates how the proposals take account of the essential character of the area as identified in the

document. The preparation of Character Appraisals for existing conservation areas has also enabled considered boundary review.

- 3.22 National Planning Policy Guideline 18: Planning and the Historic Environment (NPPG 18) specified that local authorities should prepare Conservation Area Character Appraisals on a priority basis, and made them a requirement prior to amending or designating conservation areas, or introducing Article 4 Direction Orders. This made the preparation of Character Appraisals an imperative where new conservation areas were to be designated or amended and where planning controls require to be strengthened by the introduction of Article 4 Direction Orders.
- 3.23 The replacement of this requirement in SPP 23 with a less imperative 'encouragement' to prepare Character Appraisals is contrary to what has been established as best practice in the assessment of conservation areas.

**Other Archaeological Sites  
(SPP23 paras 42-45)**

- 3.24 In regards to the policy towards non designated 'other' archaeological sites and monuments, and areas of historical interest (paras. 42 - 45) there are a number of significant changes between the draft SPP and NPPG5, which would tend to weaken the protection afforded to the historic environment.
- 3.25 NPPG5 includes (at para 12) the important phrase 'they (local authorities) help safeguard the archaeological heritage through their development planning and development control functions'. This is omitted in the corresponding paragraph 43 of SPP 23. Given the importance of this phrase it is recommended that an equivalent statement be included in the list of powers and responsibilities of local authorities.
- 3.26 Paragraph 45 does not make it clear that a Historic Environment Record (HER) or Sites and Monuments Record (SMR) must include an advisory capacity and is not merely an archive of records. Without professional archaeological advice, HER/SMR are merely an archive of records and do not actively maintain, update, interpret and curate the threats. The need for this professional service is acknowledged in NPPG5 (paras. 8 & 9). A professional archaeological advice service to local authorities is essential to efficiently deliver appropriate input to the Development Planning and Development Management process. This omission should be rectified.
- 3.27 The SPP recommends PASTMAP as a principal source of information on the historic environment. PASTMAP is a website maintained by Royal Commission on the Ancient and Historic Monuments of Scotland (RCAHMS) which provides a record of Listed Buildings and Ancient Monuments throughout Scotland. It is a useful website, but is not suitable for Development Management purposes, as the information provided requires interpretation. This section of the SPP should make clear the limitations of PASTMAP, and refer to the requirement to interpret the information provided by local authority archaeological and built heritage staff.

3.28 The draft SPP makes no mention of the possible roles that community, and non-statutory, organisations can have in safeguarding the historic environment. This is a significant omission, and the SPP should encourage local authorities to seek partnerships with other bodies, whenever feasible, to foster and secure better protection for the historic environment. Community partnership could have immense benefits for joint working and outcomes.

#### **Planning Conditions and Agreements (SPP 23 para 46)**

3.29 Paragraph 46, in discussion about the possibility of managing development impact on archaeological remains, requires clarification. It should be made clear that it is the developer's responsibility to organise and finance the necessary pre-determination assessment and evaluation to assess the impact of proposed works on any remains (as per NPPG 5 para. 25). It should also make explicit that it is the developer's responsibility to organise and fund any archaeological works required as a condition or section 75 agreement.

#### **Buildings at Risk**

3.30 The Scottish Civic Trust has operated a Buildings at Risk Register on behalf of Historic Scotland since 1990. The Register provides information about endangered buildings of all kinds, and runs to some 1,500 properties in Scotland. The principal purpose of the Register is to assist in the sale or lease of historic buildings in need of rescue by publishing details of them to a wide range of potential restoring purchasers or tenants. NPPG 18 contains detailed guidance on Buildings at Risk. The lack of any guidance on Buildings at Risk in SPP23 is considered to be a significant omission.

#### **Demolition**

3.31 Paragraph 49 of NPPG 18 discusses the degree of demolition which constitutes a requirement for conservation area consent. This is particularly useful advice, which is omitted from the SPP.

#### **Development Management**

3.32 Paragraph 38 of NPPG 18 contained detailed guidance to Planning Authorities on Development Management and it is considered that this should be included within the finalised SPP 23.

## **4 Financial Implications**

4.1 This report does not result in any financial implications for the Council.

## 5 Conclusions

- 5.1 The publication of SPP 23 is welcomed. However, there are issues which are considered to potentially lessen the effectiveness of the Planning system's approach to environmental management. These relate particularly to the failure to carry forward relevant content from current Planning Guidelines and the need to provide additional clarification and guidance. Critically, the SPP must recognise that successful cities need development and investment. Heritage can not be static, but must allow cities to change and adapt.
- 5.2 The weakening of the wording of measures relating to the archaeological resource is likely to lead to reduced protection of the historic environment, as is the omission of the importance of the advisory and curatorial role of local authority archaeological services.
- 5.3 There is no mention throughout the draft SPP and its environmental report of plans to update the detailed advice in PAN 42. However, the PAN is increasingly out of date, and the provision of new, detailed advice and examples of best practice in the use of the SPP would strengthen the policy, and would reduce any risk of weakening aspects of historic environment protection.
- 5.4 As comments were required by 9 May, this report has been forwarded as the Council's draft response, subject to the views of this Committee.

## 6 Recommendations

- 6.1 It is recommended that the Committee approves this report as its response to the Scottish Government consultation on Scottish Planning Policy 23 – Planning and the Historic Environment (SPP 23).



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<b>Appendices</b>	<p>Appendix 1: Scottish Planning Policy 23 – Planning and the Historic Environment: Content Summary</p> <p>Appendix 2: Scottish Planning Policy 23 – Planning and the Historic Environment: Model Local Plan policies</p>
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<b>Wards affected</b>	<p>Citywide</p>
<b>Background Papers</b>	<p>Scottish Planning Policy 23 – Planning and the Historic Environment (SPP 23)</p>

## **Appendix 1**

### **SCOTTISH PLANNING POLICY 23 – PLANNING AND THE HISTORIC ENVIRONMENT: CONTENT SUMMARY**

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

The historic environment is noted as being a finite resource and its conservation and management contributes directly to sustainability. From the energy and materials invested in a building, the scope for adaptation and re-use, to the unique quality of historic settlements with their mix of uses and good connectivity, the historic environment is a vehicle for achieving sustainable development and adapting to social and economic change. The historic environment can therefore play a key part in promoting sustainable economic growth and regeneration by ensuring that an area offers attractive living and working conditions which will encourage inward investment.

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

The Government encourages local authorities and others to maintain and strengthen their commitment to stewardship of the historic environment, and to reflect this planning guidance in their policies and their allocation of resources. Planning authorities should adopt suitable policies in their development plans and give effect to them through their development management decisions. It is noted that partnership between owners, users and public authorities is often the key to the long-term conservation of the historic environment.

#### **The Historic Environment - Definition & Role of Planning Authorities**

The environment has a historic dimension that contributes to its quality and character. The context or setting in which specific historic features sit and the patterns of past use and places important for their historic associations are part of the historic environment. It is these elements which the planning system, where it has responsibility, seeks to manage in a sustainable way. Planning authorities should make policy provision for the historic environment to ensure that its special qualities are safeguarded. This should cover statutory and non-statutory designations while recognising that non-designated heritage assets, such as archaeological remains, can be a material consideration in the planning process.

#### **Policy**

Scottish Ministers' policy for the historic environment reflects its importance as part of Scotland's cultural heritage. In some cases the importance of the heritage asset is such that change may be difficult without damaging the very qualities which distinguish it. However, in most cases, the historic environment can accommodate change and in these cases, the emphasis is on the informed management of change. Key to this process is a clear understanding of the historic importance of the heritage asset as the basis for informed change. The preparation of conservation area

appraisals and townscape audits can be particularly useful in informing planning policy and decisions

Policies for the stewardship of the historic environment should be set out in development plans with the emphasis on positive management and implementation. Planning authorities should also ensure that they can call on sufficient specialist conservation advice to inform their decision-making and to advise owners of historic assets and other members of the public.

## **Development Planning**

Development plans play a key role in achieving the Government's objectives for the historic environment. Planning authorities should ensure that development plans provide a land use policy framework for the protection, conservation and enhancement of the historic environment, within which any development impacts can be properly assessed.

Structure plans should set out general policies for the protection, conservation and enhancement of the historic environment. The spatial strategy of Strategic development plans should be informed by considerations including the capacity of settlements and areas of countryside to accommodate development without damage to their historic value.

Local plans and, in future, local development plans, should assess the scale of change likely to occur over the plan period and ensure that new development is accommodated without damaging the character of the historic environment. They should:

- Define the historic environment and its landscape or townscape setting, where appropriate, in proposals maps.
- Set out detailed policies and criteria for assessing development proposals to ensure the protection, conservation and enhancement of the historic environment.
- Include proposals for designating conservation areas and for reviewing their boundaries.
- Include details of existing and proposed Article 4 Directions.
- Include priorities for enhancement programmes, including opportunities for regeneration or revitalisation.
- Identify 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.

Planning authorities are encouraged to use the model policies and supporting text outlined in Appendix A and incorporate them as far as practicable into forthcoming development plans. In order to achieve greater consistency and reduce unnecessary effort by planning authorities in preparing development plan policies.

## **Development Management**

Planning authorities should seek to safeguard the historic environment in exercising their development management role. Planning authorities and developers should ensure that discussions take place at an early stage on development proposals affecting the historic environment. Where significant elements of the historic environment are likely to be affected by development proposals, it is expected that developers will identify 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.

Planning authorities are required to seek the views of Historic Scotland on planning applications where these impact on A-listed buildings, scheduled monuments and gardens and designed landscapes. Environmental Impact Assessment (EIA) is also an integral part of the process of determining planning applications. Historic Scotland is a consultation body under EIA legislation.

## **Listed Building Consent**

The primary consideration for planning authorities in the determination of applications for listed building consent are:

- The desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
- It may be necessary to allow enabling development if this can be shown to be the only means of retaining a listed building.
- No listed building should be demolished unless it can be demonstrated beyond reasonable doubt that the building is incapable of further use.

## **Conservation Areas**

In considering applications for planning permission within conservation areas, planning authorities should have regard to the following:

- proposed development that fails to preserve or enhance the character or appearance of the area should be refused planning permission
- proposed development that would have a neutral effect upon the character or appearance of the area (ie does no harm) should be treated as being one which preserves the area's character or appearance
- proposed development that would have negative and positive impacts should be weighed against each other and the proposals considered as a whole.

Planning authorities are encouraged to undertake conservation area appraisals which can assist owners and developers in formulating proposals and inform subsequent planning assessment and decision-making. They should also consider the likely impact of development proposals for sites which lie outwith the conservation area but which would impact upon its appearance, character or setting.

The objectives of conservation area management can for the most part be met through an effective policy framework and the positive use of existing development management and enforcement powers. Where necessary, planning authorities can put in place Article 4 Directions to maximise the protection of an area of historic value. Article 4 Directions should be progressed through local plans/local development plans and may require approval from Scottish Ministers.

In considering the demolition of an unlisted building within a conservation area, its contribution to the character and appearance of the area is the key consideration. Applications for demolition should, therefore, be permitted only where this does not erode the character and appearance of the conservation area. 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.

### **Scheduled Monuments**

Scheduled monuments are of national importance and they should be preserved in situ and within an appropriate setting. Proposed developments which would have an adverse effect on scheduled monuments or the integrity of their setting should not be permitted unless there are exceptional circumstances.

### **Other Heritage Assets**

Government policy is to protect and preserve non-designated heritage assets wherever feasible and, as such, they are material considerations in the planning process. Where this proves impossible, planning authorities should ensure that procedures are in place in order that appropriate recording is undertaken before and/or during development.

Planning authorities have a number of powers and responsibilities related to archaeological sites, monuments and areas of historic interest within their areas:

- they have powers to acquire ancient monuments and grant-aid the preservation of historic sites or monuments, whether in their care or not
- they can help to preserve and manage historic sites which contribute to the local landscape, amenities and economy
- they have a crucial role in the preparation and maintenance of records and archives as a basis for the above activities; and
- they can ensure that archaeological services are developed for planning, management, recreational and educational purposes.

Areas of special historical interest, such as battlefields, views and landscapes, may also be protected under the planning system, for example, through conservation area or landscape designations and included in development plans to inform planning decisions.

## **Sites and Monuments Record**

To support their development management function, planning authorities should ensure that they have access to a Sites and Monuments Record (SMR) and/or a Historic Environment Record (HER) that contains necessary information about known historic environment features and finds in their area.

## **Planning Conditions and Agreements**

In cases of archaeological remains where it is decided that physical preservation in situ is not justified and that development can proceed, the planning authority, before determining the application, should be satisfied that the developer has made appropriate provision for the excavation, recording, analysis, notification and publication of the remains. If unforeseen archaeological discoveries are made during any development, a skilled archaeologist should be given access to inspect and record these features. This situation should be managed through the use of conditions or Section 75 agreements.

## **Enforcement**

In positively managing the historic environment, planning authorities are encouraged to use the enforcement powers available to them. Action should be taken at the earliest opportunity to minimise loss within the historic environment.

## **Appendix 2**

### **SCOTTISH PLANNING POLICY 23 – PLANNING AND THE HISTORIC ENVIRONMENT: MODEL POLICIES**

#### **Listed Buildings**

Buildings of special architectural or historic interest are listed by the Scottish Ministers and divided into non-statutory categories A, B or C(s). The purpose of listing is to ensure that any demolition, alteration, repair or extension that would affect the building's special interest is controlled. When determining planning applications, Sections 14(2), and 59(1) of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 place a duty on Councils to have special regard to the desirability of preserving a listed building, or its setting, or any features of special architectural or historic interest which it possesses. In relation to the historic environment, SPP 23 provides the national planning policy context for listed buildings and is a material consideration in the determination of planning applications. Planning Circular 13/1998 refers planning authorities to The Memorandum of Guidance on Listed Buildings and Conservation Areas 1998 in their consideration of listed building consent matters.

#### *Model Policy 1: Listed Buildings*

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

*The layout, design, materials, scale, siting and use of any development shall be appropriate to the character and appearance of the listed building and its setting.*

#### *Model Policy 1A: Demolition of Listed Buildings*

*Proposals for the total or substantial demolition of a listed building will only be supported where it is demonstrated beyond reasonable doubt that every effort has been exerted by all concerned to find practical ways of keeping it. This will be demonstrated by inclusion of evidence to the planning authority that the building:*

- 1) has been actively marketed at a reasonable price and for a period reflecting its location, condition and possible viable uses without finding a purchaser; and*
- 2) is incapable of physical repair and re-use through the submission and verification of a thorough structural condition report.*

*RCAHMS shall be formally notified of all proposals to demolish listed buildings to enable features to be recorded.*

## **Conservation Areas**

Conservation Areas are areas of special architectural or historic interest, the character or appearance of which it is considered to be important to preserve or enhance. The main implication of designation is that consent will be required for specific types of development that would not otherwise require consent. This level of control can, in certain circumstances, be further extended through the introduction of an Article 4 Direction.

When determining planning applications, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to have special regard to the desirability of preserving or enhancing the character or appearance of the relevant designated area. Sections 159, 160 and 172 of the Town and Country Planning (Scotland) Act 1997 give planning authorities the powers to preserve trees in a conservation area in the interests of amenity. In relation to the historic environment, SPP 23 provides the national planning policy context for conservation areas and is a material consideration in the determination of planning applications. Planning Circular 13/1998 refers Councils to The Memorandum of Guidance on Listed Buildings and Conservation Areas 1998 in their consideration of an application affecting a conservation area.

### *MODEL POLICY 2: Conservation Areas*

*Development and demolition within a conservation area or affecting its setting shall preserve or enhance its character and be consistent with any relevant conservation area appraisal or management plan that may have been prepared for the area.*

*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 be preserved. Given the importance of assessing design matters, outline planning applications will not normally 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. 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 is given of contracts let for the approved development.*

## **Archaeology**

The Ancient Monuments and Archaeological Areas Act 1979 protects many nationally important archaeological sites and monuments. In addition, there are sites and monuments which, while not fulfilling the criteria for national importance, are of regional or local significance. All of these, whether scheduled or not, are fragile and irreplaceable. It is also important that the integrity of the setting of archaeological sites is safeguarded.

Planning authorities should ensure that archaeological factors are as thoroughly considered as any other material factor in both the development planning and the development management processes. Not all remains are of equal importance and planning authorities should consider the various categories of archaeological remains as well as the specialist advice from an archaeologist.

### *MODEL POLICY 3: Archaeology*

*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. The planning authority will weigh the significance of the archaeological resources and of any impacts upon them and their settings against other merits of the development proposals in the determination of planning applications.*

*The developer may be requested to supply a report of an archaeological evaluation prior to determination of the planning application. Where the case for preservation does not prevail, the developer shall be required to make appropriate and satisfactory provision for archaeological excavation, recording, analysis and publication, in advance of development.*

### **Gardens and Designed Landscapes**

Historic Scotland compiles and maintains a national Inventory of Gardens and Designed Landscapes. The impact of proposed development on a site included on this Inventory, its special interest and value, is a material consideration in the determination of a planning application. Under Article 15 of the Town and Country Planning (General Development Procedure) (Scotland) Order 1992, [as amended April 2007], planning authorities must consult with Historic Scotland on any proposed development that may affect a site contained in the Inventory. Planning authorities are encouraged to take measures to safeguard and enhance Inventory sites, and also other important gardens and designed landscapes. The Memorandum of Guidance on Listed Buildings and Conservation Areas 1998 provides more information.

### *MODEL POLICY 4: 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.*