

Model Policy Pilot
Scottish Executive
Development Department
Planning Division
Area 2-H, Victoria Quay
Edinburgh
EH6 6QQ

3 June 2005

PILOT MODEL POLICIES

I refer to your letter and Task Group report of 13 May 2005 concerning Pilot Model Policies and am pleased to respond on behalf of the Historic Environment Advisory Council for Scotland (HEACS).

HEACS was established by Scottish Ministers in 2003 as an advisory Non-Departmental Public Body to provide informed and independent advice on issues affecting the historic environment, which includes structures and places of historical, archaeological and architectural interest.

General Comments

- 1 HEACS would have welcomed a longer consultation period as, apart from the wish and need to consult a number of our members, currently we have a HEACS Working Group investigating planning legislation as it affects the heritage area; its considered views would have been helpful in responding to the interesting suggestions in this paper.

For your information, the Legislation Working Group is engaged in a task set by the Minister for Tourism Culture and Sport and there are a number of issues raised in the consultation document which overlap with the area on which HEACS is due to report later this year.

- 2 HEACS applauds the intention of achieving greater consistency and reducing unnecessary effort by Local Authorities in preparing policies. HEACS believes that this initiative should be broadly welcomed as a stopgap measure bringing improvements to the planning system, and is content, with the reservations that are expressed below, that the objectives of the policies are clear.
- 3 HEACS agrees with the tenor of the paper that the recommendations set out in the model policies should be positive, rather than being prescriptive if good

practice is to be followed. Having said that, HEACS is unsure as to how this positive tone finds its way into the wording of the model policies themselves and into the formal guidance. HEACS is concerned to note the attempt contained in the paper to impose controls through the use of terminology and practices that negate the non-mandatory nature of the proposals. It is clear from the covering letter that the use of model policies would not be mandatory and therefore the recommendations amount to advisory guidelines. There is obviously no legislation that makes the guidelines compulsory and yet the report indicates the intention to designate the policies as “preferred” policies that Authorities “should” use. The utilisation of “should” within formal documentation is not normally interpreted as “must” but that appears to be the intent of the document, although there is no legal basis for such a statement.

- 4 Paragraph 8 indicates, again, a stance that has no legal basis in suggesting that Local plan inquiries could (“might”) involve Councils in justifying their use/non-use of model policies. Perhaps the Task Group has given insufficient attention to the reasons for local differences, and have not regarded diversity as a strength of the system as it exists.

Specific Comments

- 5 The Model Policies are worded in a fairly conservative manner. Many Councils have stronger wording than is utilised in the statements e.g. for archaeology, where Councils protect all important sites, not just nationally important ones. Also, as we know all too well, not all councils currently have an archaeological service, so HEACS would raise the question as to what is the fallback position? The advice on sites of local or regional importance is valuable, but again HEACS would pose the question as to what is to be the approach if there is no SMR in existence?
- 6 HEACS would express concern about the protection of Inventory sites for designed landscapes. The documented statement is welcome, as far as it goes, but this is far from perfect in the light of the total inadequacy of the Inventory. HEACS is aware that the inventory is by no means complete, and that there are gaps; within these gaps HEACS would raise the question as to who defines when a site represents *importance*?
- 7 HEACS notes with interest that the only reference to Architecture and Design Scotland occurs in relation to developments involving National Scenic Areas (para 24), whereas HEACS would recommend that this requirement should run through the whole of the paper in relation to each of the model policies. The absence of such a reference may suggest that conservation officers within local authorities and the agencies (HS perhaps more than SNH) are appropriate arbiters of design quality. The experience of HEACS members is that this is rarely, if ever, the case, and it is important that the principle of replacement structures that are even better than the structures being demolished, or changed, is embraced.

- 8 HEACS would recommend that one of the model policies should address the issue of reconciling competing demands on the natural and historic environment to avoid the 'silo' mentality that occurs when each of the consultees is invited to give comments on any development application. HEACS would raise the question as to what is the mechanism for dealing with this within the local authorities themselves? HEACS is not convinced that the skills to do this will always be locally available in each local authority area.

Effectiveness of the Pilot model Policies

- 9 HEACS is concerned that, by clearly going for what national agencies want, we will throw some well-developed policies aside where a number of proactive Councils have advanced well beyond the stance advocated. We appreciate that this minimalist approach advocated in the document is determined by the attempt to establish standards at a common denominator but we would be concerned if this became the norm when many Councils are well beyond this level. On balance, HEACS is not convinced that the policies provide Councils with enough information to determine applications in all the variety of situations that arise across the Country.
- 10 HEACS would suggest that an opportunity has been lost in the document, in that the guidance for applicants does not embrace the principle of ensuring that those who prepare the application on behalf of the applicant have the appropriate skills since this is where so many of the contentious applications go wrong. The advice in the document is mainly reactive, rather than proactive and therefore the direction given to applicants and people in the community is not as well developed as would be expected.

The method proposed to roll out the approach more widely

- 11 HEACS would wish rather more time to consider how the approach might be expanded and would advocate that the present proposals be subject to a monitoring regime, with further development dependent on positive acceptance and feedback from the various planning interests.

I hope that the foregoing will be of assistance in your considerations.

Yours sincerely

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Chair