

HERITAGE PROTECTION REVIEW

Introducing Heritage Partnership Agreements

Introduction

The Government recognises the need for change to the current system of heritage protection management. The recent Heritage Protection Review (HPR) undertaken by the Department for Culture, Media and Sport (DCMS) has recommended the introduction of statutory management agreements. These statutory management agreements, known as Heritage Partnership Agreements (HPAs), are intended for complex or multiple sites as an alternative management regime to the heritage consent system. This paper draws on the use of management agreements discussed in Paul Drury's report *Streamlining listed building consent: lessons from the use of management agreements*, published by English Heritage (EH) and the Office of the Deputy Prime Minister (ODPM) (the Drury Report); and the early findings from HPR pilot projects to consider the scope for the use of HPAs and highlight issues for further discussion.

This paper should be read in conjunction with a further three papers addressing linked aspects of the HPR. These cover: reforming heritage consents; reforming heritage designations; and local delivery.

The current system

Agreements between partners for the management of historic assets are not new to the heritage protection system. They have been used for several different types of setting, outlined below.

Sites of Special Scientific Interest (SSSIs) English Nature encourages the use of management plans for identifying methods to conserve the special features of SSSIs. These plans may be accompanied by management agreements specifying work that needs to be carried out. If SSSIs are suffering as a result of poor management or neglect, and English Nature cannot reach a voluntary agreement with the site owner, they may impose management schemes.

World Heritage Sites UNESCO introduced the control regime of agreed management plans to bring together all responsible parties to ensure a co-ordinated approach to the management of World Heritage Sites (WHS). Inclusion of a site on the WHS list is not a further instrument of control, but it highlights the importance of the site as a material consideration to be taken into account by the local planning authority. UNESCO also requires that regulatory measures are in place to protect the site at a national level. Breach of a management agreement may lead to a report being made to UNESCO. The site may then be monitored and ultimately WHS status may be withdrawn.

Environmental Stewardship (ES) Administered by the Rural Development Service for the Department for Environment, Food and Rural Affairs (DEFRA), ES agreements replaced the Environmentally Sensitive Areas and Countryside Stewardship Schemes and are 'agri-environment' schemes. ES is a multi-objective scheme, designed to conserve wildlife; maintain and enhance landscape quality and character; protect the historic environment (including archaeological sites); protect natural resources; and

promote public access and understanding of the countryside. It has three elements; these are:-

Entry Level Stewardship (ELS) and Organic Entry Level Stewardship (OELS) - which are open to all farmers and land managers who want to deliver a basic level of environmental management on organic and inorganic land.

Higher Level Stewardship (HLS) - which builds on ELS/OELS and is targeted at high priority situations and areas to deliver significant environmental benefits for higher payment rates.

Higher level stewardship includes capital items to draw up conservation management plans which are required to enable subsequent works to protect and enhance historic environment assets, including the restoration of designed landscapes, traditional buildings and the protection of historic features.

Scheduled monuments Almost all works carried out to a scheduled monument require consent. The consent regime is currently administered by DCMS. In addition to the consent regime, PPG16: Archaeology and Planning identifies that a monument may be subject to progressive decay and a management plan and regular maintenance may be essential to prevent this. A management agreement made under section 17 of the Ancient Monuments and Archaeological Areas Act 1979 may involve payment to the owner of the site for its upkeep at the outset of the agreement. Consents included in a section17 agreement are automatically granted.

Listed buildings Management plans have been used at some complex sites in the historic built environment as an informal memorandum of understanding between owners and managers, the local authority and EH. Their purpose is to streamline the decision-making process, for example, by outlining the type of works that will require listed building consent. However, they have no statutory basis. The only regulatory regime for listed buildings is the system of Listed Building Consent. This is, as the Drury report points out, a passive rather than an active regime, with consent applications often based on an imperfect understanding of the special interest of the building. In addition, the inability of local authorities to determine in advance whether a work will need consent can lead to unnecessary applications.

The case for change

There are several objectives in making statutory management agreements a key component of the reformed system of management in the historic environment. Drawing on experience of their application in World Heritage Sites, archaeological landscapes, the natural environment, and informal agreements used for listed buildings, management agreements can offer:

Better understanding of the significance of assets.

Better understanding of the risks to that asset.

Better understanding of potentially conflicting interests in asset management (for example biodiversity and archaeological interests) and the identification of positive solutions.

Effective partnerships between owners, managers, local authorities, EH and other interested parties.

A positive rather than reactive approach to the medium/long term management of a site.

Elimination of the need for close regulation for defined categories of change.

Enhanced certainty and clarity for the partners around which works are and are not likely to require consent.

By giving such agreements a statutory footing, the benefits could make a substantial contribution to moving the management of the historic environment from its generally reactive present form towards a more positive and strategic culture based on a partnership approach.

Links to other areas of the Heritage Protection Review

The use of HPAs is one element of a continuing process, identifying historic assets that can then be managed through appropriate regulatory regimes, delivered locally wherever possible. HPAs are linked very clearly to the delivery of other areas of heritage protection reform:

Improving information about what is designated and providing more contextual information about sites as a whole will ensure that everyone using the system will have a better understanding of what is protected and why.

Improving information about what is designated and why will lead to better informed and better quality consent applications.

Improving the quality of applications for consent and introducing Heritage Protection Agreements to pre-agree certain types of consent will enable local authority time to be better spent on the most important applications for change.

Characteristics of a new system

Where might HPAs be applicable?

It has always been clear that HPAs will be appropriate for specific asset management rather than universal application. They will be most useful on sites where a different approach than that offered by the individual consent regime is desired involving strategic and proactive management. Experience to date suggests that such an approach could be used for:

Complex sites comprised of many similar or several different historic assets: e.g. a country house with historic park, garden and landscape (such as Holkham Estate); a university campus (such as the University of East Anglia); and a cathedral (such as Canterbury);

Sites where there are a number of environmental issues which may have conflicting needs and which need careful management to avoid damage to assets – such as wildlife issues, landscape and historic environment;

Sites in dispersed locations of a single or similar asset type under single ownership or management: e.g. bridges in local highway authority ownership (such as Cornish bridges); railway stations (such as London Underground stations).

Sites that are subject to management regimes already, where an HPA could work in alignment, such as natural environment regimes, tax exemption schemes, or traffic management systems.

Sites that are in a stable condition, since plans for major change would make it difficult to negotiate an HPA for ongoing works.

Sites where the owners and authority have a strong commitment to its future and a firm relationship can be established.

What should HPAs cover?

HPAs will need to be flexible documents to cover the many different site and asset types designated. However, experience from developing HPAs in the HPR pilot projects suggests that agreements could cover several areas:

Administrative information

Information about the parties involved in the HPA and their role; this may include statutory bodies, plus other interested parties, such as amenity groups.

The Register entry and map for the site.

Practicalities of the agreement, including an agreed timeframe for the HPA, a method of monitoring, review and renewal, an agreed grievance procedure etc.

Conservation framework

An overarching conservation philosophy for the site that can act as the context for any decisions about particular works, and assist in the formulation of any detailed consent applications.

Specifically agreed works

Specifically agreed categories of change to the asset. This may take three forms:

- i. Prescription of certain works that are agreed not to require consent. An HPA may identify certain works that will not affect the character and will not therefore require consent (this will require legislative change).
- ii. A specification of standard works, including whether prior advice, agreement, planning permission or consent is required and the materials and method to be used.
- iii. Pre-agreed consent for certain works that would be covered by the new heritage consent (currently Listed Building Consent and Scheduled Monument Consent). Situations frequently occur where repetitive consent applications are required for routine works of a similar nature, for example, repairs to Cornish bridges. Such works can be agreed between partners and form part of the HPA.

Exclusions

It is recognised that not all works could be pre-agreed. Major interventions that would change the assets significantly should not be included because they are better

handled as part of the specific consent regime, where detailed consideration of particular plans can be considered. Planning permission will also need to be sought separately for major works.

Scope of HPAs

Given the range of assets for which HPAs might be appropriate, it is important they should be tailored to suit the needs of each particular site. The Kenilworth Castle pilot project, for example, has produced three separate HPAs for the site – one for the landscape, one for the Abbey, and one for the castle itself. This reflects the different landowners for different parts of the site.

Format of HPAs

The documentation for HPAs need not be elaborate. In several pilot projects, conservation plans and strategies for sites already exist, and the aim has been to build on these documents as much as possible. Where one exists, HPAs will need to fit within the broader conservation strategy for a site, as is demonstrated at the University of East Anglia, where the listed Lasdun buildings are only one element of the campus.

Stakeholders

It is envisaged that the core stakeholders involved in an HPA will be: owners and managers of the site; the local authority; and where appropriate EH, other government departments, such as Defra and non-departmental public bodies, for example, or English Nature (NB: who with RDS and part of the Countryside agency are the future 'Natural England'). Other interested parties are likely to be: amenity societies, local and national campaigning organisations, (e.g. SAVE Britain's Heritage), and regular users of the sites.

Negotiation

It is important that HPAs are subject to the same degree of public scrutiny that government desires to achieve for all aspects of public life. The pilots will require mechanisms that allow scrutiny:

During the initial negotiation of the HPA.

At the review and renewal stages.

The HPA will be negotiated between the core stakeholders. It is envisaged that they will produce a draft HPA for consultation with other interested parties.

Further consideration is necessary regarding the involvement of interested parties. In the current Scheduled Monument Consent regime, applicants are required to notify owners and any interested parties of the works. For Listed Building Consent, there is a period of public consultation of 21 days. Stakeholder consultation on HPAs should be neither less nor more than the current degree delivered by the existing consent regimes.

How long should HPAs last?

HPAs will require substantial initial investment from all parties. The Agreements will therefore need a life-span sufficient to deliver the efficiencies that will justify this investment. Experience from applications of management agreements in parallel regimes suggests that they should be set up for a minimum of five years, with the opportunity for review and renewal for further periods of five years at a time. This would allow an agreement to continue if it has proved effective. Current legislation covering Listed Building Consent and Scheduled Monument Consent states that works must begin within three years and five years respectively of the consent being granted. This legislation is to be replaced with the unified consent system and such a time span has yet to be decided for the new regime. However, given the resource input for preparing an HPA, the monitoring that will take place to ensure compliance, and the aim that HPAs are used to assist forward-planning, it is proposed that HPAs will last for five years before review and renewal.

Breaches of HPAs

Breaches of an HPA may occur when the procedures set out in the agreement are not followed; for example, works are carried out without consent where the HPA specifies that consent is required, or works are carried out contrary to the method described in the HPA. In the event of such breaches, the owner is acting outside the HPA and within the normal consent system; therefore, enforcement will lie within the normal system. Consequently, breaches may lead to service of an enforcement notice by the local planning authority, as normal, and the owner may face prosecution and criminal conviction.

Resources

Experience so far has shown that HPAs will require intensive resourcing at their initiation phase because of the time invested by the partners in producing the agreement. HPAs will lead to a net saving of resources for all involved over time. This will come from:

Pre-agreement for works: either where an owner has plans for multiple consent applications, or agreement can be reached on the type of works where consent is not needed. There will be savings in time and expense both from owners and local authorities.

Using the HPA to inform and improve the quality and understanding of future applications for consent.

Less tangible but no less real benefits will stem from the development of a real understanding between the local authority and owner about the management and future plans for the site.

The resources needed to produce an HPA will be reduced if clear guidance and templates are provided to all partners.

Monitoring

At the time of writing, the pilot project HPAs are at the stage of negotiation and therefore no monitoring has taken place. Further work will need to be done on this issue.

Next steps

In preparation for the 2006 Heritage Protection White Paper, the HPAs produced by the HPR pilot projects will be evaluated in detail. The key areas for examination are:

The resources required for developing and monitoring an HPA.

The different conclusions of the appropriate content for HPAs.

Ranges of partners and consultation arrangements.

How HPAs can operate alongside other schemes (e.g. Environmental Stewardship).

Arrangements for monitoring and review.

Questions for discussion

1. Is the introduction of statutory HPAs as set out in this paper likely to deliver a more flexible, proactive form of management for historic assets?
2. Are the types of asset identified as suitable candidates for HPAs the right ones? If not, what other historic assets would be appropriate?
3. Are the guidelines for the content of HPAs set out in this paper the right ones? If not, what should be included/ excluded?

4. Is the timescale of 5 years for HPAs, with the potential for extensions of up to a

further 5 years, appropriate?