

# **BATTLEFIELD THREATS POLICY**

**January 2023**



## **Version History**

<u>Version Date</u>		<u>Author</u>	<u>Ratified</u>	<u>Amendments</u>
1.0	Dec 2014	Simon Marsh	Board of Trustees	First publication
1.1	Apr 2016	Simon Marsh		Minor. English Heritage to Historic England, emphasis on importance of local plan, clarification on HERs, move summary to start of paper
1.2	Oct 2021	Simon Marsh		Minor changes to update hyperlinks
1.3	Jan 2023	Simon Marsh	Board of Trustees	Full refresh

## **BATTLEFIELD THREATS: A POLICY APPROACH FOR THE BATTLEFIELDS TRUST**

### **Policy Summary**

The Research and Threats Coordinator supported by Trust Officers should be proactive in addressing battlefield threats through engagement with the development of the local plan, stakeholder engagement, messaging and through advocating amendments to County and District Historic Environment Records (HERs).

When dealing with battlefield threat reactively the Research and Threats Coordinator supported by Trust Officers must:

- Assess how securely the battlefield under threat is located and whether it is of national or local importance
- Assess whether the threat is considered to be high, medium or low
- Decide what action needs to be taken using the guidance in this document

The Research and Threats Coordinator is responsible for correspondence on battlefield threat issues, ensuring other officers are kept informed of developments and that the Trust has a record of its actions.

# **BATTLEFIELD THREATS: A POLICY FOR THE BATTLEFIELDS TRUST**

## **1. Introduction**

1.1. The National Planning Policy Framework<sup>1</sup> (NPPF), which, amongst other things, provides guidance on managing planning applications affecting heritage assets, was introduced in 2012 and has been subject to subsequent amendment. The Battlefields Trust implemented a policy on battlefield threats in 2014 and this document updates that policy to reflect changes in heritage planning policy and the experience of addressing battlefield threats since 2014. The policy sets out the existing threats to UK battlefields, the range of mitigations which currently exist, refines the framework for assessing risk and impact and provides guidance on taking action where and when appropriate.

1.2. Although a small charity, the Battlefields Trust is the only national organisation involved in battlefield preservation outside existing arms-length bodies of Departments of State. This status places the Trust in a leadership role when it comes to articulating risks to battlefields and how they should be managed. But the limited resources available to the Trust mean that they need to be used to greatest effect in the most important areas. This highlights the need for a risk assessment framework to be used to help determine how the Trust should respond to the varied threats facing UK battlefields.

## **2. Battlefield Threats**

2.1. There is a range of ways that the battlefield resource can be damaged, including:

a. Development: One of the major threats to battlefields is manmade development which can radically alter the terrain features on a site of conflict, destroy extant stratified (for example grave pits) or unstratified (for example lead shot distributed in the top soil) archaeology and affect the lines of sight enjoyed by opposing armies and commanders. Development also has an impact on the setting of a battlefield, imposing structures on sites whose significance is rooted firmly in the past and creating an incongruous environment where the appreciation of the historical setting is crowded-out by modern interference. This can substantially affect the educational and recreational value of a battlefield site. Development will vary in terms of its extent and impact – re-use of existing farm buildings for example will have limited extent and is unlikely to have major impact whereas the construction of a new housing estate or a major industrial plant in the midst of a green field battlefield site would be both extensive and highly impactful. Permitted development is of particular concern as it allows development on registered

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<sup>1</sup> See [National Planning Policy Framework - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/617353/NPPF-2019.pdf)

battlefields to take place without the full scrutiny of the National Planning Policy Framework.

b. Archaeological Contamination refers to the process by which sites of conflict are affected by non-agricultural uses which do not require planning permission and impact on the historical understanding as well as, potentially, the heritage amenity value of battlefields. Archaeological Contamination can take a number of forms. At Cropredy Bridge (1644) part of the action occurred over an area which is now used for the annual Cropredy music festival. Whilst the site is cleaned after each event, modern detritus, particularly coins, ring-pulls from canned drinks and tent pegs, find their way into the top soil and make systematic surveying of the battlefield slow and difficult because of the volume of extraneous material that is inevitably found. Use of part of the Bosworth (1485) battlefield site for stockcar racing has had a similar effect. Such incongruous use can also detract from the setting of the battlefield reducing its heritage amenity value. If such activity is associated with the movement of topsoil, which can often be done without planning permission, it can particularly affect micro terrain features such as folds in the ground and any extant battlefield archaeology. In addition, re-enacting on battlefields can cause problems for archaeological surveys as replica arrow heads, buckles, bullets, buttons, powder flasks and the like, if lost, can be confused with those deposited in battle and, if not identified, corrupt the survey data collected.<sup>2</sup>

c. Agricultural Threats can affect the archaeology of battlefields. The rate of corrosion of metal artefacts in soil will be determined by the soil chemistry<sup>3</sup>, the length of time an object has been in the ground and the metal composition of artefact. Mechanical damage as part of cultivation and the extent of drainage of land (good drainage can increase soil acidity) can also have an impact on battlefield archaeology.

Since the end of the Second World War, increased use of agrochemicals and more mechanical means of cultivation have potentially placed battlefield artefacts under greater threat of decay and damage. Chlorine in agrochemicals changes the soil pH and the move toward deeper ploughing has led to deposited artefacts gravitating upward in the top-soil, exposing them to greater levels of oxygen and increasing the rate of decay. Mechanical cultivation may also have caused abrasion on lead bullets, possibly affecting our ability to distinguish bullets with abrasion marks

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<sup>2</sup> For a discussion of contamination issues see G Foard & R. Morris, *The Archaeology of English Battlefields*, York, 2012 p.157-58

<sup>3</sup> low pH (acidic) conditions lead to corrosion and the higher oxygen levels, which increases with cultivation, the greater the rate of oxidation

resulting from being fired<sup>4</sup>. Mechanical cultivation can also affect the distribution of artefacts in the soil; experiments at Mortimers Cross (1461) reveal that potato de-stoning equipment can move lead round shot up to 14m from where it was originally located.

d. Metal Detecting: The greatest threat to battlefield archaeology is from non-systematic survey and collection of artefacts. Interpretation of battlefield archaeology depends on being able to understand the relative density of finds across the landscape. Hobby detecting removes the archaeological evidence of battle, degrading the resource whilst preventing the evaluation of finds data that is possible if survey work is carried out to best practice standards. This is particularly an issue where metal detecting rallies are permitted by landowners on battlefield sites, often in return for a detecting fee. Marston Moor (1644) has seen two such rallies, in 2003 and 2005, and involving large numbers of detectorists.

### **3. Mitigations**

3.1. The following suggests a range of mitigations that can be used to protect battlefields and offers a stakeholder analysis which helps target Battlefields Trust efforts to reduce the threats to battlefields.

#### **Development**

3.2. The prevention of development on battlefields depends primarily on influencing those who might want to build on battlefields and the legal planning framework which will determine whether construction can take place.

3.3. There is no statutory protection for battlefields in the UK, though the NPPF highlights heritage assets as a material consideration in determining planning decisions. The NPPF suggests that development which substantially harms registered or scheduled heritage assets should only take place in exceptional circumstances. This is a high bar and the 2013 [Bedford case established that](#) 'substantial harm' needed to be 'something approaching demolition or destruction'. Notwithstanding this, the best protection for battlefields remains

#### **Historic England (HE)/Historic Environment Scotland (HES)**

**Registration/Inventorying**<sup>5</sup>. The fact that only four new battlefields have been registered in England since the register was established in 1995 is indicative of how difficult new registration is to achieve.

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<sup>4</sup> For discussion of artefact decay see Foard and Morris 2012, pp.147-154

<sup>5</sup> See [The List Search Results | Historic England](#) and [Search for a Battlefield | Historic Environment Scotland | HES](#)

3.4. For **permitted development** the Trust has sought to test the appetite of selected local planning authorities to implement an Article 4 Direction<sup>6</sup> on registered battlefields. Such a direction would limit permitted development rights and require full planning applications to be made on some or all types of permitted development, depending on the scope of the direction, which would then be scrutinised under the NPPF. There is limited appetite amongst local planning authorities for such a step, but this remains one approach to addressing permitted development concerns.

3.5. If a battlefield is not registered nationally, it can be **locally listed** as an important local heritage asset. Not all local authorities undertake local listing, but many maintain a **Historic Environment Register (HER)** which local authority planning officers consult as part of the recommendation they make to elected members on whether to agree to a planning request, or not. The Trust can therefore try to ensure that county and district council HERs capture all securely located battlefields.

3.6. The change in the approach to planning in recent years, particularly the requirement for local authorities to maintain **local plans and strategies** which identify future areas for development, means that the development threat to battlefields should not be considered solely at the point that outline planning permission is requested. Rather, the consultation process around local plans and strategies needs to be seen as the front line for ensuring the battlefields are not developed.

3.7. Up until the point a planning decision is taken anyone can ask the Secretary of State to **call-in a planning application** on the basis that the decision is likely to have more than local importance. Very few applications are called-in each year, though the Trust should consider making use of this process for issues of national battlefield importance. Once a planning application has been agreed it cannot be appealed, but a developer can appeal a decision to refuse an application. If there was a failure of planning process a **Judicial Review** could be used to challenge the outcome, but this is a high risk, high cost activity and should be undertaken only where there is a high probability of success.

3.8. In addition to these interventions the Trust should also seek to maintain a dialogue with **planning officials**, so they are aware of its concerns about battlefields and alive to them. **Elected members** and other local authority officials, particularly the **Historic Environment Team** and, where they exist, **County Archaeologist**, are also worth cultivating for the influence they can bring to bear on planning decisions. Finally, **landowners** are a key stakeholder for all battlefield threat areas and every effort should be made to engage them on battlefield issues of concern.

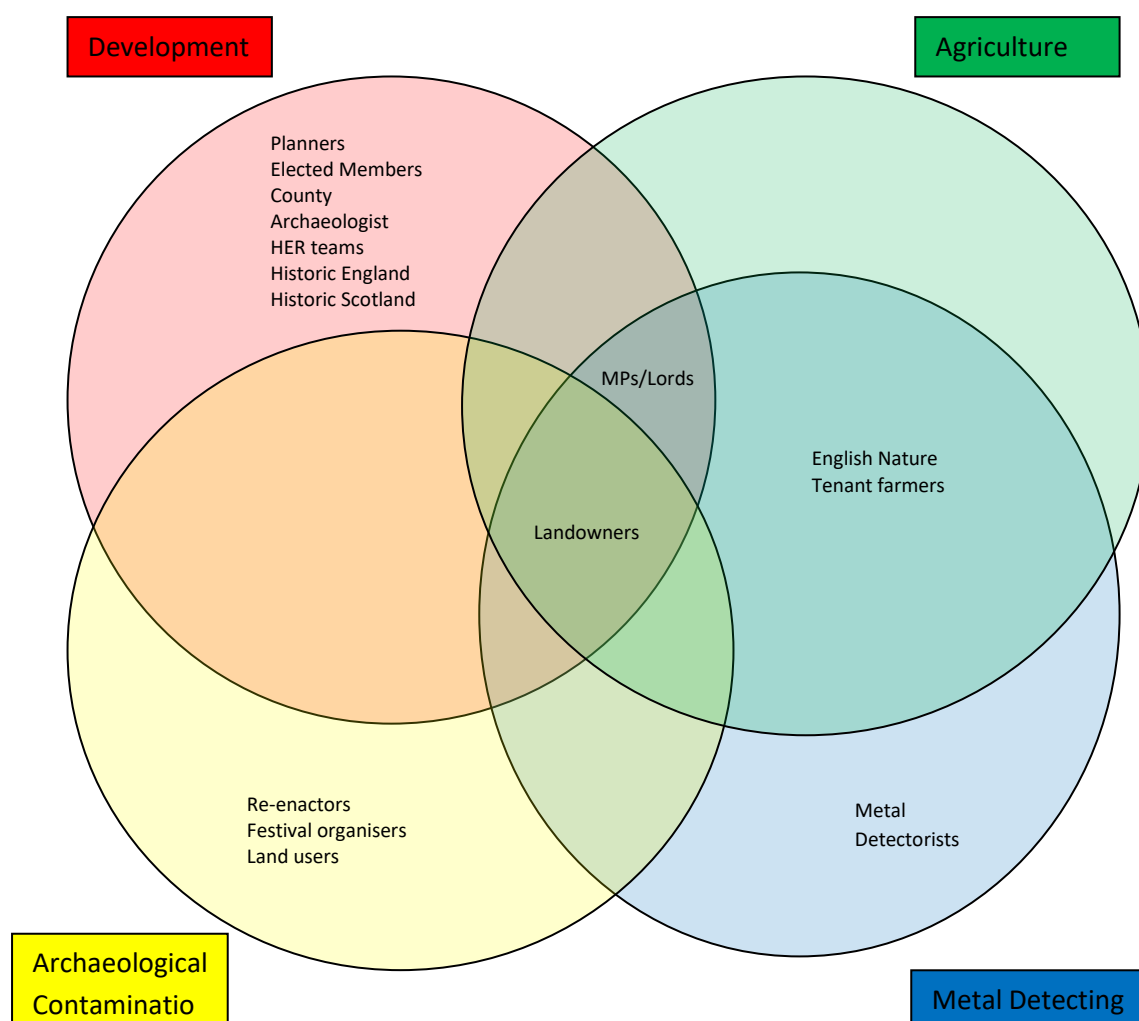
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<sup>6</sup> [Restricting Permitted Development: Article 4 Directions and Heritage – Planning Law Overview | Historic England](#)

## Archaeological Contamination

3.9. Addressing archaeological contamination threats is best achieved through **engagement** with landowners and re-enactors to try and persuade them to ensure that events and activities which could lead to battlefield contamination are located elsewhere. The Trust has also **published information** about battlefields threats, including contamination, on its website and through direct correspondence to help raise awareness of this issue.

**Figure 1: Battlefield Threat Stakeholders**



## Agricultural Threats

3.10. Landowners and their tenant farmers are the key stakeholder group to **influence** over agricultural regimes which pose a threat to battlefield archaeology and communication, education and engagement about this issue should be the Trust's aim. Existing **Natural England Stewardship schemes**<sup>7</sup> provide some protection from, for example, deep ploughing and drainage, and the Trust could look

<sup>7</sup> See <http://www.naturalengland.org.uk/ourwork/farming/funding/es/>



to persuade landowners to use Stewardship schemes and engage with Natural England on strengthening them to address agricultural threats.

### Metal Detecting

3.11. Metal detecting threats are also perhaps best dealt with through **engagement** with landowners/tenant farmers and metal detectorists, though the Trust's policy on metal detecting<sup>8</sup> (none to take place on nationally important battlefields without professional supervision) makes engagement with metal detectorists potentially difficult. But a programme of awareness raising via web and printed media with both groups could have benefits. **Natural England Stewardship schemes** potentially offer some protection from metal detecting, particularly on metal detecting rallies, and the Trust should engage with Natural England to see if and how these could be strengthened. Persuading landowners to participate in Stewardship schemes would also help mitigate future threats from metal detecting. Finally, the Trust should continue to push for **statutory protection** from metal detecting for registered battlefields as currently exists for scheduled monuments.

## 4. Battlefield Threats Policy

4.1. Having examined possible threats to battlefields and potential mitigations this section outlines the policy the Trust follows to make decisions about battlefield threats and how to manage them.

4.2. In determining a response to a threat to a battlefield the Trust should consider three main issues:

- a. To what extent the battlefield is securely located: It is very difficult to make a case that a battlefield is under threat if its location is unknown or uncertain. For some late medieval and many early modern battles, the location can be discerned reasonably well, but the further back in time one progresses the sources become more limited and our knowledge of the historical landscape deteriorates.
- b. The importance of the battlefield: This is a difficult issue that can be clouded by personal or local attachment to a site. Nationally important battlefields are those registered by Historic England<sup>9</sup>, inventoried by Historic Scotland, or inventoried by the Royal Commission for Ancient and Historic Monuments Wales and incorporated into the schedule of monuments or have known/likely archaeological remains,. The Trust should attempt to identify other non-registered sites which are nationally important to add to this list.

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<sup>8</sup> See <http://www.battlefieldstrust.com/page94.asp>

<sup>9</sup> A battlefields importance is not the sole criteria for Historic England registration

There may also be battles of important local significance that should be protected, particularly those that appear on the Historic Environment Register. But the value of attempting to protect every small action which occurred in the British Civil Wars, for example, would be a challenging undertaking and their individual value as heritage resources, notwithstanding the challenges of locating the fighting securely, is questionable. Nevertheless, there will be value in ensuring that some examples of small actions are preserved to assist our understanding of such actions.

c. The impact of the potential threat: The impact that a potential threat would have on a battlefield can vary considerably. Construction on existing brownfield parts of battlefields or on the footprint of farm buildings may be less intrusive and damaging than construction on green belt land. Similarly metal detecting rallies are of greater concern than individual detectorists, though detection by either on nationally important battlefields is deprecated by the Trust. Often development occurs away from, but within sight of, the registered area and this can impact the setting of the battlefield or interfere with the sightlines of commanders.

4.3. In addressing a particular battlefield threat, the Trust needs first to decide whether the threatened site is securely located and then make a judgement as to the level of threat the battlefield is under. This might best be expressed by a matrix which considers the importance of the battlefield and the impact of the threat as shown at Figure 2 below.

4.4. In order to determine whether a battlefield is securely located, an initial starting point is the list of English battlefields in Appendix I.ii to Glenn Foard's *Conflict in the Pre-Industrial Landscape* (2008) (see <http://www.battlefieldstrust.com/media/739.pdf>), which is available on the Battlefields Trust web site. Where Battlefield Groups and representatives exist, they should be consulted on the location of the battlefield, although in most cases the fact that a battlefield group exists will be indicative of the fact that its location is secure. The local regional chair and the Trust's independent Battlefield Panel should also be consulted.

4.5. Once the location of a battlefield is defined as secure, then its importance and the impact of the threat should be considered.

4.6. Within these definitions a degree of judgement needs to be taken. A single wind turbine 500m away from a registered battlefield at its nearest point may be less impactful than a windfarm a kilometre away and the existing setting – lots of existing power lines in the area, for example – may also influence how a windfarm/turbine development is viewed. Similarly battlefield development on brownfield sites may have different impacts; the replacement of a large barn with a low rise house which allows better sight lines across a battlefield should perhaps be encouraged, whereas

a development which sees a barn replaced with a wind turbine that affect battlefield sight lines should be opposed.

**Figure 2: Battlefield Threat Matrix**

	<i>Impact</i>	High Impact	Medium Impact	Low Impact
<i>Importance</i>				
<b>National Importance</b> (HE/HES Registered)		High Importance/ High Impact <b>BT Response: Yes</b>	High Importance/ High Impact <b>BT Response: Yes</b>	High Importance/ Low Impact <b>BT Response: Possible</b>
<b>Local Importance</b> (HER)		Medium Importance/ High Impact <b>BT Response: Yes</b>	Medium Importance/ Medium Impact <b>BT Response: Yes</b>	Medium Importance/ Low Impact <b>BT Response: Possible</b>
<b>Unlisted</b>		Low Importance/ High Impact <b>BT Response: Possible</b>	Low Importance/ Medium Impact <b>BT Response: No</b>	Low Importance/ Low Impact <b>BT Response: No</b>

**National Importance** can be defined as those battlefields registered/inventoried by Historic England and Historic Environment Scotland and those in the Welsh Inventory which have been scheduled or where archaeological remains are judged likely as well as those other battlefields defined by the Trust as being nationally important.

**Local Importance** can be defined as battlefields appearing of the Historic Environment Register which are securely located or those which should be included in the HER and have not yet been submitted by the Trust

**Unlisted** can be defined as all other sites of conflict

**High Impact** can be defined as any threat which impacts physically on green field parts of battlefields.

**Medium Impact** can be defined as threats which impact directly on non-green field parts of battlefields where there is a possibility of battlefield archaeology remaining or where development on or near the battlefield would be out of keeping with its existing setting, impacting significantly on its value as an educational or recreational resource or detracting from the overall ability to understand the action of battle within the existing landscape.

**Low Impact** can be defined as threats which do not affect battle archaeology, terrain or important sight lines but have some impact on the battlefields value as an educational or recreational resource

4.7. As far as the threat matrix is concerned it is likely to be marginal cases – those with low impact on nationally and locally important battlefields and medium impact cases on battlefields which only just warrant inclusion in the HER – that will cause the most difficulty in deciding how the Trust should react.

## **5. Battlefield Threats Policy**

5.1. The Trust should be taking a **proactive approach** to addressing battlefield threats. Activities which in this area include:

- Active engagement in the local plan development process to ensure battlefield issues are properly considered.
- Engagement by regional officers and local battlefield groups/representatives with stakeholders at a local level to improve intelligence on battlefield threats and influence decision makers.
- Raising awareness and understanding of battlefield threats through the Trust website, leaflets and the media. Walks and talks provided by the Trust should include messaging on battlefield threats and how the Trust is addressing them to improve understanding and possibly encourage members of the public to support the Trust's work.
- Regions ensuring that County and District HERs include all securely located battlefields of importance.

5.2. Inevitably though, a **reactive** approach will also be required when new threats emerge.

5.3. Recognising the requirement to be agile in responding to battlefield threats, the final decision on whether to take action on a particular battlefield threat should be one taken by the Regional Chair and the Research and Threats Coordinator conferring as necessary with other subject matter experts, including the Trust's independent Battlefields Panel, and national officers as far as time allows. The Research and Threats Coordinator should lead on addressing the threat with support from other officers as necessary.

5.4. Once a threat has been identified, assessed and a decision to take action made, the Trust needs to decide on a case-by-case basis how best to achieve this.

5.5. For registered battlefields early engagement with Historic England Historic Environment Scotland and, where appropriate, Cadw will be necessary. This should be done by contacting the Historic England office that has responsibility for the region where the battlefield is located, details of which are available on the Historic England website (<https://historicengland.org.uk/about/contact-us/local-offices/>), or by copying them into any correspondence relating to the threat involving other parties. For Historic Environment Scotland the Inspectorate which deals with battlefields should be contacted (<https://www.historicenvironment.scot/about-us/contact-us/>).

5.6. For non-registered securely located battlefields Regional Chairs should be prompted by the Research and Threats Coordinator to ensure they are added. An assessment of the battlefield's importance should also be made using the criteria

used by Historic England and Historic Environment Scotland<sup>10</sup> to inform whether an application for registration is appropriate. For advice on the battlefield registration processes Regional Chairs should contact the Trust's Research and Threats Coordinator who will advise on this issue.

5.7. Once these steps have been taken a letter setting out the Trust's objections and concerns should be sent to the most relevant stakeholder and copied to other stakeholders as necessary. A copy of the wording used should be made available to the Regional Chair and placed in the Battlefields Threats Channel of the Operations Group Team in Microsoft Teams to form a record of the Trust's comments and response should be similarly recorded

5.8. Where no region exists the Research and Threats Coordinator should act in lieu of a Regional Chair.

5.9. A simplified flow diagram of actions is set out at Annex.

#### Opposing Threats: Lines to Take

5.10. When responding to battlefield threats the following should be considered for inclusion in any correspondence, stakeholder engagement or messaging:

- **The significance of the battle and the battlefield**
  - is it registered (or should be)?
  - is it on the HER?
  - Why is it a vital part of our nation's history?
  - What unique things does it bring to our understanding of military tactics and the development of warfare?
- **The nature of the threat and the impact it will have on archaeology, terrain, understanding of the battle and the educational and recreational value of the site**
  - What archaeological evidence is likely to remain? This can extend beyond the limits of registered battlefields
  - Why would this be endangered?
  - What can it tell us about the battle?
  - Why is the terrain important?
  - How is this impacted by the threat?
  - Does the threat impact on sight lines, including those that commanders might have had as they approached the battlefield.

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<sup>10</sup> For Historic England see its selection criteria identified at <https://content.historicengland.org.uk/images-books/publications/dsg-battlefields/battlefields-sg.pdf> . For Scotland see Annex 4 of the Historic Environment Scotland's Policy on designation and selection ([designation-policy-selection-guidance.pdf](#))

- What educational and recreational value does the site have now or in the future?
- How is this impacted by the threat?
- **The quality of any assessments already made about the site**
  - Is the battlefield referenced at all and if not, why not?
  - If no assessment has been made about the battlefield heritage value, the development cannot be sustainable as it is not possible to establish whether the public benefit of development outweighs the impact to the heritage or how the development can be implemented in such a way as to enhance the heritage
  - Is the input on the battle valid; eg. Does an archaeological consultancy employed by a developer have any experience in battlefield archaeology and how they used best practice
- **Wider Considerations**
  - Can the proposed threat be linked to other issues which might persuade elected politicians to re-evaluate their perspective?
  - How do development proposals sit with the National Planning Policy Framework or the local plan?
  - Are there parallels from other cases either locally or nationally that can be drawn in aid?

5.11. For battlefields which are included on the Trust's Battlefields Hub, some of these questions can be answered from the entries there.

5.12. Where development is proposed on registered battlefield sites and where no consideration of the heritage value has been included within the planning application, the Trust will always argue that this step is necessary before any decision on the planning application can be made. If there is potential battlefield archaeology on the proposed development site, the Trust will request an archaeological condition in the event a planning application is agreed. Suggested wording for these elements as follows:

*Thank-you for the opportunity to comment on this application. The Battlefields Trust notes the proposed development appears to be within the registered area of the nationally important battlefield of xxxxxx. There does not seem to have been an assessment of the significance of the battlefield and how the proposed development impacts on that significance as required by the National Planning Policy Framework (NPPF) paragraph 194. Without this the Trust is uncertain how you as the planning authority will be able to discharge your responsibilities under paragraph 195 of the NPPF and recommends that this application is placed on hold until a suitable statement of significance is provided by the applicant.*

*Once this statement of significance has been provided you should be able to weigh the public benefits of the proposed development with the harm to the heritage, which will be less than substantial given the scale of what is proposed.*

*If you decide to grant planning permission the Trust would like to see an archaeological condition attached to the permission requiring a metal detecting survey to be conducted in advance of building work commencing to recover any remaining battlefield related artefacts.*

## Annex: Battlefield Threat Initial Action Assessment Process

