

NOTICE OF REVIEW

UNDER SECTION 43A(8) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 (AS AMENDED) IN
RESPECT OF DECISIONS ON LOCAL DEVELOPMENTS

THE TOWN AND COUNTRY PLANNING (SCHEMES OF DELEGATION AND LOCAL REVIEW PROCEDURE)
(SCOTLAND) REGULATIONS 2008

THE TOWN AND COUNTRY PLANNING (APPEALS) (SCOTLAND) REGULATIONS 2008

**IMPORTANT: Please read and follow the guidance notes provided when completing this form.
Failure to supply all the relevant information could invalidate your notice of review.**

Use **BLOCK CAPITALS** if completing in manuscript

Applicant(s)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Agent (if any)

Name

Address

Postcode

Contact Telephone 1

Contact Telephone 2

Fax No

E-mail*

Mark this box to confirm all contact should be
through this representative:

* Do you agree to correspondence regarding your review being sent by e-mail?

Yes No

Planning authority

Planning authority's application reference number

Site address

Description of proposed
development

Date of application

Date of decision (if any)

Note. This notice must be served on the planning authority within three months of the date of the decision notice or from the date of expiry of the period allowed for determining the application.

Nature of application

- 1. Application for planning permission (including householder application)
- 2. Application for planning permission in principle
- 3. Further application (including development that has not yet commenced and where a time limit has been imposed; renewal of planning permission; and/or modification, variation or removal of a planning condition)
- 4. Application for approval of matters specified in conditions

Reasons for seeking review

- 1. Refusal of application by appointed officer
- 2. Failure by appointed officer to determine the application within the period allowed for determination of the application
- 3. Conditions imposed on consent by appointed officer

Review procedure

The Local Review Body will decide on the procedure to be used to determine your review and may at any time during the review process require that further information or representations be made to enable them to determine the review. Further information may be required by one or a combination of procedures, such as: written submissions; the holding of one or more hearing sessions and/or inspecting the land which is the subject of the review case.

Please indicate what procedure (or combination of procedures) you think is most appropriate for the handling of your review. You may tick more than one box if you wish the review to be conducted by a combination of procedures.

- 1. Further written submissions
- 2. One or more hearing sessions
- 3. Site inspection
- 4. Assessment of review documents only, with no further procedure

If you have marked box 1 or 2, please explain here which of the matters (as set out in your statement below) you believe ought to be subject of that procedure, and why you consider further submissions or a hearing are necessary:

TO DISCUSS FURTHER AS THE REASONS FOR REFUSAL ARE NOT VALID TO US AND WERE NOT AN ISSUE AT OUR FIRST MEETING PRIOR TO THE APPLICATION BEING MADE.

Site inspection

In the event that the Local Review Body decides to inspect the review site, in your opinion:

- | | Yes | No |
|--|-------------------------------------|--------------------------|
| 1. Can the site be viewed entirely from public land? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Is it possible for the site to be accessed safely, and without barriers to entry? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If there are reasons why you think the Local Review Body would be unable to undertake an unaccompanied site inspection, please explain here:

WOULD PREFER TO BE PRESENT AS THINK THIS WOULD BE BEST OPTION TO ENSURE ALL ASPECTS DISCUSSED AND UNDERSTOOD

Statement

You must state, in full, why you are seeking a review on your application. Your statement must set out all matters you consider require to be taken into account in determining your review. Note: you may not have a further opportunity to add to your statement of review at a later date. It is therefore essential that you submit with your notice of review, all necessary information and evidence that you rely on and wish the Local Review Body to consider as part of your review.

If the Local Review Body issues a notice requesting further information from any other person or body, you will have a period of 14 days in which to comment on any additional matter which has been raised by that person or body.

State here the reasons for your notice of review and all matters you wish to raise. If necessary, this can be continued or provided in full in a separate document. You may also submit additional documentation with this form.

PLEASE SEE SEPARATE DOCUMENT FOR OUR REASONS FOR REQUESTING A REVIEW.

Have you raised any matters which were not before the appointed officer at the time the determination on your application was made?

Yes No

If yes, you should explain in the box below, why you are raising new material, why it was not raised with the appointed officer before your application was determined and why you consider it should now be considered in your review.

List of documents and evidence

Please provide a list of all supporting documents, materials and evidence which you wish to submit with your notice of review and intend to rely on in support of your review.

SUMMARY OF EVENTS

COPY CORRESPONDENCE

SITE LOCATION

COPY OF NEIGHBOUR NOTIFICATION FROM DALVISALLANS COTTAGE OWNERS & LOCATION DRAWING

COPY OF REFUSAL NOTICE

OUR REASONS FOR REQUESTING A REVIEW

Note. The planning authority will make a copy of the notice of review, the review documents and any notice of the procedure of the review available for inspection at an office of the planning authority until such time as the review is determined. It may also be available on the planning authority website.

Checklist

Please mark the appropriate boxes to confirm you have provided all supporting documents and evidence relevant to your review:

- Full completion of all parts of this form
- Statement of your reasons for requiring a review
- All documents, materials and evidence which you intend to rely on (e.g. plans and drawings or other documents) which are now the subject of this review.

Note. Where the review relates to a further application e.g. renewal of planning permission or modification, variation or removal of a planning condition or where it relates to an application for approval of matters specified in conditions, it is advisable to provide the application reference number, approved plans and decision notice from that earlier consent.

Declaration

I the applicant/agent [delete as appropriate] hereby serve notice on the planning authority to review the application as set out on this form and in the supporting documents.

Signed

Date

16 | 11 | 09

BREIF SUMMARY OF EVENTS

Before making an application for planning and in view of previous history we thought it necessary to meet with someone at the Planning Office to discuss the site and get an idea of what might be acceptable.

A meeting was arranged with Jim Harbison who was most helpful and advised we should arrange for the Council Forestry to inspect the site, comply with policy and also check for squirrels and badgers.

Grant Stuart had a site meeting with Michael and following his visit the attached e-mail was sent to Jim.

Having checked regarding wildlife, there were no signs of either and therefore no action required in this respect.

Following on from that Susan phoned Jim to discuss matters further before an application was made. Jim did advise that this was a 50/50 case and in view of the trees at Innishmill we should give due consideration to the situation of a house and windows.

On this basis we went ahead and made an application for outline planning permission for a holiday home, which would comply with Housing in the Countryside, Development Plan Policy Guidance 2006.

There were 3 objections made, one which we responded to, the other two did not require to be notified and therefore no response was necessary. They were however along the same lines as the one we responded to.

Following on from this we were asked to provide further details, ie situation of house taking into account, visibility for entry and exit, parking, light, septic tank and set back from the mature trees. This was all provided and could easily be accommodated on the site. In fact by our removing trees from our site, we would make it safe for the other two houses to exit their drives, currently there is a problem with visibility, as per Mr Brown's memo dated 12 March, copy attached.

On hearing that it would be turned down in view of past history (previously refused 6 years ago) and regardless of changes in policy since then, we requested a meeting with Jim and Nicola Drummond to discuss the matter further. The trees also seemed to now be an issue whereas at the outset this was most certainly not the case. (this was not one of the reasons given in the past either)

If this had been made clear at the very beginning we would never have made an application.

We also had a meeting with David Polson prior to the final decision being made.

REASONS FOR REVIEW

Regarding the size of the plot, it is a similar size to the house known as The Steading, the other two house sites are bigger but in view of there already being one house site of a similar size, we do not accept this reason for refusal. A precedent has already been set. The smaller sites extend to approximately $\frac{1}{4}$ acre. A copy of the notice served on us by the owners of Dalveallan Cottage is attached from which you will see the house known as The Steading is far smaller than Dalveallan Cottage.

Additionally, under the proposed changes to Housing in the Countryside it states that smaller housing groups can offer more potential to meet the demands for housing in the highland countryside. The draft guidance sets out a more flexible approach to ensure appropriate opportunities for further small-scale developments or rounding off of housing groups is enabled. (as would appear to be the in case in Farr as there are a lot of new developments already being built in the area and more in the pipeline, following a recent substantial clearing of woodland) This approach is supported by Planning Advice Note 72 on Housing in the Countryside, which identifies housing related to existing housing groups as preferable to new isolated development in open countryside.

Also there is a need for holiday homes in the Highlands, as was recently hi-lighted in the local press, with a local hotelier letting people stay at her own residence rather than see them sleep in their car, as some others had done.

Regarding the issue of trees, we do not see this as a problem.

The trees appear to be older than the houses already there, namely Innishmill, Dalveallan Cottage and The Steading, so therefore the trees were not previously an issue when giving planning permission for these houses.

Additionally, the same week refusal for our site was decided; permission for a large extension was given for the house next door, Dalveallen Cottage (ref 09/00347/FULIN). This site is bigger but regardless the extension will be in close proximity to the mature trees, which are outwith their control. In fact as close as the house we are proposing to put on our site, possibly closer. There requires to be continuity here and again we would argue against this reason for refusal very strongly.

Regarding the issue of light, this would be taken into account when designing the house, as suggested by Jim in one of our previous discussions.



HOUSING IN THE COUNTRYSIDE

DEVELOPMENT PLAN POLICY GUIDELINE

March 2006



**The
Highland
Council**
Comhairle na
Gaidhealtachd

SERVING The Highland Community

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1. INTRODUCTION

This **Development Plan Policy Guideline** sets out the Council's approach to **Housing in the Countryside**, and provides more detail on the policy basis against which planning applications will be assessed. It is based on the policy contained within the Highland Structure Plan, but also takes into account recently issued national guidance on rural development.

The national framework for housing in the countryside is set out in **SPP 3 Land for Housing (2003)** and the recently prepared **SPP 15 Planning for Rural Development (2005)**. Further advice is set out in **Planning Advice Note 72 – Housing in the Countryside (2005)** and **Planning Advice Note 73 – Rural Diversification (2005)**. The Council's policy on housing development in the open countryside is contained in **Structure Plan Policy H3**, (see below) which was approved by the Scottish Ministers in March 2001.

Applications for the temporary siting of caravans, which may act as a precursor to an application for a permanent dwelling, will be subject to the same policy considerations.

STRUCTURE PLAN POLICY H3 – Housing in the Countryside

Housing development will generally be within existing and planned new settlements. In the hinterland of towns, indicated in Figure 9 and subsequently defined in Local Plans, new housing and conversions of non-traditional buildings in the open countryside will not be permitted, unless it can be demonstrated that it is required for the management of the land and related family purposes. Exceptions may also be made for social housing providers in meeting demonstrated local affordable housing needs that cannot be met within settlements.

Elsewhere, housing in the countryside of an appropriate location, scale, design and materials may be acceptable where it supports communities experiencing difficulty in maintaining population and services. In crofting townships, new housing will need to respect the existing pattern of development.

2. JUSTIFICATION AND POLICY OBJECTIVES

The Policy on housing in the countryside is consistent with both Scottish Planning Policy and the Structure Plan's strategic themes and sustainable objectives. It is framed to:

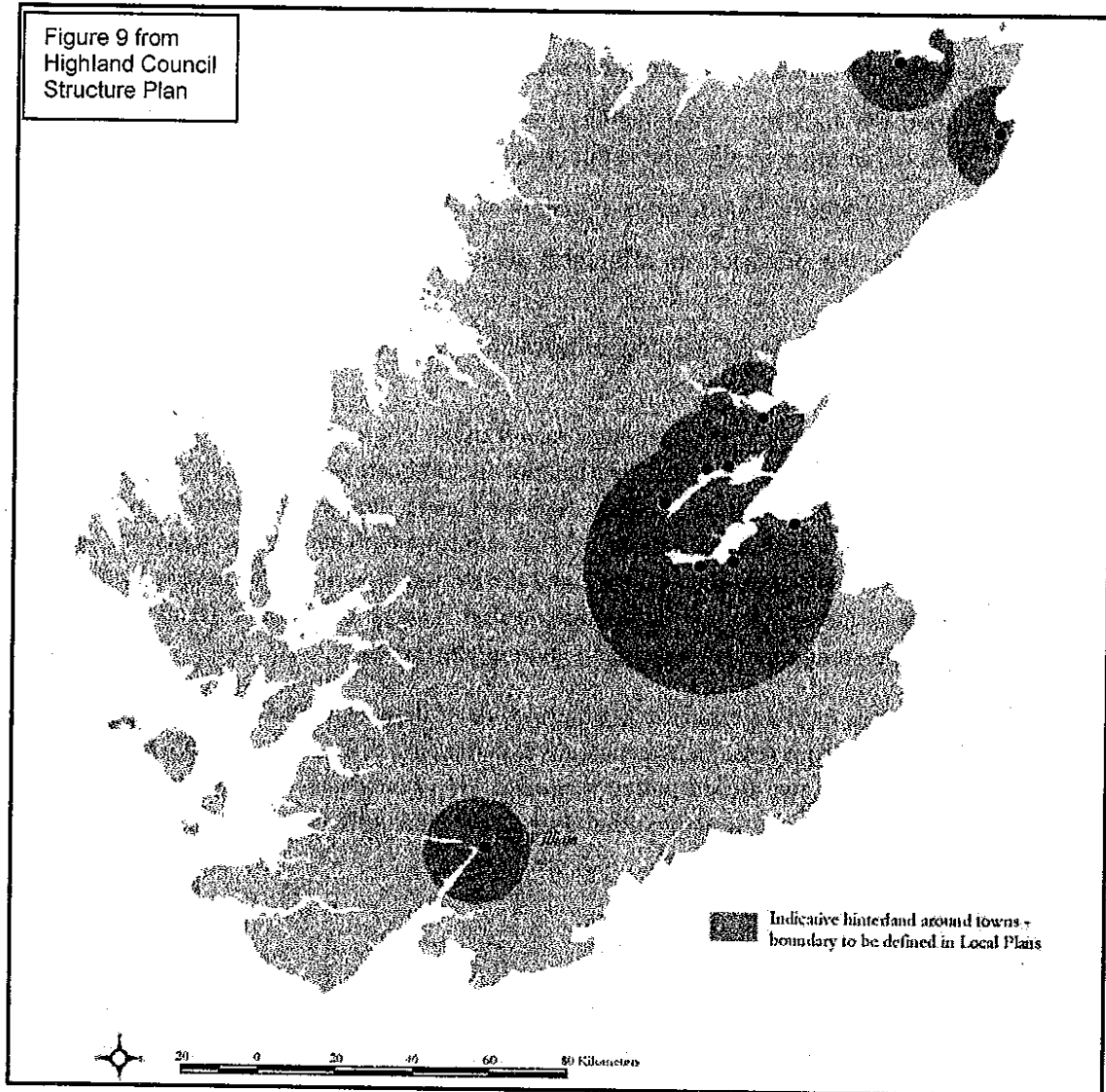
- strengthen the role of our existing settlements;
- safeguard the character of the countryside around our towns to maintain a high quality environment for both residents and visitors;
- support the viability of communities, particularly in meeting the development needs of our more fragile rural communities;
- satisfy the housing requirements of people who work the land;
- allow for the provision of affordable housing to meet demonstrated local needs;
- make efficient use of existing infrastructure and services including refuse collections and fire services.

As set out in national policy, the planning process exists not to see small settlements increase in size to the extent that they lose their identity, nor to suburbanise the countryside or to erode the high quality of its environment. Rather, it is to ensure that a framework is put in place to accommodate selective, modest growth. Most development should be foreseen, agreed and programmed to reflect local circumstances, and the overarching aim is to have a prosperous rural economy, with a stable or increasing population that is more balanced in terms of age-structure and where rural communities have access to good quality services.

The differing needs of areas experiencing high levels of housing demand in and around the larger settlements and the more rural areas which are experiencing difficulties in maintaining population and services require a **two-tiered policy response**. The boundaries of these two policy areas are shown indicatively in the Structure Plan (see over) and will be subsequently defined on an Ordnance Survey base in Local Plans.

These two tiers are:

1. **The Hinterland of Towns**, which are based on commuting patterns to and from major employment centres and where the thrust of policy is to manage growth, self-sustaining communities and protect the countryside. Hinterland areas relate to Inverness and the Inner Moray Firth (Nairn, Dingwall, Aness, Invergordon, Tain), Fort William, Wick and Thurso.



In the hinterland of towns area, development pressures are resulting in the spread of sporadic new housing in the countryside. The cumulative effects of this are leading to the undermining of the service role of smaller settlements, the damaging of the character of the countryside and the rural environment, the generation of increased pressures for infrastructure provision and a potential conflict with other rural land uses. This requires a policy approach which channels demand to appropriate locations within existing settlements or which permits only exceptional developments in the open countryside.

The hinterland of towns are identified in Local Plans, taking into account:

- the level of development pressure:
 - the number and distribution of planning applications over the last ten years;
 - the growth in housing stock (number of house completions) over the last ten years;
 - the level of population change 1991 to 2001;
- travel to work patterns from the census;
- and
- the degree of social and economic fragility of settlement zones.

An analysis of these criteria will, however, recognise the limitations of the data on which they are based and the potential impact of other factors (such as land ownership patterns) on them. They will not, therefore, necessarily provide a definitive boundary but will provide guidance on where the boundary should be drawn. Physical features and the distribution of settlements will also help the detailed definition of the hinterland boundary.

2. The Wider Rural Area, where there is a closer correlation between home and work and where the policy is geared to supporting viable rural communities and reversing the loss of population, declining services and jobs. In the wider rural area, the policy is to support development in a wider range of situations in order to maintain the viability of rural communities.

3. POLICY APPLICATION WITHIN THE HINTERLAND OF TOWNS

The application of the housing in the countryside policy in the hinterland of towns requires a planned approach to new housing developments which meets the policy's strategic aims yet also provides a degree of choice for living within smaller rural communities. Local plans will identify the majority of housing development opportunities within the hinterland in existing settlements (including housing groups), crofting townships and any planned new settlements.

Existing Settlements are those identified through the Structure Plan and Local Plan settlement hierarchies (based on the provision of services). Outwith these settlements, the preparation of Local Plans will involve the assessment of existing groups of houses, which meet at least one of the following criteria:

- have one or more of the following facilities: existing mains drainage or a programmed scheme within the Scottish Water programme; public septic tank; street lighting; 30mph limit; school; G.P. surgery; shop; post office; petrol filling station; public hall; pub;
- are established groups and comprise cluster, linear or other recognisable forms of building without such a facility but which are contained within a clear visual envelope;
or
- comprise a discernable dispersed grouping with a crofting type settlement pattern.

Housing Groups will only be defined in the relevant local plan if they have potential to accommodate further development. This potential will be judged against the capacity of the following:

- local road network and relevant junctions;
- foul and surface water drainage arrangements/conditions;
- local landscape, pattern of existing development and specific siting options;
- community facilities (e.g. primary school).

Open Countryside is all land outside the boundaries of defined settlements and not closely related to any listed housing group. New housing within this open countryside will be exceptional and will only be permitted, in accordance with national guidance and the approved Structure Plan policy, where it complies with the following requirements:

1. Land management or family purposes related to the management of the land (retired farmers and their spouses).

Any proposal for new housing in the countryside associated with land management activities must demonstrate that a sequential approach to the identification of the need for that house has been followed. This means that applicants must be able to demonstrate that:

- there is no potential to use existing accommodation in the area i.e. renovate or replace an existing house building;
- there are no existing permissions (not time expired) for dwellings that have not been taken up or developed;
- there is no evidence of houses or plots having been previously sold off from the farm holding;
- and
- there is no land on the farm holding that has been identified within an existing settlement (see definitions on page 2).

New housing will only be regarded as essential where it is related to material planning considerations and meets the criteria specified. The personal preferences or financial circumstances of any individuals involved are not material planning matters. Applicants must provide evidence of **existing** land management activities to justify a new house, as detailed below:

1.1 Agriculture

Applicants must provide an independent statement of the level of need related to the management of land. The Council reserves the right to validate any consultant's report and the applicant will be charged for this validation. Justification will be judged against both a functional test (scale and nature of the enterprise) and a financial test (viability of the enterprise).

Functional test – it will be necessary to establish whether it is essential for the proper functioning of the enterprise that one or more workers are required to be on hand day and night where animals or agricultural practices require essential care at short notice to deal quickly with emergencies that could cause serious loss of crops or products.

Financial test – financial evidence, demonstrating that the existing farm business is financially sound or that a proposed business has been planned on a sound financial basis, will be required to complement other information submitted.

The subdivision of large farms to small-holdings will not be acceptable unless it can be substantiated by the analysis and in particular in terms of the man hours worked and the level of economic dependency.

1.2 Croft land management

It is recognised that a degree of flexibility will be required, for example, in such circumstances it may not be possible to sustain full time employment and this will be taken into consideration in the tests. Any application for a house associated with crofting should be on a Registered Croft or associated common grazing and accompanied by appropriate confirmation from the Crofters Commission of the bona fides of the crofting application.

Regard would also be had to the history of the previous housing development on the croft and the density of development. Any new housing must support and respect the traditional settlement pattern, the better agricultural land of the croft and not compound sporadic suburban type development.

2. Provision of housing by a social housing provider to meet a demonstrable local affordable housing need.

Policy H3 allows the development of affordable housing by social housing providers to meet a demonstrable local affordable housing need. Social housing providers will be expected to demonstrate that a sequential approach to site identification has been followed. This sequential approach comprises showing that there are no opportunities for affordable housing development within any nearby settlements, and that thereafter, there are no opportunities for the conversion or restoration of traditional buildings within the immediate area.

3. Provision of housing associated with an existing or new rural business.

Scottish Planning Policy 15 and Planning Advice Note 73 are supportive of the establishment of new enterprises in rural locations, whether that is through existing businesses entering into new areas of activity, or the creation of entirely new enterprises. These new enterprises may include farm diversification directly related to agriculture or, for example, tourism or leisure but may also relate to other new businesses which are suited to rural locations. The provision of housing to support these enterprises may be required and national policy recognises the role of the planning system in facilitating this.

Applicants who wish to develop new housing in association with an existing or new business must demonstrate that the housing is essential to any further expansion plans for the business.

In both instances, it is essential that each of the following questions can be answered to the satisfaction of the planning authority:

- Has adequate supporting information, including a business plan and clear evidence of bank support, been provided to establish that the proposal is genuine and viable?
- Is there demand for what is proposed?
- Is it suited to a rural location and will the development bring needed skills or services to the area?

4. The replacement of an existing dwelling which does not meet the requirements for modern living and where the costs of upgrading are not justified on economic or environmental grounds (subject to the existing dwellings being demolished).

The replacement of an existing dwelling may be supported where there is a clear case made that the costs of upgrading are not justified on economic or environmental grounds. Any proposal must meet the following criteria:

- The existing building should exhibit all of the essential characteristics of a dwelling house, including the existence of reasonably sound and complete walls and roof. Exceptionally, where a recently inhabited or habitable dwelling is destroyed by fire or similar accident, planning permission may be granted for a replacement in situ.
- The application should be in detail and replacement house must be exemplary in its design emphasising the character and style as well as materials of the original and absorbing the principles of designing for sustainability.
- The application should be accompanied by a certificate from an architect or surveyor that the existing house is not reasonably or economically capable of being reinstated/renovated to a habitable condition for occupation. This will be validated on inspection by a Planning or Building Standards Officer.
- The resultant footprint should ideally not exceed by 50% the floor area of the original or a maximum of 100 square metres whichever is the greater - thereby ensuring a supply of modest replacement houses reflecting character and scale of houses in the countryside.
- The siting of the new house must be within the same curtilage as the original house.
- The property must have had no subsequent change of use since its last period of occupation as a house.
- The property must be in the ownership of the applicant, or have a reasonable prospect of being under the control of the applicant.

5. The conversion or reuse of traditional buildings or the redevelopment of derelict land.

The development of rural brownfield sites is supported by national policy, and Planning Advice Note 73 defines these as sites which are occupied by redundant or unused buildings or land that has been significantly degraded by a former activity. It will be important through this policy to secure the retention of historically valuable buildings which are no longer required for their original use, as well as to offer the opportunity to remove former agricultural or industrial buildings which remain an eyesore in the countryside. The key is to achieve net environmental benefit through the conversion or reuse of traditional rural buildings or the redevelopment of derelict land.

The **conversion or reuse** of a traditional non-residential building can therefore be supported within the hinterland of towns where the building is substantially complete, including having walls to wall head level.

Derelict Land should ideally be identified through the Local Plan process. This land will include small sites that have ceased to be required for their original purpose and where conversion to residential use would bring about an environmental benefit subject to appropriate design and siting. In line with national guidance, these will be sites that have been significantly degraded by a former activity. In Highland, this might include areas of military dereliction in Easter Ross or the buildings of former rural agricultural or other businesses that have now ceased to exist.

6. Part of a comprehensively planned new settlement which meets the criteria set out in Policy H2 new settlements.

The Highland Structure Plan recognises that in some circumstances, new settlements have a role to play in meeting housing demand. Policy H2 states that:

STRUCTURE PLAN POLICY H2

The Council will support proposals for the establishment of comprehensively planned new settlements in meeting future housing demand in the Inner Moray Firth area which accord with the General Strategic Policies. Further locational information will be provided by The Council as part of a strategy map and commentary for the future distribution of housing land.

Such proposals will also be assessed against the following additional criteria:

- location relative to housing need and demand;
- mix of housing tenures;
- proximity to existing and potential employment opportunities;
- opportunities for generation and support of local employment;
- location relative to public transport infrastructure;
- level of provision of new infrastructure;
- and
- range of services and facilities.

Outwith the Inner Moray Firth, in fragile areas experiencing difficulty in maintaining population and services, The Council will support the establishment of new crofting townships.

4. POLICY APPLICATION IN THE WIDER RURAL AREA

In the areas of Highland outwith the hinterlands of towns, development of new housing of an appropriate location, scale, design and materials may be acceptable, particularly where it supports communities experiencing difficulty in maintaining population and services. In these areas, the settlements identified within the relevant Local Plans are the preferred locations for most development.

However, outwith the settlements, housing development will be assessed against the relevant Local Plan policies, and in particular, the extent to which it:

- supports the viability of the wider rural community;
- demonstrates appropriate siting and high quality design and materials;
- takes into account locally important croft land;
- is in keeping, in terms of scale and location, with the existing settlement pattern;
- and
- complies with the other criteria of Highland Structure Plan Policy G2 Design for Sustainability.

5. DESIGN AND SITING OF HOUSING IN THE COUNTRYSIDE

Any proposal for housing in the countryside will be subject to strict design and siting controls and will require to be assessed against the criteria set out in Policy G2 Design for sustainability (see appendix 1) and other relevant Structure Plan policies. Proposals which will result in suburbanisation, ribbon and backland development, involve excessive infrastructure or loss of prime agricultural land or important areas of woodland, for example, will not be considered acceptable.

Design, siting and material finishes must respect the traditional vernacular architecture and adhere to the objectives of the national guidance set out in Planning Advice Note 72 Housing in the Countryside. Proposals which fail to demonstrate compliance with that document or other design guidance prepared by The Highland Council will not normally be considered favourably notwithstanding whether justifiable need can be established for the house.

APPENDIX 1

STRUCTURE PLAN POLICY G2 - DESIGN FOR SUSTAINABILITY

Proposed developments will be assessed on the extent to which they:

- are compatible with service provision (water and sewerage, drainage, roads, schools, electricity);
 - are accessible by public transport, cycling and walking as well as car;
 - maximise energy efficiency in terms of location, layout and design, including the utilisation of renewable sources of energy;
 - are affected by significant risk from natural hazards, including flooding, coastal erosion, land instability and radon gas, unless adequate protective measures are incorporated, or the development is of a temporary nature;
 - are affected by safeguard zones where there is a significant risk of disturbance and hazard from industrial installations, including noise, dust, smells, electro-magnetism, radioactivity and subsidence;
 - make use of brownfield sites, existing buildings and recycled materials;
 - impact on individual and community residential amenity;
 - impact on non-renewable resources such as mineral deposits of potential commercial value, prime
 - quality or locally important agricultural land, or approved routes for road and rail links;
 - impact on the following resources, including pollution and discharges, particularly within designated areas:
 - habitats
 - species
 - landscape
 - scenery
 - freshwater systems
 - marine systems
 - cultural heritage
 - air quality
 - demonstrate sensitive siting and high quality design in keeping with local character and historic and natural environment and in making use of appropriate materials;
 - promote varied, lively and well-used environments which will enhance community safety and security and reduce any fear of crime;
 - accommodate the needs of all sectors of the community, including people with disabilities or other special needs and disadvantaged groups;
- and
- contribute to the economic and social development of the community.

Developments which are judged to be significantly detrimental in terms of the above criteria shall not accord with the Structure Plan.

DOZ

Interim Supplementary Guidance: Housing in the Countryside Taigheadas air an Dùthaich

PLANNING and DEVELOPMENT SERVICE



The Highland
Council
Comhairle na
Gàidhealtachd

An t-Sultain 2009
September 2009

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1. Introduction

1.1 This interim guidance offers advice and assistance with the location of new housing in the Highland countryside. It is particularly relevant to the areas of Highland which fall within the "hinterland of towns" which are the areas under greatest pressure for housing development. The background to these areas is given in appendix 1 of this guide.

1.2. The guidance updates the 2006 Development Plan Policy Guideline on Housing in the Countryside and alters some of the existing policy guidance set out within the Caithness Local Plan (adopted 2000), Nairnshire Local Plan (adopted 2001), Inverness Local Plan (adopted 2006), and the Ross & Cromarty East Local Plan (adopted 2007).

2. Design and Siting of Houses in the Countryside

2.1 The Council is committed to raising the quality of development in the Highland countryside. New proposals will therefore be expected to contribute towards this commitment through quality design, high standard of site layout and use of appropriate materials.

2.2 The Council is currently preparing new design guidance for housing in the countryside. In the meantime, the following documents should be used by developers to help with their planning submissions:

- Scottish Government Planning Advice Note 72 Housing in the Countryside (available from their web-site at: www.scotland.gov.uk/Publications/2005/02/20637/51636);
- The Highland Council's Designing for Sustainability Guidance (revised in 2006), and available at www.highland.gov.uk.

3. Development in the Hinterland of Towns

3.1 Local plans identify the majority of housing development opportunities within the hinterland in existing settlements, crofting townships and any planned new settlements.

3.2 Outwith these settlements, smaller housing groups can however offer more potential to meet the demands for housing. This draft guidance sets out a more flexible approach to ensure that appropriate opportunities for further small scale development or "rounding off" of housing groups is enabled and supported. It maintains a presumption against single houses in the open countryside, except where a number of tests are met relating to the need for the house in that location.

Housing Groups

3.3 Smaller housing groups can offer potential to meet the demands for housing in the countryside. This approach is considered suitable for small scale housing development proposals (generally single houses). More significant proposals which may have wider implications should be promoted through the formal Local Development Plan process.

3.4 The individual Local Plans for Caithness, Nairnshire, Inverness and Ross & Cromarty East identify some housing groups and the suggested additional levels of development that would be acceptable. These limits to growth at individual housing groups will now be used only as a guide to future planning decisions, rather than as a reason in itself for refusal of an otherwise acceptable planning application.

3.5 In Caithness, where economic and social regeneration remains a priority, the flexible approach applied under housing groups will apply to the dispersed townships, housing groups and settlements identified in policies 11, 12 and 13 of the Landward section of the Caithness Local Plan. In addition, the policy on spacing between houses will be taken as a guide only, rather than as a requirement.

3.6 There are also a number of housing groups which have not specifically been identified in the Local Plans and this guidance also provides advice on how development in these locations can be enabled. Where housing groups are not currently identified in Local Plans, the existence of a housing group will be determined by there being at least three houses in close proximity to one another. The Council will take into account their form and cohesiveness, the level of containment by natural boundaries such as water courses, trees or enclosing landform, or existing man-made boundaries such as existing roads, plantations or means of enclosure.

3.7 New housing should be located within, or round off an existing housing group.

3.8 Existing housing groups of less than ten houses will be allowed to expand by up to 100% from the baseline date of approval of this guidance (August 2009). Expansion of larger groups will be assessed on their individual merits. Given the potential landscape impact of expansion of larger groups this is expected to be less than 100%.

3.9 A group will be considered to be complete where further development could result in a detrimental impact on the housing group or wider countryside. In particular, the Council will carefully consider the potential adverse impact of additional development on those groups that have already been subject to recent development under the housing in the countryside policy.

3.10 There will be a presumption against ribbon development along public roads and development which would result in the coalescence of a group with a nearby settlement or another housing group or the unplanned extension of a defined settlement.

Suitability for growth

3.11 To be an acceptable form of development, proposals for new housing in housing groups should address the following criteria:

- the scale and siting of new development should reflect and respect the character and amenity of the existing group and the individual houses within the group;
- any new build should be located within a reasonable distance of the existing properties within the housing group. The distance between existing properties and proposed new build should be guided by the spacing between the existing properties within the group;
- proposals must not be visually intrusive in the landscape, or detrimental to landscape characteristics, scenic quality or attributes of the existing group;
- proposals should not have an adverse impact on heritage interests;
- proposals must not have an adverse impact on foul and surface water drainage arrangements and conditions;
- proposals must be able to be accommodated by the local road network and relevant junctions. The development of existing housing groups may require the upgrading of existing services, infrastructure and access. Where housing groups are served by a private road access there will be a requirement to bring roads to adoptable standard in line with the Council policy (as set out in Highland Structure Plan Policy H8). The Council has also produced new roads guidance for small scale developments, which must be followed.

- sites should not create an inappropriate intrusion into a previously undeveloped field;
- presence of mature trees will form part of the consideration; and
- sites close to working farm buildings or other rural industries should ensure that there is no conflict.

The conversion, reuse or redevelopment of buildings or land.

3.12 The development of rural brownfield sites is supported by national policy, and Planning Advice Note 73 defines these as sites which are occupied by redundant or unused buildings or land that has been significantly degraded by a former activity. It will be important through this policy to secure the retention of historically valuable and traditional buildings which are no longer required for their original use, as well as to offer the opportunity to remove buildings which are an eyesore and will achieve a net environmental benefit. Information should be supplied indicating how long the property or land has been disused and why no longer required.

3.13 For the purposes of this guidance a traditional building is usually built using traditional materials generally of stone, slate and timber often sourced locally.

3.14 There will be a presumption in favour of conversion and re-use or redevelopment of buildings and land where former uses have ceased to be required for its original purpose, the site is significantly degraded and where the development would bring about an environmental benefit. Subject to the following:

- the building is substantially complete, including having walls to wall head level;
- the existing building must be of at least a scale that is commensurate with a habitable building;
- proposals should not significantly alter the character of the building, its setting or the character of the surrounding landscape;
- existing openings are used where feasible and new openings placed on elevations away from public view;
- unbroken roof slopes should be retained;
- existing materials should be reused where rebuilding cannot be avoided and the use of traditional materials will be encouraged.
- in the case of replacement houses, the resultant floorspace should not result in an excessive increase on that of the original building, in order to maintain the level of impact on the landscape, thereby ensuring that replacement houses reflect the character and scale of existing houses in the countryside;
- in the case of replacement houses, the siting of the new house must be within the same curtilage of the original house, and only resited within the curtilage, where benefit to the landscape and setting can be achieved and

3.15 The replacement of an existing dwelling may also be supported where there is a clear case made that the costs of upgrading are not justified on economic or environmental grounds, subject to the existing dwellings being demolished. the application must be in detail and the replacement house must comply with the Siting and Design Guidance

3.16 Enabling new build development may be acceptable where wider infrastructure improvements are required.

3.17 Rural buildings can provide nesting and roosting places for wildlife. Prospective developers should be aware that all bats and birds are protected species and their presence is a material planning consideration. A protected species survey by a suitably qualified professional to assess for the presence of bats and other creatures may be required to be undertaken before making an application for planning permission involving the conversion or demolition of an existing building. This should identify the species in the building or on the land, outline the impact of the proposed development and the mitigation measures required.

Development in the Open Countryside

3.18 New build single houses within the open countryside within hinterland areas will be by exception and will only be permitted in accordance with national guidance and the approved Structure Plan policy, where they comply with the requirements listed below.

3.19 All development proposals will also be assessed in terms of their suitability against relevant policy and guidance on Design and Siting of Houses in the Countryside.

- **Agriculture**

3.20 Applicants must provide an independent statement prepared by a suitably qualified professional to support the need for a house in relation to the proper functioning of the farm holding. Justification will be judged against the information provided by the applicant in support of operational need. Section 75 legal agreements will be used to tie the houses to the land holding.

3.21 Applicants must provide:

- a) description of the current farm enterprise (where applicable) including: extent, operations, infrastructure and existing labour;
- b) description of the proposed changes to the farm enterprise including: extent, operations, infrastructure and labour requirement;
- c) information on how the proposed changes are to be funded, including evidence on how the proposed development is financially viable and sustainable;
- d) information about who is to live in the house and where they reside now;
- e) evidence of why it is necessary to the business that accommodation is actually needed on site;

or

- f) evidence of the need for housing for family succession purposes, ie retiring farmers and spouses.

3.22 The applicant will also be required to provide information on:

- the potential to use existing accommodation in the area;
- any other permissions for houses that have not been taken up or developed;
- number of previous houses/plots having been sold off the holding and
- any land on the holding that is identified within an existing settlement or housing group.

- **Croft land and forest croft management**

3.23 It is recognised that a degree of flexibility will be required, for example, in such circumstances it may not be possible to sustain full time employment and this will be taken into consideration in the tests(a to e above). Any application for a house associated with crofting should be on a Registered Croft or associated

common grazing and accompanied by appropriate confirmation from the Crofters Commission of the bono fides of the crofting application. Proposals for forest crofts should be accompanied by a management plan that meets UK Forestry Standard.

3.24 Regard will also be had to the history of the previous housing development on the croft and the density of development. Any new housing must support and respect the traditional settlement pattern, avoid being sited on the better agricultural land of the croft unless there is no alternative and not compound sporadic suburban type development. Section 75 legal agreements will be used to tie the houses to the land holding.

- **Provision of housing associated with an existing or new rural business**

3.25 National planning policy is supportive of the establishment of new enterprises in rural locations, whether that is through existing businesses entering into new areas of activity, expansion or the creation of entirely new enterprises. These new enterprises may include farm diversification directly related to agriculture or, for example, tourism or leisure or may also relate to other new businesses which are suited to rural locations. The provision of housing to support these enterprises may be required and national policy recognises the role of the planning system in facilitating this.

3.26 The development of a house in connection with self-catering tourist accommodation will be supported where accommodation relates to a clearly defined business opportunity relating to the development of tourism. Section 75 legal agreements will be required to tie the house to the business enterprise.

3.27 Applicants must provide:

- a) description of the current business (where applicable) including: extent, operations, infrastructure and existing labour;
- b) description of the proposed business including: extent, operations, infrastructure and labour requirement;
- c) information on how the proposed changes are to be funded, including evidence on how the proposed development is financially viable and sustainable;
- d) information about who is to live in the house and where they reside now; and
- e) evidence of why it is necessary to the business that accommodation is actually needed on site.

3.28 The applicant will also be required to present information on:

- why a rural location is appropriate to the business;
- the potential to use existing accommodation in the area and
- whether there is demand for what is proposed.

- **Garden Ground**

3.29 Potential may exist for the sub-division of existing garden ground for a single house provided that the garden has clearly defined boundaries and meets the terms of the Siting and Design Guidance. Development should be able to deliver an appropriate plot ratio for a countryside location and be cohesive and not incongruous to the existing house or houses. Further sub-division of the subsequent plots will not be acceptable. Section 75 legal agreements will be used to ensure effective planning control can be maintained.

3.30 Potential may also exist in established gardens once associated with a country/estate house, which provide an appropriate landscape setting, but where development would not fundamentally affect the qualities and integrity of the site.

- **Provision of housing by a social housing provider to meet a demonstrable local affordable housing need.**

3.31 The development of affordable housing to meet a demonstrable local affordable housing need, as identified by the Council, will be acceptable subject to the involvement of a registered social housing provider. Social housing providers will be expected to demonstrate that a sequential approach has not identified opportunities for affordable housing development within nearby settlements, or conversion or restoration of traditional buildings within the immediate area.

- **Part of a comprehensively planned new settlement**

3.32 The Highland Structure Plan recognises that in some circumstances, new settlements have a role to play in meeting housing demand. These would generally be in association with development plans.

3.33 Applications for new settlements will be assessed against the following criteria:

- location relative to housing need and demand;
- mix of housing tenures;
- proximity to existing and potential employment opportunities;
- opportunities for generation and support of local employment;
- location relative to public transport infrastructure;
- level of provision of new infrastructure and
- range of services and facilities.

4. Policy application in the wider countryside

4.1 In the areas of Highland outwith the hinterlands of towns, development of new housing of an appropriate location, scale, design and materials may be acceptable, particularly where it supports communities experiencing difficulty in maintaining population and services. In these areas, the settlements identified within the relevant Local Plans are the preferred locations for most development.

4.2 However, outwith the settlements, housing development will be assessed against the relevant Local Plan policies, and in particular, the extent to which it:

- supports the viability of the wider rural community;
- demonstrates appropriate siting and high quality design and materials;
- takes into account locally important croft land;

and

- complies with the other criteria of Highland Structure Plan Policy G2 Design for Sustainability.

4.3 All applications will also be assessed against policy criteria and guidance indicated in Section 2 Design and Siting of Houses in the Countryside

4.4 In regard to the policy guidance within this document, paragraphs in relation to development of Housing Groups (pages 2 to 4) and the conversion, reuse or redevelopment of buildings or land (pages 4 to 5) represent best practice.

Appendix: Local and National Planning Policy

Highland Council Policy

The Council's overarching policy on housing development in the open countryside is contained in Structure Plan Policy H3 which was approved by the Scottish Ministers in March 2001.

The differing needs of areas experiencing high levels of housing demand in and around the larger settlements and the more rural areas which are experiencing difficulties in maintaining population and services requires a two-tiered policy response. In the areas which have been experiencing the greatest pressure for housing in the countryside, a more restrictive policy is in place. These areas are known as the "hinterland of towns" and were identified in the Highland Structure Plan and subsequent Local Plans. These hinterland boundaries will remain in place until the review of the Highland wide Local Development Plan (which is currently underway) is complete.

The hinterland of towns areas are based on commuting patterns to and from major employment centres and where the thrust of policy is to manage growth, self-sustaining communities and protect the countryside. Hinterland areas relate to Inverness and the Inner Moray Firth (Nairn, Dingwall, Aness, Invergordon, Tain), Fort William, Wick and Thurso.

In the hinterland of towns area, development pressures can result in the spread of sporadic new housing in the countryside. The cumulative effects of this can lead to the undermining of the service role of smaller settlements, the damaging of the character of the countryside and the rural environment, the generation of increased pressures for infrastructure provision and a potential conflict with other rural land uses. This requires a policy approach which channels demand to appropriate locations within existing settlements or housing groups and which permits only exceptional developments in the open countryside.

The main national policy and advice are highlighted below:

- **Scottish Planning Policy 3: Planning for Homes (Revised 2008)**

This SPP focuses on "the supply and delivery of new housing, which must be of a high-quality design and contribute to the creation of sustainable places." It recommends that: "The settlement pattern is the product of generations of investment in physical infrastructure, social and cultural facilities and public amenities. Planning authorities should promote the efficient use of land and buildings. In principle this means directing the majority of new development towards sites within existing settlements to make effective use of existing infrastructure and service capacity, and reduce energy consumption, while ensuring the creation of quality residential environments."

- **Scottish Planning Policy 15: Planning for Rural Development**

With regard to Housing, this SPP “advances policy in respect of small scale rural housing developments including clusters and groups in close proximity to settlements, replacement housing, plots on which to build individually designed houses, and holiday homes.”

- **Planning Advice Note 72: Housing in the Countryside**

Published in 2005, this places a strong emphasis on design and quality:

“... sets out key design principles which need to be taken into account: by applicants when planning a new development and by planning authorities, when preparing development plans and supporting guidance, and determining applications. The purpose is to create more opportunities for good quality rural housing which respects Scottish landscapes and building traditions. The advice should not, however, be seen as a constraint on architects and designers wishing to pursue innovative and carefully considered contemporary designs.”

HOUSING IN THE COUNTRYSIDE

Hinterland / Wider Countryside



Seirbheis an Dealbhachaidh is Leasachaidh



**The Highland
Council
Comhairle na
Gàidhealtachd**
