

Highland wide Local Development Plan - Main Issues Report Consultation Summary and Actions Sheet

Reference Number:	HWLDP-MIR-325
Organisation/Individual:	WYG Planning and Design – Cawdor Maintenance Trust

Action:

Immediate Response Required	
Meeting required with Respondent	
Issue for Area Local Development Plan	
Further Information Required	
Other (Please Specify)	

If no box ticked - issues raised will be dealt with in preparation of the Proposed Plan.

Issues Raised in Response:

Purpose of Main Issues Report		Previously used Land	
NPF2 for Scotland		Wild Land	
Vision for the Highlands	x	Water Environment	
Inverness and A96	x	Renewable Energy	
The A96 Corridor		Flooding	
Phasing of Development		Waste Management	
Developer Contributions	x	Air Quality	
East Inverness	x	Sustainable Design	
Nairn	x	Business and Industrial Land	
Tornagrain		Accessibility and Transport	
Smaller Settlements in A96		Agricultural Land	
Caithness and North Sutherland		Subdivision of Existing Crofts	
Easter Ross and Nigg		Allocation of Inbye Land	
Development of Local Centres		New Crofting Township	
Wider Countryside and Fragile Areas		Small Scale New Crofts	
Population and Housing	x	Coastal Development	x
Housing in the Countryside		Forestry and Woodland	
Affordable Housing	x	Minerals	
Planning for an Ageing Population		Open Space and Physical Activity	
Gypsies/Travellers		Access to the Outdoors	
Retailing		Comments on Consultation Process (+ve)	
Developer Contributions	x	Comments on Consultation Process (-ve)	
Natural, Built and Cultural Heritage			

Key:

Background	Spatial Strategy	Policy Options	Consultation
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Notes:

Support for aspirational population growth to develop sustainable economic growth
 Increase above 25% affordable may have detrimental impact on viability of schemes
 Developer contributions should be sought in line with tests in 12/96
 Need consistency between coastal strategy and HWLDP
 Area of land at Delnies to be considered for Green network
 Release of land in A96 should not be constrained by completion rates in Inverness
 Contributions as part of a protocol must be proportionate and flexible

Action Sheet Completed by:	SH
Date:	15/12/09



Our ref: A031992/Planning/EPC
Date: 06 November 2009

Director of Planning and Development
The Highland Council
Freepost SCO5568
Inverness
IV3 5BR

By Email

By Post

Dear Sirs

REPRESENTATION TO THE HIGHLAND WIDE LOCAL DEVELOPMENT PLAN MAIN ISSUES REPORT

On behalf of my client **The Cawdor Maintenance Trust**, I submit the following comments in respect of the **Highland Wide Local Development Plan Main Issues Report (MIR)**. Specific reference is made to land at Delnies, currently the subject of an application for planning permission in principle for mixed use development (**PA Ref: 08/0080/OUTNA**) and, identified for potential future development in the Council's approved A96 Strategic Framework document.

The Vision for the Highlands

The **Main Issues Report** sets out an overarching vision for the Highlands based on the following 5no. themes which relate directly to the 5no. local outcomes from the Highland Single Outcome Agreement:

- Sustainable Highland communities;
- Safeguarding our environment;
- A competitive, sustainable and adaptable Highland economy;
- A healthier Highlands; and,
- Better opportunities for all/a fairer Highland.

This approach is considered to be appropriate in accordance with national policy objectives and targets.

Particular support is given to the first theme which seeks to **"increase the population of the Highlands to achieve a balanced age range by providing opportunities for market housing and affordable housing both within settlements and within the Highland countryside and, to make sure that new development meets the needs of the whole community, both now and in the future, and makes the area a more attractive place for residents and businesses to move to"**. (Page 4)

Question 12 - Population and Housing

As outlined on **Page 33** of the **MIR**, the preferred spatial strategy development options are based upon a high population growth scenario in accordance with the **National Planning Framework 2** objective for strong sustainable growth and, the **Highland and Islands Enterprise** strategy of increasing population growth to 500,000no. in their area. Strong support is given to this approach on the basis that continued in-migration is required to drive long term, sustainable economic growth and avoid stagnation within the Highland area.

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Within this context the **Consultative Draft Housing Needs and Demand Assessment** identifies a housing land requirement of **10,760no.** additional houses across the Highlands for the period **2010 - 2014**. The preferred spatial strategy adopts a "**generous identification of housing land across the Highlands**" which takes into account the potential impact of unforeseen infrastructural and ownership constraints, provides market choice, and seeks to ensure the delivery of sufficient 'effective' housing land to meet demand. This approach is strongly supported.

Question 14 - Affordable Housing

It is fully acknowledged that the **Consultation Draft Housing Needs and Demand Assessment** identifies a significant shortfall in affordable housing within the Highland area. In this regard, it is considered appropriate to apply a percentage requirement for affordable housing (currently 25%) within new developments over a certain size threshold to help meet this shortfall.

The Council's preferred strategy (the basis and rationale for which is unclear) seeks to reduce the existing threshold for affordable housing provision from 10no. to 4no. houses and, to increase the percentage of affordable housing provided by developers.

While the 'principle' of affordable housing contributions is accepted, experience would suggest that any significant increase in the percentage requirement beyond the existing 25% provision would likely have a serious detrimental impact upon development viability, particularly within the context of current market conditions.

The Council will be aware that the benchmark figure for affordable housing provision, as articulated by **SPP3 Planning for Homes** and **PAN 74 Affordable Housing** is **25%**. In terms of a higher percentage contribution, **PAN74 Affordable Housing** clearly states that:

"The local authority may also seek a higher percentage on a specific site but this will only be appropriate in exceptional circumstances, for example linked to a substantial release of greenfield land or on a site owned by the local authority or another public agency which is being released for development". (Paragraph 35)

A increase in affordable housing provision beyond 25% would therefore not strictly comply with the guidance provided in **PAN74** unless **exceptional circumstances** could be identified on a very site specific basis.

If an increase in the current percentage figure is considered appropriate, it is suggested that the **Proposed Plan** and/or relevant supplementary planning guidance (SPG) should articulate a definitive upper threshold. Unchecked policy provision would simply add to the uncertainty experienced by developers in purchasing sites and preparing detailed proposals.

It is also considered that the **Proposed Plan** should provide for flexibility and allow for a reduction (where justified) in the affordable housing requirement. For instance, where the viability and deliverability of a smaller development scheme is threatened through onerous site development costs and related restrictions. While the affordable housing shortage across the Highlands is fully acknowledged, it is strongly suggested that the irregularities within the housing supply (as identified in the **Consultative Draft Highland Housing Need and Demand Assessment 2009**) should not be ignored. As a

consequence, a 'lower end' figure may be appropriate in some cases, which would serve to ensure a regular flow of both general and affordable needs housing.

From experience, it is common practice for a reduction in provision to be allowed if there are abnormally high land preparation costs such as remediating contamination or providing significant levels of infrastructure for the wider benefit of the area. It is therefore imperative that the relevant affordable housing policy and/or supplementary planning guidance allows for sufficient flexibility, where it can be proven through open book accounting that development viability would be adversely affected.

In any event, it is vital that the Council's affordable housing policy provides sufficient clarity and certainty for developers in outlining the level of contribution required for any given location.

Question 18 - Developer Contributions

The Council's preferred option seeks the use of proportionate developer contributions where additional pressure would be put on existing facilities in a community as a result of new development. On the basis that it will provide greater clarity and certainty to developers, the desire to apply a consistent approach to developer contributions across the Highland area is supported.

Further support is given to the Council's recognition that developer contributions may, in certain circumstances, impact upon the viability of a particular proposal. In this regard, any policy should be sufficiently flexible to allow for a reduction in developer contributions, where it is demonstrated that they would have an unacceptable detrimental impact upon viability.

Where developer contributions are required, these may be implemented by means of a condition(s) attached to any planning permission, or more likely, by way of a **Section 75 Agreement**. In this regard, the Council will be aware that a requirement for developer contributions through condition should satisfy the six tests articulated by **Circular 4/1998** i.e. must be necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and, reasonable in all other respects (**Paragraph 2**).

Section 75 Planning Agreements *"should only be sought where they are required to make a proposal acceptable in land use planning terms"* (**Circular 12/1996, Paragraph 4**). In this respect, they are required to meet the following criteria:

- **Planning purpose** – an agreement must serve a planning purpose (**Paragraph 9**);
- **Relationship to proposed development** – planning agreements must be related to the development being proposed. Agreements should not be used by planning authorities to extract advantages or benefits or payments which are unconnected with a proposed development (**Paragraph 10**);
- **Scale and kind** – planning agreements should be related in scale and kind to the proposed development.

For example, *"developers should not be asked to fund local road improvements unless the need for these improvements arises wholly or substantially from the proposed development"*. While it is noted that planning agreements have a role to play removing obstacles

to development, "*planning authorities should be aware of the financial consequences for developers of entering into an agreement*" (Paragraph 11); and,

- **Reasonableness** – Where a proposed development would, if implemented, create a need for particular facilities or would have a damaging impact on the environment or local amenity and these matters cannot be resolved through the use of planning conditions, it will generally be reasonable for planning authorities to seek a planning agreement (**Paragraph 12**).

Within the above context, it is important to ensure that not only is there a consistent approach taken to developer contributions but that it is acknowledged **developers cannot be expected to make good existing deficiencies within both the immediate and wider area or in relation to that which goes beyond their own specific proposals**. It is vital that any future policy contained within the Proposed Plan seeks to ensure that developer contributions are fair, reasonable and equitable and relate to the size and nature of the development proposed.

Question 34 - Coastal Development

The Council's desire to provide a clear link between the Local Development Plan and Coastal Development Strategy is strongly supported. However, there is a need to reconcile any potential for conflict with the identified expansion areas for the A96 Corridor which fall within the 'undeveloped' coastline as defined by the Coastal Development Strategy. A separate representation to the Coastal Development Strategy has been made in order to address this issue.

Question 37 - Open Space and Physical Activity

Broad support is given to the Council's preferred approach to identify opportunities for green networks across the Council area. In finalising the green network for the A96 Corridor, it is requested that recognition be given to the proposed leisure and tourism facilities at Delnies, as articulated by Planning Application **Ref: 08/0080/OUTNA**.

Questions 1 & 5 – Inverness and the A96 Corridor

Pages 9 and 13 of the **Main Issues Report** set out the Council's preferred options in relation to development within Inverness and the A96 Corridor. In setting out a spatial strategy for the area, it is intended that development phasing within the A96 Corridor will be linked to the delivery of the major development sites identified within Inverness.

While the Council's desire to prioritise existing expansion/regeneration sites within Inverness is broadly accepted, strong support is given to the Council's preferred option to identify development sites set out within the **A96 Corridor Framework** in the Proposed Plan in order to ensure the availability of a choice of housing land and, to guard against stagnation in the instance that development is constrained on existing sites within the short term.

It is noted that the Council's proposed strategy for growth, as articulated in the **A96 Corridor Framework**, is predicated upon significant long-term infrastructural improvements. In this regard, the Council is seeking commitments from key agencies such as Transport Scotland, Scottish Water and SEPA that appropriate future infrastructure provision will be made.

On the basis that a significant amount of work has already been undertaken to date with key agencies, the Council's intention to support early phases of development (2011-2016) across the Corridor before major infrastructure is complete, but subject to commitments in principle from the relevant bodies, is strongly supported.

It is envisaged that undertaking a co-ordinated approach to development with the relevant key agencies will facilitate sustainable growth, while ensuring that the appropriate infrastructure is in place at the right time. In this regard, support is given to the identification of development phasing across the Corridor within the Proposed Plan.

However, where suitable sites are capable of coming forward within existing capacity thresholds, these should not be hindered by longer term infrastructural requirements. Equally, while it is recognised that the release of sites within expansion areas will be influenced by the amount of effective housing land within Inverness, it will be important to provide sufficient market choice, particularly within the current economic climate. **The release of land within the A96 Corridor should not be overly constrained or influenced by completion rates within Inverness.**

Question 3 – Developer Contributions in the A96 Corridor

The Council's preferred option suggests that all development within the proposed expansion areas across the Corridor should contribute to a revised developer contributions Protocol. While the implementation of a single protocol would provide clarity for developers, care must be taken to ensure that contributions are proportionate and relate to the development proposed. In this regard, any such policy should allow for flexibility within the overall contributions framework where it can be demonstrated that development would not require additional infrastructure provision, or in exceptional circumstances, for example where 'enabling development' is proposed. Clarity as to how the Protocol will be applied to existing undeveloped sites within the Corridor is also sought.

In the interests of fairness, it is imperative that any revised developer protocol is subject to an appropriate level of consultation and scrutiny as part of the Local Development Plan Process.

Question 5 – Nairn

With specific reference to Nairn, the **Main Issues Report** seeks to implement the **Nairn Framework Plan** which identifies, *inter alia*, significant housing and leisure opportunities including a new golf course and hotel at Nairn West. This preferred strategy is strongly supported.

In identifying those sites which may come forward during the 2011-2021 period, the Plan seeks to identify where infrastructure improvements are required both before and after the by-pass is physically delivered, and how these development sites fit with the long term proposals for the by-pass itself.

Within this context, it is considered that land at Deinles be identified for short term growth within the Proposed Plan. Currently the subject of an application for planning permission in principle (**Ref: 08/0080/OUTNA**) for mixed use development including 300no. houses; a golf course and golf academy; equestrian centre; tourism/heritage centre; and, ecological centre, the accompanying Environmental Impact Assessment and subsequent Addendum illustrate that development can be satisfactorily accommodated on the site in the short term without unacceptable environmental impact and without the need for additional infrastructure capacity.

Significantly, the submitted Transport Assessment, which has effectively received 'technical sign-off' from Transport Scotland, indicates that sufficient capacity exists within the current road network to accommodate development without the need for a by-pass. Furthermore, neither Scottish Water or SEPA have any objections.

On this basis, while the **Main Issues Report** indicates that the long term growth of Nairn will be dependent upon the delivery of a Nairn by-pass, which is accepted, it is strongly suggested that land at Delnies should be identified for residential and leisure development in the short term.

A copy of the **Preliminary Concept Masterplan** for development at Delnies is attached for information.

I trust that the above comments will be taken into consideration when preparing the Draft Plan and respectfully ask that you acknowledge receipt of this representation in writing. Please do not hesitate to contact me should you wish to discuss.

Yours faithfully

Alan R Farningham
CONSULTANT TO WYG

Encl.

Dawn Sutherland

From: Christine Stuart
Sent: 09 November 2009 10:01
To: devplans
Cc: ellen.coats
Subject: Representation to the Highland Wide Local Development Plan - Main Issues Report



Delnies Concept ARF-Highland Wide
Masterplan (20... - Main Issue...

Dear Sirs

Please find attached a letter from Alan Farningham regarding the above subject - a hard copy shall follow in tonight's post.

Please confirm receipt of this email.

Regards

Christine Stuart
KCC Consulting Ltd
27 Maritime Street
Leith
EH6 6SE

-----Original Message-----

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Sent: 09 November 2009 08:58
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