

# Trees, Woodlands & Development Craobhan, Coilltean agus Leasachad



1	Introduction	
	Ro-ràdh	
1.1	The Value of Trees and Woodland.....	3
1.2	Purpose of Supplementary Guidance .....	3
2	Statutory & Non Statutory Regulations	
	Riaghailtean Reachdail agus Neo-reachdail	
2.1	Town and Country Planning (Scotland) Act 1997 .....	4
2.2	Scottish Planning Policy .....	4
2.3	Highland wide Local Development Plan .....	5
2.4	Highland Forest & Woodland Strategy.....	7
2.5	Scottish Government’s Policy on the Control of Woodland Removal ...	7
2.6	BS5837:2012 (Trees in Relation to Design, Demolition and Construction) .....	9
2.7	Tree Preservation Orders and Conservation Areas .....	9
2.8	Felling Licences .....	10
2.9	Protected Species.....	10
3	Development within Woodlands	
	Leasachadh taobh a-staigh Choilltean	
3.1	Developments Involving Removal of Woodland.....	11
3.2	Developments Designed to Co-Exist with Existing Woodland .....	12
3.3	Developments Designed to Create and Co-Exist with New Woodlands	16
3.4	Woodland Management Plans and Compensatory Planting.....	17
4	Trees and Development	
	Craobhan agus Leasachadh	
4.1	Site Status .....	21
4.2	Establishing the Potential Developable Area of the Site .....	21
4.3	Establishing the Detailed Layout of the Site.....	22
4.4	Tree Planting and Landscape Plans .....	25
4.5	Tree and Woodland Management Plans .....	27
	Conclusion	
	Co-dhùnadh.....	25

## Status of the Guidance Inbhe an Stiùiridh

This Supplementary Guidance reflects the policy advice given in the Council's Highland wide Local Development Plan<sup>1</sup> under Policy 51 Trees and Development and Policy 52 Principle of Development in Woodland.

The Highland Council will monitor the effectiveness of the guidance and review its contents at regular intervals to ensure it remains relevant and compliant with Scottish Government Policy and Highland Council Policies and Strategies.

This Guidance will be adopted as Supplementary Guidance to the Highland wide Local Development Plan giving it equal status. In the interim it will be taken into account as a strong material consideration, by the Council, Planning Reporters or the relevant Scottish Minister, when determining planning applications and appeals.

## 1 Introduction Ro-ràdh

### 1.1 The Value of Trees and Woodland

Trees are of vital importance to the environment and widely appreciated for enhancing the rural and urban landscape. As public awareness of environmental issues becomes more influential there is an increasing need to focus attention on trees and woodland and their role in maintaining and enhancing their environmental benefits.

In addition to landscape, woodlands and trees offer multiple benefits in terms of addressing climate change, improving the water environment, providing valuable habitats, timber industry and creating recreational opportunities.

The retention and active management of trees within new developments provides an immediate sense of maturity, shelter and setting to the benefit of the site and its surroundings, raising the overall quality of the development and enhancing property values.



### 1.2 Purpose of Supplementary Guidance

The purpose of this Supplementary Guidance is to ensure that applicants seeking planning permission effectively consider and subsequently manage existing trees and woodlands, as well as identifying opportunities for planting and management of new trees and woodlands. This enables planners to make quicker, efficient and more consistent decisions.

## 2 Statutory & Non Statutory Regulations Riaghailtean Reachdail agus Neo-reachdail

### 2.1 Town and Country Planning (Scotland) Act 1997

The Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006<sup>2</sup> specifically charges Local Planning Authorities with the following duties:

Section 159:

'to ensure, wherever it is appropriate, that in granting Planning Permission for any development adequate provision is made, by the imposition of conditions, for the preservation or planting of trees.'

Section 160:

'if it appears to a Planning Authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their district, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.'

### 2.2 Scottish Planning Policy

Scottish Planning Policy<sup>3</sup> (Landscape and Natural Heritage), published in February 2010, gives guidance on how the Scottish Government's policies for the conservation and enhancement of Scotland's natural heritage should be reflected in land use planning.

Section 130 (Landscape & Natural Heritage) states that:

'Linking greenspaces in and around settlements through green networks can deliver benefits for people and nature. Development plans should identify and promote green networks where this will add value to the provision, protection, enhancement and connectivity of open space and habitats in the city regions and in and around other towns and cities.'

Section 146 (Trees and Woodland) states that:

'Ancient and semi-natural woodland is an important and irreplaceable national resource that should be protected and enhanced, as should other native and long established woodlands with high nature conservation value.'

Section 147 (Trees and Woodland) states that:

'Other woodlands, hedgerows and individual trees, especially veteran trees, may also have significant biodiversity value and make a significant

contribution to landscape character and quality so should be protected from adverse impacts resulting from development.'

Section 148 (Trees and Woodland) states that:

'The Scottish Governments' Control of Woodland Removal Policy includes a presumption in favour of protecting woodland resources. Woodland removal should only be allowed where it would achieve significant and clearly defined additional public benefits.'

Section 150 (Open Space and Physical Activity) states that:

'Green networks which provide opportunities for physical activity and access to the outdoors, and increase accessibility within settlements and to the surrounding countryside, should be promoted and safeguarded through the development plan.'

The Highland Council has produced separate Supplementary Guidance on Green Networks<sup>4</sup> and Open Space in New Residential Development<sup>5</sup>. See also Policies 74 & 75 of the Highland wide Local Development Plan.

## 2.3 Highland wide Local Development Plan

The Highland wide Local Development Plan takes account of a number of heritage features under Policy 57, when considering planning applications. Figure 1 below outlines the main areas of interest in terms of trees and woodlands.

Policies 58-60 which relate specifically to species and habitats are covered in separate Supplementary Guidance on Highland's Statutorily Protected Species<sup>6</sup>. Cairngorms National Park Authority is responsible for the preparation of a Local Development Plan and Supplementary Guidance within the Park area.

**Figure 1: Important Heritage Features**

Features of Local / Regional Importance	
Conservation Areas	trees within a Conservation Area.
Inventoried Long Established Woodland of Plantation Origin and Other Woodlands on 'Roy' maps	which appear as Categories 1b, 2b and 3 within SNH's woodland inventory. <sup>7</sup>

Amenity Trees	areas of trees or woodlands (including recently established woodland), considered by the Council to be of local amenity importance due to their contribution to the landscape, recreation, biodiversity and character of an area.
Category B & C Listed Buildings	which contain trees within the curtilage.
Special Landscape Areas	areas of trees or woodlands, considered by the Council, to be of local amenity importance due to their contribution to the key characteristics and special qualities of the area.
Wild Areas	which contain woodlands or trees that contribute to the area's attributes and qualities of wildness.
Settlement Setting	where trees or woodlands contribute significantly and positively to the setting of a settlement.
Sites of Local Nature Conservation	which have been identified for their woodland interest.

### Features of National Importance

Tree Preservation Orders	all trees protected by a Tree Preservation Order.
Ancient Woodland & Plantations on Ancient Woodland Sites	which appear as Categories 1a and 2a within SNH's woodland inventory or where there is other evidence that woodland is ancient.
Protected species	which may be present in trees or woodlands.
Category A Listed Buildings	which contain trees within the curtilage.
National Nature Reserves	which have been designated for their woodland interest.
National Scenic Areas	which contain areas of trees or woodlands that are of national importance due to their contribution to the key characteristics and special qualities of the area.
Sites of Special Scientific Interest	which have been designated for their woodland interest.
Inventoried Gardens & Designed Landscapes	which contain trees or woodlands.

### Features of International Importance

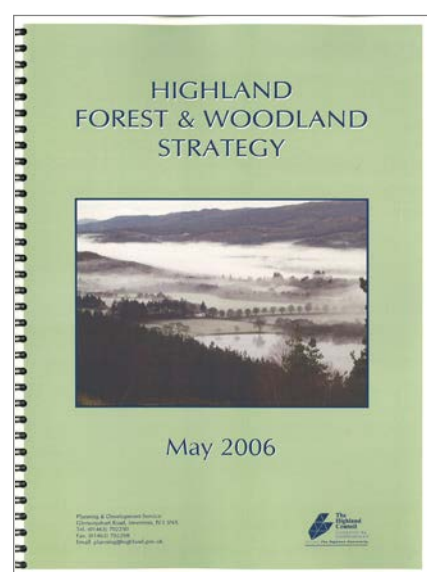
Special Areas of Conservation (SAC)	which have been designated for their woodland interest.
Special Protection Area (SPA)	where woodland is designated that supports protected bird species.
European Protected Species	which may be present in trees or woodlands.

## 2.4 Highland Forest & Woodland Strategy

The Highland Forest & Woodland Strategy<sup>8</sup> aims to maximise opportunities for appropriate woodland expansion and to guide appropriate management so that it is well integrated with other interests.

The Highland Forest and Woodland Strategy has three main functions:

- To identify specific types of woodland expansion at a strategic level in key areas;
- To identify specific types of opportunity that merit consideration for target funding;
- To provide a framework for evaluating individual applications for SRDP funding and to provide a context for the preparation of forest plans on a local level.



The existing Highland Forest and Woodland Strategy was adopted in May 2006. Scottish Government has recently updated their guidance on planning for forestry and woodlands (See Forestry Commission Scotland Advice Note: The Right Tree in the Right Place ~ Planning for Forestry & Woodlands<sup>9</sup>) and the Council intends to carry out an interim review of its own strategy in the near future.

## 2.5 Scottish Government's Policy on the Control of Woodland Removal

Woodland removal is defined as the permanent removal of woodland for the purposes of conversion to another type of land use.

There is no legal definition of 'woodland'. In this Supplementary Guidance the definition of woodland will follow that of the UK Forestry Standard and the National Inventory of Woodlands and Trees combined;



'The part of woods and forests where the ecological condition is, or will be, strongly influenced by the tree canopy. This embraces land under stands of trees with a canopy cover of at least 20%, or having the potential to achieve this, including integral open space, and including felled areas that are awaiting restocking. The minimum area is 0.1 hectares.'

(Ref. Endnote ii of the Scottish Government's Policy on the Control of Woodland Removal<sup>10</sup> ).

The minimum area threshold at which this policy applies will generally be 0.1 hectare. It does not apply to the temporary removal of tree cover associated with clearfelling and replanting or the removal of trees associated with internal re-design of woodlands to meet the UK Forestry Standard.

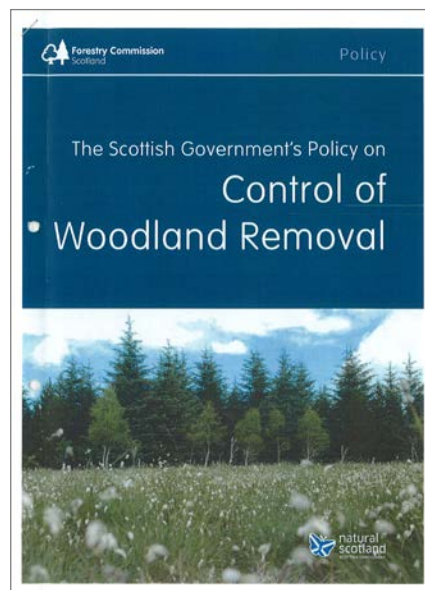
The purpose of this document is to provide policy direction for decisions on woodland removal in Scotland. As from September 2009, this policy applies to all new planning applications or schemes submitted under Section 36 and 37 of the Electricity Act 1989.

Section 148 from the consolidated Scottish Planning Policy states:

'The Scottish Government's Control of Woodland Removal Policy includes a presumption in favour of protecting woodland resources. Woodland removal should only be allowed where it would achieve significant and clearly defined additional public benefits<sup>11</sup>. In appropriate cases compensatory planting may form part of the balance. The criteria for determining the acceptability of woodland removal and further information on the implementation of the policy is explained in the Control of Woodland Removal Policy and this should be taken into account when preparing development plans and deciding planning applications'.

The Scottish Forestry Strategy 12 has a reforestation ambition of 9,000 - 10,000 hectares each year with an aspiration to increase woodland cover from 17% to around 25% of its land area by the second half of this century. It should be noted that Compensatory Planting does not count towards these reforestation targets.

Where woodland is being removed for development, resulting in a change of land use, then it is likely to be a relevant project under the Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999<sup>13</sup>. An opinion will need to be sought from FCS if an Environmental Statement is not being prepared in support of the planning application or scheme submitted under Section 36 and 37 of the



Electricity Act 1989<sup>14</sup>. Where an Environmental Statement is being prepared, then it has to consider the woodland removal.

The guiding principles behind the Control of Woodland Removal policy are as follows:

- There is a strong presumption in favour of protecting Scotland's woodland resource.
- Woodland removal should be allowed only where it would achieve significant and clearly defined additional public benefits. In appropriate cases a proposal for compensatory planting may form part of this balance.
- Approval for woodland removal should be conditional on the undertaking of actions to ensure full delivery of the defined additional public benefits.
- Planning conditions and agreements are used to mitigate the environmental impacts arising from development and Forestry Commission Scotland will also encourage their application to development-related woodland removal.
- Where felling is permitted but woodland removal is not supported, conditions conducive to woodland regeneration should be maintained through adherence to good forestry practice as defined in the UK Forestry Standard.

## 2.6 British Standard 5837:2012 (Trees in Relation to Design, Demolition and Construction)

BS5837:2012 (Trees in Relation to Design, Demolition and Construction)<sup>15</sup> is the industry standard concerning trees and development. The standard provides recommendations on the principles to be applied to achieve a satisfactory relationship between trees and new development.

The Planning Authority will normally expect all planning applications involving trees to comply with BS5837:2012. The amount of information required will be at the discretion of the Planning Authority depending on the scale of development and sensitivity of the site.

Further detail on the requirements of BS5837:2012 can be found in Section 4: Trees and Development.

## 2.7 Tree Preservation Orders and Conservation Areas

In accordance with Section 160 of the Town and Country Planning (Scotland) Act 1997, Tree Preservation Orders will be used to protect trees and woodlands where it is considered to be 'expedient in the interests of amenity'.

The suitability of trees and woodlands for protection will be assessed with reference to the Tree Evaluation Method for Preservation Orders (TEMPO). This considers all of

the relevant factors in the Tree Preservation Order decision-making chain, including any cultural or historical interest.

Section 172 (Preservation of trees in Conservation Areas) of the Town and Country Planning (Scotland) Act 1997 affords protection to all trees within a Conservation Area.

Reference should also be made to Planning Circular 1 2011: Tree Preservation Orders<sup>16</sup> which sets out Scottish Government Policy on TPO's and trees in conservation areas contained in the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 and the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas)(Scotland) Regulations 2010 (SSI 2010/434).

## 2.8 Felling Licences

The felling of growing trees normally requires a Felling Licence<sup>17</sup> from Forestry Commission Scotland, except where certain exemptions apply.

Where specific tree removal is approved under detailed planning permission, this supersedes the requirement for a felling licence.

## 2.9 Protected Species

Policies 58-60 of the Highland wide Local Development Plan refer to protected species and other important species and habitats. There are two tiers of legal protection for species and habitats in Scotland.

The first is European, stemming from the EU Directives on birds and also on habitats and species. From this legislation comes Special Protection Areas (SPAs), Special Areas of Conservation (SACs) and the list of European Protected Species (EPS), these habitats and species have the highest level of protection.

The next tier of legislation is UK and Scottish; the three main Acts related to this are the Wildlife and Countryside Act (1981), Protection of Badgers Act 1992, (as amended by the Nature Conservation Act (Scotland) 2004) and the Nature Conservation (Scotland) Act 2004. From this legislation come Sites of Species Scientific Interest (SSSI) and further lists of protected species.



The Highland Council has produced Supplementary Guidance on Highland's Statutorily Protected Species which gives further detail on protected species in relation to development.

Further advice relating to protected species can be found online at the Scottish Natural Heritage<sup>18</sup> website and the Forestry Commission Scotland<sup>19</sup> website.

### 3 Development within Woodlands Leasachadh taobh a-staigh Choilltean

In most situations, woodlands are created for a range of benefits, including commercial timber production, biodiversity and amenity. Generally, existing woodlands have not been created to accommodate housing or other forms of built development.

The capacity of woodland to accommodate development without losing its essential character should be considered. This capacity is important to establish in relation to the levels of acceptability of development, particularly with regard to the potential cumulative impacts of incremental development over time.

Before The Highland Council is able to accept the principle of development within existing woodlands, the applicant must demonstrate why there is a clear need to develop a wooded site, as opposed to an alternative unplanted site. An area which has recently been felled and awaiting restocking is still considered as woodland in this context.

Applicants also need to be aware that there will be a stronger presumption against development within woodlands where it affects important features (as identified in Figure 1), or where it would lead to the fragmentation or disconnection of important habitat networks (as explained further in Sections 130 and 150 of the Scottish Planning Policy and the Supplementary Guidance on Green Networks).



There are three levels of acceptability when considering development within woodlands:

<b>LOW</b>	Developments involving <b>removal</b> of woodland
<b>MEDIUM</b>	Developments designed to co-exist with <b>existing</b> woodland
<b>HIGH</b>	Developments designed to create and co-exist with <b>new</b> woodland

### 3.1 Developments Involving Removal of Woodland

**The Highland Council has a strong presumption in favour of protecting its woodland resource. Development proposals involving woodland removal will only be supported where they offer clear and significant public benefit.**

Section 2.5 explains the purpose of the Scottish Government's Policy on the Control of Woodland Removal. Further guidance on the implementation of the policy and the criteria for acceptability of woodland removal, including the requirement for Compensatory Planting, is set out in the Scottish Government's policy on the Control of Woodland Removal.

The first consideration for all woodland removal decisions should be whether the underlying purpose of the proposals can reasonably be met without resorting to woodland removal. This could be achieved by modifying the development proposals to integrate with the existing woodland structure. Where this cannot be achieved, there may be an opportunity to adapt woodland management to help incorporate an appropriate level of development. This may involve changes to forest design (for instance, by increasing open space within the forest, as required by the UK Forestry Standard<sup>20</sup>), woodland type (for instance, by changing species composition from conifers to broadleaves) or management intensity (for instance by changing from an intensively managed forest to lower intensity, more dispersed woodland).

The threshold at which the policy applies is generally 0.1 hectare and the cumulative impact of woodland removal within a given area will also be taken into consideration.

### 3.1.1 Control of Woodland Removal

Having considered the criteria for woodland removal (see Annex C of the policy) and undertaken an EIA determination (where relevant), if The Highland Council is satisfied that an element of woodland removal is appropriate, the following considerations will be taken into account:



- where the utilisation of timber is maximised as part of the removal process;
- where there are no significant commercial implications on the viability of the forest industry within the locality, particularly in fragile areas;
- where the developer has chosen to co-exist and integrate with suitable woodland, minimising the amount of removal;
- the cumulative impact of woodland removal in a given area;
- where the provision for Compensatory Planting can be secured in close proximity to the site;
- that are of limited biodiversity value;
- where felling would not lead to fragmentation or disconnection of habitat for species movement;
- that do not significantly contribute to the landscape character of the area;
- that offer limited recreational value;
- which do not provide screening or shelter.

It should be noted that a woodland owner's financial considerations alone will not be regarded as sufficient reason to permit woodland removal without compensatory planting.

### 3.1.2 Compensatory Planting

**While the Control of Woodland Removal policy will accept compensatory planting any where within Scotland, The Highland Council has a strong preference for planting to remain within the Highlands.**

The purpose of compensatory planting is to secure, through new woodland on appropriate sites elsewhere, at least the equivalent woodland-related net public benefit embodied in the woodland to be removed.

It will be a matter for Scottish Ministers (in the case of Section 36 or 37 applications) or the planning authority, with the advice of Forestry Commission Scotland, to determine the need for compensatory planting, its type and extent and the most appropriate way of securing its delivery.

Where Compensatory Planting is required as a condition of development it is unlikely to be eligible for support through the Scottish Rural Development Programme (SRDP)<sup>21</sup>.

## 3.2 Developments Designed to Co-Exist with Existing Woodland

**The Highland Council has a strong presumption in favour of protecting its woodland resource. Development proposals within existing woodland will only be supported on a suitable site where the development and the woodland will co-exist to provide mutual benefits, and where a clear and significant public benefit can be demonstrated.**

Felling is an integral part of managed woodlands and these areas are generally replanted to establish the next crop of trees. This fallow period between felling and replanting is not an opportunity for unplanned development.

It is important that any development within woodland is 'absorbed' so to retain the woodland character as well as delivering ongoing management.

There are a number of factors that need to be considered to establish whether woodland in a given location may be suitable for development. An explanation is also required to demonstrate why the development needs to take place within woodland and how the two will co-exist while providing a mutual benefit.



Any development proposals within existing woodland which involves felling of greater than 0.1 hectare must still meet the acceptability criteria for woodland removal.

### 3.2.1 Windfarms and Renewables

While the Scottish Forestry Strategy has an aspiration to increase forest cover from 17% to around 25% of Scotland's land area by the second half of this century, the Scottish Ministers have also set a target of generating 80% of Scotland's electricity from renewable resources by 2020. A balance clearly needs to be achieved to ensure that one does not counteract the other.

Windfarms are one of the most significant causes of woodland removal in Scotland, with larger developments involving the clearance of 500 hectares or more in order to optimise the efficiency of the turbines. There is a trend in northern Scotland towards targeting productive conifer plantations for windfarm developments, undoubtedly due to the lack of nature designations and road infrastructure that may already exist. The cumulative impact of this scale of woodland removal may have lasting implications for the forest industry, particularly when concentrated in a particular area.

**The Highland Council will consider the cumulative impact of windfarms on the woodland resource within an area when assessing applications.**



To help mitigate against the loss of woodland, developers should look at opportunities for windfarms to co-exist with woodland, providing mutual benefits such as improvements to the public road infrastructure to facilitate the extraction of timber.

While there may be scope to 'keyhole' turbines into existing woodland, this can lead to stability issues where a windfarm edge can

not be achieved and often requires higher turbines which may have additional landscape implications. Windfarm access tracks within woodland can also lead to fragmentation and stability issues, as well as an adverse landscape impact.

In some circumstances, there may be scope to convert a productive plantation into native woodland, which includes greater areas of open ground and does not present the same stability issues associated with a commercial crop.



### 3.2.2 Housing, Tourism and Business

Carefully planned and designed development within woodlands can provide an attractive, peaceful and discrete setting which may be suitable for a number of uses. Certain woodlands can be adapted through careful management to accommodate an appropriate level of development. This may consist of a 'cluster' of buildings within a suitable clearing, or lower density buildings 'dispersed' throughout the woodland.

Woodland edges can also provide a visual backdrop and shelter, helping new developments integrate with the surrounding landscape.

For woodland crofting proposals, applicants should refer to The Highland Council's New/Extended Crofting Townships Policy 48 of the Highland wide Local Development Plan.



The Council will generally support development within existing woodland which is associated with the creation of woodland crofts where it helps to sustain and enhance rural communities.

Figure 2 lists the main factors that need to be considered when assessing a wooded site, although applicants should first check to see if the site is suitable in general planning terms by consulting the relevant Development Plan for the area and any associated Supplementary Guidance. Pre-application advice can also be provided by the area planning office.

#### Figure 2: Factors influencing development potential within woodland

##### Site Suitability:

- See Figure 1: Important Heritage Features, to establish 'value' of the woodland.
- Consider existing settlement patterns within the locality.
- Consider the impact on the wider landscape.
- Consider the impact on the green network (to avoid fragmentation).
- Demonstrate the 'need' for a woodland development, as opposed to an alternative unplanted site.

#### **Compatibility:**

- Consider woodland type and how well this may adapt to a partial change of use (such as the stability of trees). The 'keyholing' of development into unsuitable woodland must be avoided.
- Future management or restructuring opportunities to improve compatibility, such as long term retentions or transition from non-native to native species.

#### **Integration:**

- Consider the capacity of the woodland to accommodate development without losing its essential character – development should be capable of 'absorption' while retaining the woodland character.
- Recreational facilities, such as footpaths, should be provided within the woodland to create an active link with the development.
- Reference should be made to The Highland Council's Housing in the Countryside - Siting & Design Policy.

#### **Innovation:**

- Opportunities for communal woodfuel heating system, utilising timber resource from surrounding woodland.
- Opportunities for community led businesses such as firewood supply, Christmas trees, sawmilling, bike trails, pony trekking etc.
- Opportunities for Woodland Crofts.

#### **Sustainability:**

- A holistic forest plan is required to secure the future management of woodland.
- Proposals should help to deliver wider public benefits, such as meeting a demonstrated need for affordable housing in rural locations.
- The development should provide positive benefits for the management of the remaining woodland.

### **3.3 Developments Designed to Create and Co-Exist with New Woodland**

**The Highland Council will generally support well planned developments which are designed to create and co-exist with significant areas of new woodland.**

On a national level, woodland expansion will contribute towards the Scottish Forestry Strategy reforestation targets which on a global level will help mitigate against climate change.

Within more rural locations there is an opportunity to create a significant area of new woodland which can be designed to enhance and integrate with new development, subject to natural and cultural heritage considerations. Depending on the scale and type of woodland creation, this can bring multi benefits such as landscape enhancement, biodiversity, timber resource, amenity and recreational opportunities, and improved connectivity of the green network.

It is easier to plan a new development alongside a new woodland which has been designed to co-exist rather than trying to introduce a new development into an existing woodland which may not be compatible with such a change in use. The siting and design of a development within a new woodland is particularly important, as the visual benefits will only be realised in the longer term. For larger scaled developments, programmed over a number of phases, a preference will be given to the early establishment of structural tree planting over the site as a whole.

### **3.3.1 Windfarms and Renewables**

Many of the opportunities and constraints influencing the location of windfarms and renewables are similar to those influencing the location of productive woodlands, especially in areas identified as Policy Category A of the Council's Highland Forest and Woodland Strategy.

Windfarms and other forms of renewables often require a substantial investment in road infrastructure which may also be capable of transporting timber from previously inaccessible areas providing an ideal opportunity for the two interests to co-exist. Where windfarm tracks do not provide these mutual benefits, they should be restored on decommissioning of the wind turbines.



### **3.3.2 Housing, Tourism and Business**

Where a lower density and more dispersed pattern of development is preferred (along the edge of an existing settlement or in a rural location, for example) this provides an ideal opportunity for the creation of new woodland.

Where this involves numerous ownerships, it is important that a holistic Woodland Management Plan is secured through a Section 75 Agreement<sup>22</sup> to ensure future implementation.

In some situations a Community Woodland Trust may be formed, giving greater 'ownership' to the community. There is also an increasing interest in the creation of Woodland Crofts which may provide greater opportunities for a more diverse management. For woodland crofting proposals, applicants should refer to The Highland Council's New/Extended Township Policy 48 of the Highland wide Local Development Plan.

### 3.4 Woodland Management Plans and Securing Compensatory Planting

**For larger developments, The Highland Council will normally expect the applicant to employ the services of a qualified Forestry Consultant to develop and oversee the implementation of the Woodland Management Plan and Compensatory Planting proposals.**

#### **Woodland Management Plans:**

Where woodland is considered suitable for development, a Woodland Management Plan will be required or an existing plan adapted to help with the transition and to plan for the future. Inevitably, management operations will be weighted at the start as the woodland is restructured to accommodate the development.

For smaller well established broadleaved woodlands, there may be little longer term management required beyond the initial restructuring. For larger mixed or productive woodlands, ongoing management may be required. The complexity of the Woodland Management Plan will depend on the intensity of management required.

For more complex woodlands, the services of a qualified Forestry Consultant should be employed to develop and oversee the implementation of the Woodland Management Plan. In order to secure the appropriate long term management of a woodland, The Highland Council may require the applicant to enter into a Section 75 Agreement.

#### **Compensatory Planting:**

Where woodland removal is considered appropriate subject to Compensatory Planting, the applicant will need to secure an option on a suitable planting site prior

to approval of planning permission. In most cases this will require the services of a qualified Forestry Consultant to develop and subsequently deliver the agreed scheme.

It should be noted that Compensatory Planting is usually not eligible for funding under the Scottish Rural Development Programme (SRDP).

Depending on the scale of planting, Forestry Commission Scotland may need to make a determination of the need for an Environmental Impact Assessment (EIA).



## 4 Trees and Development Craobhan agus Leasachadh

Trees are sometimes considered to be an expensive and unnecessary constraint on a development site. The wider benefits of retaining and protecting suitable trees not only helps to mitigate against the impact of development on the landscape but also provides a mature setting which can be a real asset during the marketing of a site. Indeed, many new properties and housing developments within the Highlands are subsequently named after the trees found within the site.

In assessing planning applications, The Highland Council will consider the impact on trees and woodland as a key material consideration. The Highland Council strongly opposes any pre-emptive felling in advance of a planning application, which can result in the unnecessary loss of trees or woodland and may also be in contravention of felling licence regulations, as administered by Forestry Commission Scotland under the Forestry Act 1967 (as amended)<sup>23</sup>. Felling in contravention of the felling licence regulations is a criminal offence and may be subject to prosecution.



Any proposed tree removal or retentions should be submitted for consideration as part of any planning application. Where specific tree felling is identified and subsequently approved as part of a detailed planning permission, this supersedes the need for a felling licence.

## 4.1 Site Status

When considering a site, the value of any trees or woodland will be assessed on a local, national and international level, as highlighted in Section 2.3 above. While greatest protection will be given to features of international and national importance, for locally/regionally important features development may be allowed where it does not have an unacceptable impact on amenity and heritage values.

Applicants are encouraged to contact The Highland Council at an early stage to seek advice on their proposals and to establish whether the site is appropriate in general planning terms before progressing their application in more detail. Applicants should refer to the relevant Development Plan covering the area and, if applicable, The Highland Council's Supplementary Guidance for Housing in the Countryside : Siting and Design<sup>24</sup> which provides further advice on the setting of new developments and design principles. It is also advisable to speak to a planning officer from the local area office to discuss the proposals.

## 4.2 Establishing the Potential Developable Area of the Site

The first assessment of any site containing trees should be to establish the potential developable area. This applies equally to Planning Permission in Principle as it does detailed applications (Full or Matters Specified in Condition).

This assessment should be undertaken by a suitably qualified arboricultural consultant in accordance with BS5837:2012 (Trees in Relation to Design, Demolition and Construction) and should include the following steps:

- ✓ **Topographical Survey**
- ✓ **Tree Survey**
- ✓ **Tree Categorisation**
- ✓ **Tree Constraints Plan**

Appendix 1 provides a brief description on each of these steps and further reference should be made to Figure 1 of BS5837:2012 for full details.

## 4.2.1 Tree Constraints Plan

The effects of trees on development and of development on trees must be fully considered from the earliest stages of any planning proposal. In order to establish the developable area, a Tree Constraints Plan is required. This identifies the trees suitable for retention and the area around these trees which is necessary to provide protection during the construction phase and thereafter.

Categories identifying the quality for each tree are to be annotated onto the original scaled Land Survey along with Canopy Spread, Root Protection Areas and recommended Separation Distances between retained trees and any proposed buildings.

### The proposed layout should be designed around these constraints

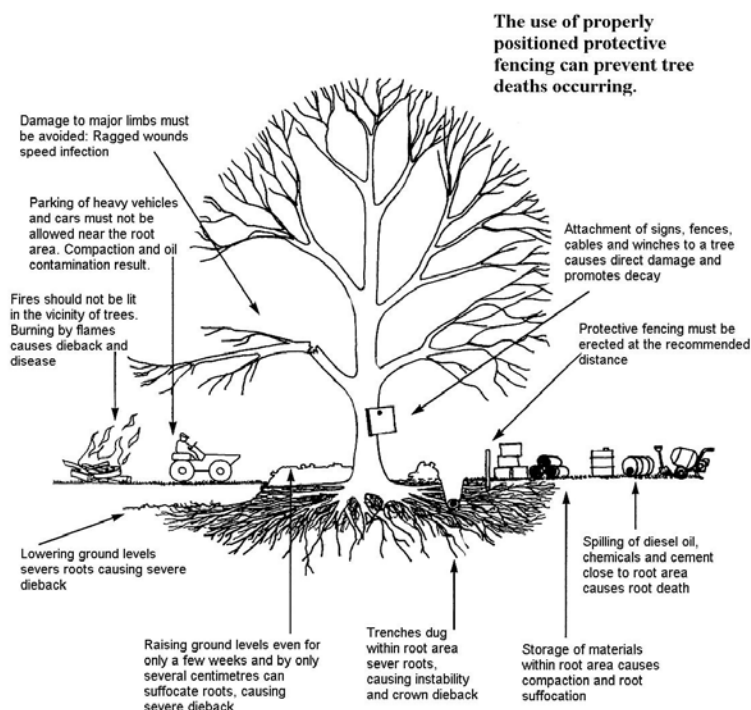
For less sensitive sites The Highland Council may accept a simplified Tree Constraints Plan, which shows the position of all trees to be removed and retained.

## 4.3 Establishing the Detailed Layout of the Site

Once the potential developable area of a site has been established, the next stage is to design the layout with due consideration to the identified tree constraints. This assessment should be undertaken by a suitably qualified arboricultural consultant in accordance with BS5837:2012, which should include the following steps:

- ✓ **Arboricultural Impact Assessment**
- ✓ **Prepare draft layout for consultation**
- ✓ **Finalise detailed layout**
- ✓ **Tree Protection Plan & Method Statement**
- ✓ **Landscape / Tree Planting Plan**

### *Common causes of Tree Death*



Appendix 1 provides a brief description on each of these steps and further reference should be made to Figure 1 of BS5837:2012 for full details.

### 4.3.1 Arboricultural Implications Assessment

In order to establish the number, size and position of buildings, the proposed layout (including any changes in levels, roads and underground services) is to be superimposed onto the Tree Constraints Plan to identify any discrepancies or areas of conflict which need to be resolved prior to submission.

### 4.3.2 Separation Distance between Trees and New Development

A combination of factors influence the position and orientation of buildings in relation to trees and this assessment can only be carried out on a site by site basis. The key factors are:

#### Safety

Health and safety is the most important consideration and it is therefore paramount that a safe distance is established between new buildings and existing trees. This will vary greatly depending on species, the potential size of the tree, the prevailing wind and the exposure of the site. For smaller, compact trees, it may be possible to build right up to the Root Protection Area. For larger trees, including commercial conifers, it may be necessary to maintain a separation of 20 metres or more.



#### Sunlight

Restricted sunlight due to shading by trees is increasingly a cause for complaint, particularly during the summer months when trees are in leaf. Again, the larger the tree the greater the separation, particularly when located to the south of a building. Computer software is available to demonstrate the effects of shading from trees and the Planning Authority may ask an applicant to undertake this exercise where they consider there to be potential conflict. This information will help inform the Arboricultural Implications Assessment discussed in Section 3.3.1.

#### Leaf fall

Leaf fall and needle drop can cause blocked gutters and drains, slippery surfaces and additional work clearing leaves in the garden which can often result in pressure to remove trees.

#### Views



Where trees restrict views, there is often pressure to remove, or continually trim back foliage to maintain or enhance a view which can result in cumulative adverse impacts on the quality and value of the wider landscape. In certain circumstances trees may be managed in this way, but this can incur on-going expense which often leads to dispute between neighbours.

### **TV & satellite reception**

The close proximity of trees can often cause interference or lack of reception. Growth potential of trees also needs to be taken into consideration, as this can lead to problems in the future.

### **Other Considerations**

In some situations it may be acceptable for certain buildings, such as sheds and garages, to be located closer to trees as they are not affected by the above factors in the same way.

Where this has been allowed, The Highland Council may include a planning condition which removes Permitted Development Rights to ensure that the building is not subsequently converted to residential use.

The Highland Council may also remove Permitted Development Rights where houses are built to an agreed separation distance from trees, to avoid otherwise permitted extensions being built within this exclusion zone.

## **4.3.3 Tree Protection Plan**

Details of appropriate protection measures for all retained trees must be annotated onto a Tree Protection Plan. This must include the position and specification of protective barriers, which should be located outside the Root Protection Area identified in the Tree Constraints Plan. An Arboricultural Method Statement may be required in support of the Tree Protection Plan to identify mitigation measures where works encroach within the Root Protection Area.



Once the position of the protective barriers have been agreed, no encroachment into this exclusion zone will be permitted without full justification and written approval from The Highland Council.

## 4.4 Tree Planting and Landscape Plans



Under Section 159 of the Town and Country Planning (Scotland) Act 1997, the planning authority has a duty to ensure, wherever it is appropriate, that in granting Planning Permission for any development adequate provision is made for the planting of trees.

Whether planting just one or two well placed specimen trees within garden ground of a single house site or the extensive landscaping of a far larger proposal, these 'green' areas can transform the setting and appearance of a development, particularly where tree cover is absent or limited.

Particular attention should be given to the creation of links between existing green networks to help enhance connectivity and restore any fragmentation.

The Highland Council has produced separate Supplementary Guidance on Green Networks and Open Space in New Residential Development.

### 4.4.1 Structural Tree & Hedge Planting Plan

Within small scale developments, such as a single house within garden ground, or larger developments with extensive tree retentions, it may only be necessary to provide minimal tree planting to help integrate the new building into the existing setting. Where there is a declining tree stock, due to age or condition, an allowance should be made for additional planting in anticipation of future losses.

Hedge planting is also a good alternative to fencing when defining a new boundary, particularly where this contributes towards the intrinsic characteristic of the local landscape. Hedges can vary from more formal beech hedging to a more natural hedge using native species. Where space for tree planting is limited within a site, hedges can be inter-planted with specimen trees, which will be left to grow on. Planting with quick growing conifers (such as cypress) is generally to be avoided.

### 4.4.2 Landscape Plan

**For larger developments, The Highland Council will normally expect the applicant to employ the services of a suitably experienced Landscape Architect to develop and oversee the implementation of the Landscape Plan.**

Supplementary Guidance: Open Space in New Residential Development should be consulted to see how The Highland Council will assess the greenspace, sport and recreational provision that will be required as part of any new development and how they will secure that provision.

Within larger developments, particularly where there is a lack of existing tree retentions, a robust Landscape Plan is required in order to create a future setting which can include a mosaic of trees, shrubs and open space. Where appropriate, the use of large specimen trees may be sought to offer an immediate mature setting within a new development.

All landscaping should be undertaken in accordance with BS4428:1989 Code of Practice for General Landscape Operations (excluding hard surfaces)<sup>25</sup> which is the industry standard concerning landscaping operations such as:

- preliminary investigations;
- drainage;
- grading and cultivation;
- seeding of grass areas;
- turfing;
- amenity tree planting;
- woodland planting;
- planting of shrubs, herbaceous plants and bulbs.



Wherever possible, landscaping should be kept within communal areas which can then be maintained by the developer or residents group, unless adopted by The Highland Council. It is therefore important that adequate communal open space is allocated for landscaping at the design stage, rather than relying on garden ground.

#### 4.4.3 Maintenance Programme

The future maintenance of planted areas is fundamental to the success of any landscaping scheme and indeed the setting of any new development. Further guidance on how The Highland Council expects maintenance to be secured is given within the Supplementary Guidance: Open Space in New Residential Developments.

The preferred approach in the Open Space Supplementary Guidance is to oblige the developer to condition each individual householder's title deeds and require them to contribute to the maintenance of communal areas,



whether this is through the residents appointing a factor or by forming an association to manage this. While tree maintenance is equally important on single house sites, in many cases this can be adequately undertaken by the owner, without the need for a formal agreement.

Where present on a site, invasive non-native species must be identified and managed from the outset to avoid spread by machinery or with the movement of excavated material which may be contaminated. Maintenance programmes must also include a pro-active management plan for the control of invasive non-native species where present. Reference can also be made to the Council's Supplementary Guidance on Highland's Statutorily Protected Species and the Highland Invasive Species Forum<sup>26</sup> which provide useful information, including various control measures.

## 4.5 Tree and Woodland Management Plans

In addition to the maintenance of new tree planting, there is often a need to consider the future management of existing trees and woodland, where they exist within a development.

### 4.5.1 Tree Management Plan

Often, the Tree Survey carried out in support of the Tree Constraints Plan will include details of any remedial tree work that may be required to ensure that the developer fulfils their duty of care. This information should be used to provide a schedule of works, based on priority, in the form of a Tree Management Plan. All tree surgery and felling operations should be carried out in accordance with BS3998:2010 (Recommendations for Tree Work)<sup>27</sup>.

The Tree Management Plan should be implemented prior to completion of the development so that it can be adequately enforced by a planning condition. Where ongoing maintenance is required, the Tree Management Plan may need to be included in a more formal Factoring Agreement.

### 4.5.2 Woodland Management Plan

**For developments which contain a significant element of woodland, The Highland Council will normally expect the applicant to employ the services of a suitably experienced Forestry Consultant to develop and oversee the implementation of the Woodland Management Plan.**

Where a development is related to a significant element of woodland, The Highland Council may require a Woodland Management Plan to secure its future management. As well as addressing the silvicultural and environmental aspects, the Woodland Management Plan must consider the future enjoyment of the residents and the wider public, and should consider facilities such as footpaths, cycle routes and play areas.

The 'significance' of a woodland will generally increase depending on its size (typically over 0.1 hectare) and quality in relation to biodiversity, recreation and landscape.

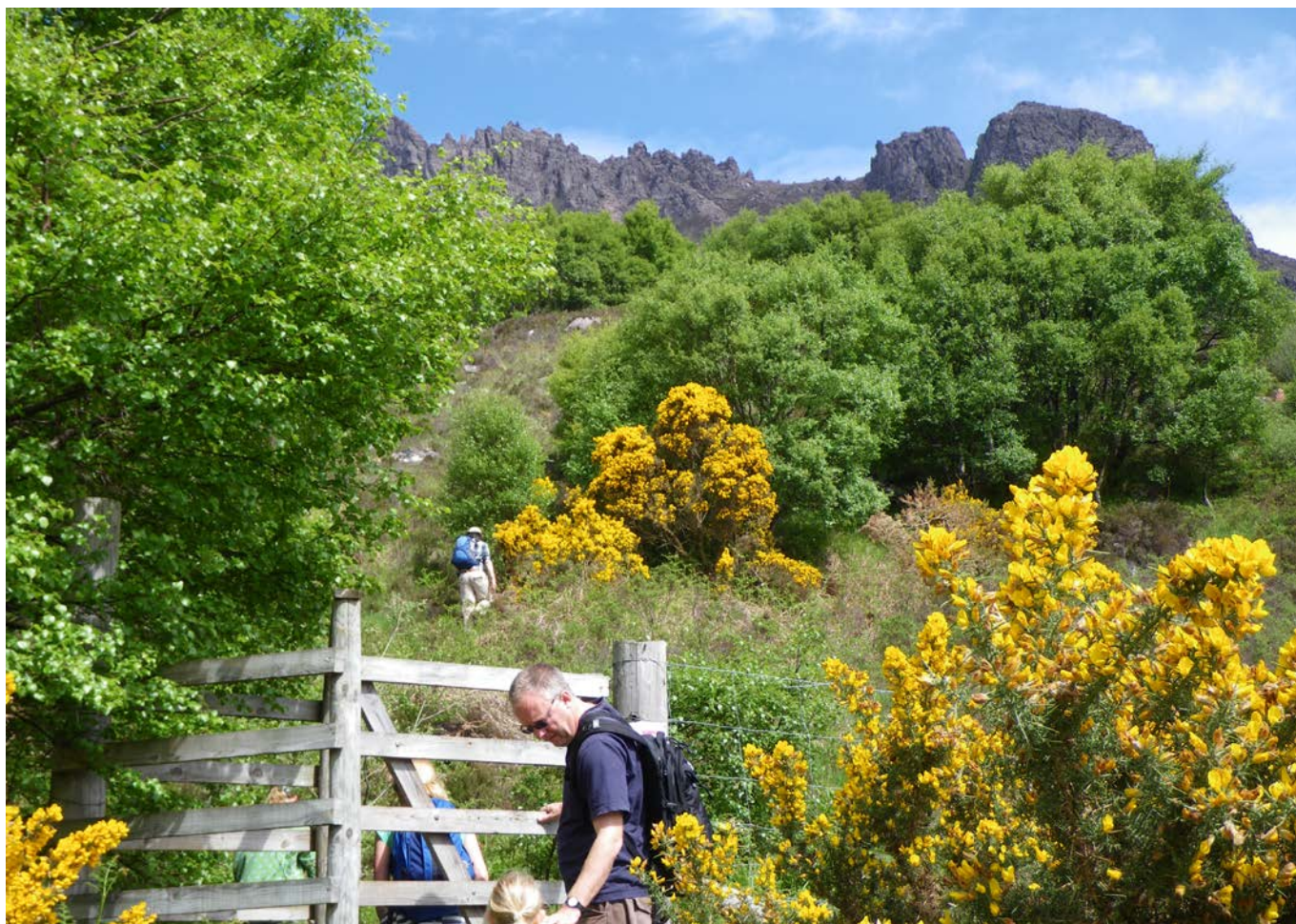
Where the majority of the work can be undertaken prior to completion of the development, it may be sufficient to secure the implementation of a Woodland Management Plan by a planning condition. Where management proposals are ongoing (particularly in coniferous woodland) then this could be secured and implemented within a Forest Plan, which would be administered by Forestry Commission Scotland. It may be necessary to include this requirement through a Section 75 Agreement where the future management of the woodland is considered to be an integral part of the development.

## 5 Conclusion Co-dhùnadh

It is intended that this Supplementary Guidance will help clarify the issues that need to be considered in relation to development involving trees and woodlands, and in turn help to speed up the application process.

This guidance should be read in conjunction with the other supplementary guidance available from The Highland Council as well as other relevant documents, many of which are referred to throughout the text.

The effectiveness of the Supplementary Guidance will be monitored and any improvements will be incorporated as appropriate. A number of Advice Notes will shortly be available which will provide more specific detail on certain aspects, including tree protection and landscape plans.



Appendix 1:

**Full Planning Permission**

**Planning Permission in Principle**

Establish Developable Area (Section 4.2)

Topographical Survey

All trees within and adjacent to the site to be accurately plotted on a scaled plan.



Tree Survey

Detailed survey to assess the quality and condition and Root Protection Area of all trees within and adjacent to the site.



Tree Categorisation

Trees to be categorised as A, B, C or U and coloured accordingly.



Tree Constraints Plan

A scaled plan showing the position, categorisation and Root Protection Areas of all trees within and adjacent to the site.



Where a PIP application specifies the size, position or number of houses, an Arboricultural Impact Assessment and draft layout may be required.

**Matters Specified in Conditions**

Establish Detailed Site Layout (Section 4.3)

Arboricultural Impact Assessment

Draft layout superimposed with accurate position of retained trees, Root Protection Areas and separation distances.



Prepare Draft Layout for Consultation

Identify any areas of conflict and seek resolution through design or mitigation.



Finalise Detailed Layout

Agree any changes prior to formal submission.



Tree Protection Plan & Method Statement

The Tree Protection Plan must be available on site and where required, must include a detailed method statement.



Landscape / Tree Planting Plan

Plan must include a clear planting and maintenance specification, including timescale for implementation of work.

## Useful Contacts: Seòlaidhean Feumail:

### **The Highland Council**

Planning and Development Service  
Glenurquhart Road  
Inverness  
IV3 5NX  
Tel: 01463 702250

Area offices<sup>28</sup> at: Wick, Golspie,  
Dingwall, Portree, Fort William,  
Inverness, Kingussie & Nairn

### **Forestry Commission Scotland**

Highland Conservancy  
Woodlands  
Fodderty Way  
Dingwall  
Ross-shire  
IV15 9XB  
Tel: 01349 862144

### **Scottish Natural Heritage**

Great Glen House  
Leachkin Road  
Inverness  
IV3 8NW  
Tel: 01463 725000

Area offices<sup>29</sup> at: Golspie, Dingwall,  
Portree, Fort William, Inverness &  
Aviemore

### **Scottish Environment Protection Agency**

Graesser House  
Fodderty Way  
Dingwall  
Ross-shire  
IV15 9XB  
01349 862021

Area offices<sup>30</sup> at: Thurso, Dingwall &  
Fort William

Further information can also be found on the Trees and Forestry<sup>31</sup> section of The Highland Council website.



## End Notes

---

1 Highland Wide local Development Plan:

<http://www.highland.gov.uk/yourenvironment/planning/developmentplans/localplans/HighlandWideLocalDevelopmentPlan.htm>

2 Town & Country Planning (Scotland) Act 1997, as amended by the Planning etc (Scotland) Act 2006:

<http://www.legislation.gov.uk/ukpga/1997/8/contents>

3 Scottish Planning Policy:

<http://www.scotland.gov.uk/Publications/2010/02/03132605/0>

4 Green Networks Supplementary Guidance:

<http://www.highland.gov.uk/yourenvironment/planning/developmentplans/localplans/GreenNetworksDraftSupplementaryGuidance.htm>

5 Open Space in New Residential Developments Supplementary Guidance:

<http://www.highland.gov.uk/yourenvironment/planning/developmentplans/developmentplanpolicyguidance/osspeg.htm>

6 Highland Statutorily Protected Species Supplementary Guidance:

<http://www.highland.gov.uk/yourenvironment/planning/developmentplans/developmentplanpolicyguidance/Highland+Statutorily+Protected+Species+Supplementary+Guidance>

7 Scottish Ancient Woodland Inventory:

<http://www.snh.gov.uk/docs/C283974.pdf>

8 Highland Forest & Woodland Strategy:

<http://www.highland.gov.uk/yourenvironment/agriculturefisheriesandforestry/treesandforestry/highland-forest-and-woodland-strategy.htm>

9 The Right Tree in the Right Place – Planning for Forestry and Woodlands:

<http://www.forestry.gov.uk/forestry/INFD-868FMB>

10 Scottish Government policy on the Control of Woodland Removal:

<http://www.forestry.gov.uk/woodlandremoval>

11 Guidance to FCS staff on implementing the Scottish Government's policy on the Control of Woodland Removal:

[http://www.forestry.gov.uk/pdf/WRpolicyguidance17March2010.pdf/\\$FILE/WRpolicyguidance17March2010.pdf](http://www.forestry.gov.uk/pdf/WRpolicyguidance17March2010.pdf/$FILE/WRpolicyguidance17March2010.pdf)

12 Scottish Forest Strategy:

[www.forestry.gov.uk/sfs](http://www.forestry.gov.uk/sfs)

13 Environmental Impact Assessment (Forestry) (Scotland) Regulations 1999:  
<http://www.forestry.gov.uk/forestry/INFD-5ZGKWL>

14 Electricity Act 1989:  
[http://www.decc.gov.uk/en/content/cms/meeting\\_energy/consents\\_planning/electricity/electricity.aspx](http://www.decc.gov.uk/en/content/cms/meeting_energy/consents_planning/electricity/electricity.aspx)

15 A copy of BS5837:2012 (Trees in Relation to Design, Demolition and Construction) can be purchased at:  
<http://shop.bsigroup.com/en/ProductDetail/?pid=000000000030213642>

16 Planning Circular 1, 2011 : Tree Preservation Orders:  
<http://www.scotland.gov.uk/Publications/2011/01/28152314/0>

17 Felling Licences:  
<http://www.forestry.gov.uk/fellinglicences>

18 SNH guidance for planners and developers on protected animals:  
<http://www.snh.gov.uk/planning-and-development/advice-for-planners-and-developers/protected-animals/>

19 FCS Guidance Notes : Wildlife and Forest Operations:  
<http://www.forestry.gov.uk/forestry/INFD-6VRJH2>

20 The UK Forest Standard:  
[http://www.forestry.gov.uk/pdf/fcfc001.pdf/\\$FILE/fcfc001.pdf](http://www.forestry.gov.uk/pdf/fcfc001.pdf/$FILE/fcfc001.pdf)

21 Scottish Rural Development Programme:  
<http://www.scotland.gov.uk/Topics/farmingrural/SRDP/WhatIs>

22 Planning Agreements (Section 75):  
<http://www.scotland.gov.uk/Publications/2011/02/21110750/4>

23 Forestry Act 1967 (as amended):  
<http://www.legislation.gov.uk/ukpga/1967/10/contents>

24 Housing in the Countryside Supplementary Guidance:  
<http://www.highland.gov.uk/yourenvironment/planning/developmentplans/developmentplanpolicyguidance/housingincountryside.htm>

25 A copy of the BS4428:1989 (Code of Practice for General Landscape Operations) can be purchased at:  
<http://shop.bsigroup.com/en/ProductDetail/?pid=000000000000198326>

26 Highland Biodiversity Invasive Species Forum:  
<http://www.highlandbiodiversity.com/htm/invasive-species/invasive-species.php>

27 A copy of BS3998:2010 (Tree Work Recommendations) can be purchased at:  
<http://shop.bsigroup.com/ProductDetail/?pid=00000000030089960>

28 Highland Council Area planning offices:  
<http://www.highland.gov.uk/yourenvironment/planning/planning-and-development-contacts.htm>

29 Scottish Natural Heritage local offices:  
<http://www.snh.gov.uk/contact-us/how-to-contact-us/offices/>

30 Scottish Environment Protection Agency offices:  
[http://www.sepa.org.uk/about\\_us/contacting\\_sepa/regional\\_offices.aspx](http://www.sepa.org.uk/about_us/contacting_sepa/regional_offices.aspx)

31 Highland Council Trees & Forestry section:  
<http://www.highland.gov.uk/yourenvironment/agriculturefisheriesandforestry/treesandforestry/>



## Getting Involved

**If you would like more information or to get involved in the production of future plans please contact us in one of the following ways:**

### Telephone

(01463) 702259

### Post

Director of Planning and Development, The Highland Council, Glenurquhart Road, Inverness IV3 5NX

### Email

[devplans@highland.gov.uk](mailto:devplans@highland.gov.uk)

### Fax

(01463) 702298

**For the most up to date news on the work of the Development Plans Team (and more) please follow our twitter account, 'Like' our Facebook page and check out our blog:**

### Twitter

[www.twitter.com/highlanddevplan](http://www.twitter.com/highlanddevplan)

### Facebook

[www.facebook.com/highlandLDPs](http://www.facebook.com/highlandLDPs)

### Blog

[hwldp.blogspot.co.uk](http://hwldp.blogspot.co.uk)

### Feedback

If you have any experience of Development Planning that you would like to comment on please complete a customer satisfaction survey:

<http://www.surveymonkey.com/s/X89YVTY>

