

## HIGHLAND COUNCIL'S RESPONSE TO PROCEDURE NOTICE DATED 8<sup>TH</sup> JULY 2011

### Request:

An up-to-date statement on the status of the development plan in terms of approved/adopted and emerging documents with reference to waste management policy and guidance. Please comment on the relevance of these documents to the proposal and the weight that should be attached to each of them

### Current position

1. The statutory development plan remains as identified in the Caithness, Sutherland and Easter Ross Planning Applications Committee Report of 18<sup>th</sup> August 2009 concerning this proposal:- they are the Highland Structure Plan (March 2001) and the Ross and Cromarty East Local Plan (February 2007).
2. The relevant development plan policies identified were:

#### Structure Plan

Policy G1	Conformity with Strategy
Policy G2	Designed for Sustainability (brownfield sites – re-use)
Policy G3	Impact Assessments
Policy G4	Community Benefit
Policy G8	Precautionary Principle
Policy E7	Small community renewable energy projects
Policy E8	Centralised Renewable energy development
Policy W1	Waste Management
Policy W4	Waste Disposal
Policy W5	Facilities for the waste management network
Policy W7	Waste Combustion with Energy Recovery

#### Ross and Cromarty East Local Plan

Para 3.18	Renewable Energy
Para 3.28-29	Waste Management
Background Policy	BP2

#### **General Supporting Policies (GSP)**

GSP 1	Design and Sustainable Construction
GSP 5	Waste Management
Policy 22/12	Cromarty Firth Industrial Park – mixed industrial uses
Policy 22/18	Waste Management site within Industrial Park

3. The Structure Plan highlights the Council's statutory responsibilities under the Environmental Protection Act, 1990 to make arrangements for the disposal or transfer of municipal solid waste (MSW). It addresses this matter in some detail and acknowledges SEPA's responsibility for developing a National Waste Strategy.
4. Four key principles set out in the National Waste Strategy were carried forward within the Structure Plan: -
  - best practicable environmental option (BPEO), which is the option for waste disposal that provides the most benefits or the least damage to the environment as a whole, at acceptable cost, in the long term as well as the short term
  - the proximity principle and regional self-sufficiency, which require wastes to be managed as close as possible to their point of arising, preferably in the region within which it is produced;
  - the polluter pays, for the full costs of their actions, including those costs which waste management imposes on society and the environment; and
  - the precautionary principle, which embodies the concept of avoiding taking action which may result in uncertain and potentially severe environmental consequences.
5. The adopted Ross and Cromarty East Local Plan also adopts the approach set out in the Structure Plan noting the need for improved waste treatment facilities to be accommodated locally (BPEO).
6. The need for an "energy from waste" plant, post 2010, within the Inner Moray Firth area is noted in the Local Plan (Written Statement, Para 3.29) although no site assessment / identification was undertaken.
7. In addition to the development plan, the Council has adopted non-statutory supplementary guidance with specific reference to renewable energy; 'The Highland Renewable Energy Strategy' (HRES) (adopted May 2006). This document was subject to an 11 week formal public consultation period prior to adoption which included 6 public meetings. It is a material consideration in the determination of planning applications, although does not possess the same weight as supplementary guidance adopted under the new Planning System.

#### Updated position

8. Since the Committee decision in August 2009, the Council have published the Highland wide Local Development Plan Proposed Plan (September 2010) ("HwLDP"). The Vision for the Inner Moray Firth area detailed in the HwLDP outlines how the area will have developed by 2030. In particular it states (page 18) that the area will have diversified its economy through, amongst other matters, "other parts and harbours, including Inverness and Invergordon will have supported

the growth of tourist and renewables related economic development” and will be regenerated and renewed through, amongst other matters, bringing brownfield land back into more productive use.

9. The following policies in the HwLDP are relevant to the proposal:

- Policy 29: Sustainable Design
- Policy 30: Design Quality and Place Making
- Policy 31: Physical Constraints
- Policy 32: Developer Contributions
- Policy 35: Settlement Development Areas
- Policy 42: Business and Industrial Land
- Policy 43: Previously Used Land
- Policy 57: Travel
- Policy 58: Natural, Built and Cultural Heritage
- Policy 62: Landscape
- Policy 64: Water Environment
- Policy 66: Waste Water Treatment
- Policy 67: Surface Water Drainage
- Policy 68: Renewable Energy Developments
- Policy 71: Waste Management Facilities
- Policy 73: Pollution
- Policy 74: Air Quality
- Policy 75: Green Networks

Policy 71 Waste Management Facilities is of most relevance. It outlines the Council’s 4 preferred sites for the development of waste management facilities (former Longman landfill site, Inverness, Seater landfill site, Caithness, Portree landfill site, and Ben Nevis Industrial Site Fort William) and provides for consideration of development on other sites.

10. The HwLDP will supersede the Highland Structure Plan and certain parts of the Local Plan. In particular, the Council intends that the following policies in the Ross and Cromarty East Local Plan outlined earlier in this statement will be superseded by the HwLDP:

- Para 3.18 Renewable Energy
- Para 3.28-29 Waste Management
- General Supporting Policies (GSP)**
- GSP 1 Design and Sustainable Construction
- GSP 5 Waste Management

11. At the Planning, Environment and Development Committee of 11<sup>th</sup> August 2010 Elected Members agreed that the HwLDP would be used as a material consideration in determining planning applications.

12. The HwLDP is now at Examination. In the material submitted to the Development Plan Examination Reporters, see further paragraph 15 below and Appendix 2, the Council acknowledges that the recent

publication of the revised version of Scottish Government's Zero Waste Plan, specifically Revised Annex B (published 11/2/2011), may require a review of the Council's waste management strategy which would then need to be incorporated within the HwLDP. This may ultimately involve the identification of further sites for waste management facilities and maybe for specific types of such facility. Alternatively it could be that it enables confirmation that the range of industrial and existing/former waste management sites available provides adequately for future waste management facility needs, having regard to specific types of facility needed and locations where needed. (Please refer to the full text of the Council's submissions in Appendix 2.)

13. The issue of a waste to energy facility has been raised in the process with reference to the designation of a facility in Invergordon. At the Planning, Environment and Development (PED) Committee meeting on Wednesday, 16 March 2011 the PED Committee considered a Report by the Director of Planning and Development which summarised the issues raised in objections to the Highland Wide Local Development Plan and consolidated the Council's position prior to the start of the process of Examination by Scottish Government appointed Reporters. The Committee noted and agreed the recommendations of the Report including the Council's position at Examination as that set out in the "Schedule 4"s. The Report, Minute and relevant schedule 4's (page 9 of 10 ref BE (229)) are all attached for the Reporters information.
14. Given that (i) the Scottish Government has only recently released the critical Zero Waste Plan Revised Annex B (published 11/2/2011), (ii) that it does not provide the type and level of information that was originally envisaged, (iii) that the above-mentioned work will need to be done and that the HwLDP is at an advanced stage it is considered not to be appropriate to substantially delay the progression of the HwLDP whilst undertaking this work in order to make significant changes to it on this matter. It is therefore anticipated that future revisions of the HwLDP will incorporate the revised waste management strategy.
15. The preparation of the three site specific area Local Development Plans (for the Inner Moray Firth, Caithness and Sutherland, West Highlands and Islands) over the next few years provides further opportunity to identify sites for waste management uses as required. Please refer to the Council's Development Plan Scheme 2011 attached in Appendix 1 for further details on the timescales for preparation of these LDP's.
16. In the interim, as indicated in paragraph 12 above, the Council has noted in the material submitted to the Development Plan Examination Reporter (attached in Appendix 2) that it would happy to incorporate a minor amendment to the Plan text to note that all proposed waste management facilities should also be assessed against Revised Annex B (specifically the data outlined in the National Need and Capacity Information table). As an alternative, it is also suggested that there is

scope to revise the policy wording to state that all proposals for waste management facilities should give consideration to the '*national waste management plan*' with an explanation of the documents this encompasses (as per the Zero Waste Plan Annex B) provided in the Plan's glossary.

17. The Council's approach to waste strategy has been gradualist as a result of the Scottish Government's progressive embellishment of the idea of Zero Waste, so as not to provide or procure waste management services which do not ultimately fit with the national long term view. Thus in response to the policy announcement in 2008 the Council (jointly with Moray Council) provided a Strategy which was subsequently adopted (March 2009) by the Council which aspired to fulfil government's zero waste ambitions.
18. However since then the Scottish Government has developed its views. Two critical documents ("*The Carbon Metric*" and "*Waste Data Guidance for Local Authorities*") concerning the actual implementation of zero waste were only published in March of this year. The legislation which will finally clarify the existing uncertainty is expected in the near future. However the publication of the Regulatory Impact Assessment, probably in September 2011, will give the Council sufficient clarity with which to review its existing strategy. This prudent approach will reduce the risks associated with devising a strategy on "current" information given that there is a high likelihood that key dates announced as late as March 2011 (in the documents above) for food waste collections and landfill bans will be pushed back by several years.
19. The Council is currently awaiting the outcome of the Development Plan Examination with the Reporters report anticipated at the end of November 2011. The Reporters' report will outline any recommended changes to the Proposed Plan required following the examination. Given that under the new Planning system Reporters' recommendations are binding except in a limited number of situations, this will allow the Council to be in a position of greater certainty as to the amount of weight that can be given to the Plan in the determination of planning applications. It is anticipated that the Council will be in a position to issue a Notice of Intention to Adopt and subsequently adopt the Plan in Easter 2012. The Council notes that the Reporter has asked the Council for its opinion as to what weight should be attributed to the various documents. As the proposed development plan is with Reporters for examination it would appear to the Council to make sense to await the outcome of that examination before discussing the weight that can be given. As the outcome is expected in November 2011 and this is not long after the deadline for the updating of the Environmental Statement it appears sensible that these two processes should be completed in the first instance.

20. The Highland Renewable Strategy (HRES) is partially under review, however this review is specifically dealing with on-shore wind energy and is therefore not relevant for the proposal. HRES remains the Council's adopted strategy for energy from waste.

21. For the avoidance of doubt, this is a response to the Procedure Notice and the Council maintains its opposition to the appeal.

- 5 appendices:

1. DPS 2011
2. Schedule 4 Policy 71: Waste Management Facilities
3. PED Report March 2011
4. PED Minute March 2011
5. Schedule 4 response to Issue 84.