

Issue 6		Muirtown and South Kessock	
Development plan reference:		Policy 6 (paras. 9.15-9.17, pages 28-29)	Reporter:
Body or person(s) submitting a representation raising the issue (including reference number)			
Health and Safety Executive (HSE) (53), Scottish Natural Heritage (SNH) (118), Scottish Environment Protection Agency (SEPA) (326), Inverness Canoe Club (ICC) (341), Trustees of the Harbour of Inverness (352).			
Provision of the development plan to which the issue relates:		Muirtown and South Kessock regeneration areas	
Council's summary of the representation(s):			
<u>HSE (53)</u> <ul style="list-style-type: none">• Reports its duty to ensure that unsuitable (in terms of type and scale) developments are not proposed within the consultation distances of major hazard sites and pipelines. This allocation includes a Calor Gas compound which deals with the storage of various gas cylinders. Quotes legal support for position from EC Directive 96/82 which requires the UK to take account of the objectives of preventing major accidents and limiting the consequences of such accidents in land use policies. Sensitive uses are residential and those frequented by the public.			
<u>SNH (118)</u> <ul style="list-style-type: none">• Reserves position on Habitats Regulations Appraisal (HRA) until Council undertakes further assessment. Particular concerns about increased pier usage and its impact on dolphins as a qualifying interest of the marine Moray Firth Special Area of Conservation.• Asserts that Merkinch Local Nature Reserve should be shown on Map 3 and excluded from the allocation boundary.• Seeks clarification because para. 9.15.1 and Appendix 6.3 says a development brief / masterplan will be prepared but Policy 6 itself doesn't.			
<u>SEPA (326)</u> <ul style="list-style-type: none">• Objects unless there is pre-allocation-confirmation flood risk assessment and that no development takes place in an area subsequently found to be within the functional floodplain as defined by Scottish Planning Policy.• Reasons that a large part of the allocation falls within the 1 in 200 year coastal flood risk area, that the construction of the connecting causeway to Muirtown is not suitable as a flood defence, and that the Caledonian Canal may overflow into the allocation.• Recommends no culverting of the watercourse and a general Council commitment to safeguarding and improving water quality.			
<u>ICC (341)</u> <ul style="list-style-type: none">• Desires that Policy 6 and subsequent masterplanning process supports and enhances recreational use of the Muirtown Basin for water based activities including those of the Club.• Wants support for smaller scale facilities such as a new club house and storage facility for its Club. Concerns that larger scale interests and proposals will take precedence in the masterplanning process.• Explains the importance of the Club: 300 members; long standing local roots; voluntary organisation; works with another local group; growth			

constrained by small, shared existing facility, and; Muirtown Basin optimum location because Club needs easy access to sheltered water.

Trustees of the Harbour of Inverness (352)

- Supports the Council's development strategy for Muirtown and South Kessock. Clarifies that the spit of land west of the River Ness entrance is owned by IHT and the Trust is receptive to its development.

Modifications sought by those submitting representations:

- Amendment to policy to exclude possibility of residential use and any others that include congregation of the public within the consultation distance of the Calor Gas compound (assumed) (53).
- Merkinch Local Nature Reserve should be shown on Map 3 and excluded from the allocation boundary (118).
- Addition of development brief / masterplan requirement to Policy 6 (assumed) (118).
- Deletion or reduction of the allocation unless a pre-allocation-confirmation flood risk assessment demonstrates that the area enclosed is outwith the functional floodplain as defined by Scottish Planning Policy (326).
- Amendment / addition to Policy 6 to clarify that the masterplanning process will safeguard and support the expansion of existing small scale water based activities at Muirtown Basin (assumed) (341).

Summary of responses (including reasons) by Planning Authority:

HSE (53)

- The outer zone of the Calor Gas Ltd gas cylinder hazard HSE interest area extends approximately 200 metres from the outer edge of the compound covering most of the existing Carse industrial estate. It also encloses most of the small, undeveloped portion of the industrial estate. Planning permission has been granted for the internal access road to service this undeveloped land.
- Given that most of the land within the outer zone boundary comprises an existing industrial estate and that planning permission for the servicing of the remaining plots has been granted then the Council does not see any justification for a Plan amendment. Future uses are very likely to be within Use Classes 4, 5 and 6. Using HSE's sensitivity criteria; employment densities are likely to be low, buildings single storey and companies not likely to have an exclusively disabled workforce.
- The other most developable part of the allocation is that area adjoining the Muirtown Basin which is outwith or on the very edge of the outer zone boundary.

SNH (118)

- The Council is progressing the Plan's HRA in conjunction with SNH. The Council accepts that this allocation should not be screened out and should be subject to full HRA. Details of appropriate mitigation will be confirmed through this process but the issue of potential disturbance is also accepted.
- The purpose of the allocation is to promote the regeneration of the most multiply deprived area in Highland. The boundary is widely drawn to

encompass particular, potential development sites: adjoining the Muirtown Basin; the vacant sites at the Carse Industrial Estate, and; the prospects for redevelopment of the South Kessock housing area. The aim is to improve pedestrian and economic connections between these areas through a masterplanned approach.

- The Council does not wish to promote development on every parcel of land within the allocation. The wider boundary allows for the development sites listed above to be considered within a wider context.
- If the Reporter disagrees with the need to provide context and promote connections and benefits between the listed development sites then the Council's view on the most appropriate boundary amendment would be to remove the area covered by the local nature reserve, plus the railway land that passes through it and the South Kessock pier area. The Council has no intention to promote the pier area for commercial dolphin watching cruises. The only on-shore land available for such a facility is currently used as for a picnic area, parking, turning and low key interpretation of off-shore natural heritage. The Council is not promoting any change to these current uses.

SEPA (326)

- The Council would assert that a specific developer requirement is not appropriate to an allocation that rolls forward the provisions of the approved development plan. The only substantive changes are to announce the concept of a masterplan led approach so that there can be future statutory supplementary guidance hooked on a policy in an approved local development plan and the need for a more comprehensive approach to transport improvements and contributions in this wider area.
- The Plan's general Policy 65 Flood Risk, already sets out adequate policy coverage. It includes the requirement for a Scottish Planning Policy compliant flood risk assessment for developments within any 1 in 200 year flood risk area. The Council accepts that a large part of the allocation falls within the 1 in 200 year coastal flood risk area.
- The recent West Highland and Islands Local Plan Examination considered the legitimacy of a pre-allocation-confirmation flood risk assessment requirement. The Reporter concluded in the [Report of Examination](#) (pages 205-206) that it was "appropriate and sufficient" for the flood risk assessment to be a developer requirement prior to determination of a planning application not prior to confirmation of the development plan allocation. His conclusion was based upon the view that it is more robust and effective to assess a particular development on a particular site than a widely drawn, unspecific use, allocation boundary. The Council concurs with this conclusion and reasoning and believes it has general applicability as a principle that should be applied to similar allocations including the one covered by Policy 6.
- As explained above, the Council does not intend to support development on every part of the allocation. If the Reporter sees fit then the exclusion of the local nature reserve area would remove the vast majority of the allocation's undeveloped land that falls within the 1 in 200 year coastal flood risk area. This would also be the land immediately behind the causeway.

- The Council has no intention to culvert any watercourse within the allocation boundary. It is working with British Waterways Scotland to look at development fringing the Muirtown Basin which may include additional pontoon structures but will be mindful of water quality issues in progressing any such proposals at this location.

ICC (341)

- The intended masterplanning process will address the issue of canal users' interests in any Muirtown Basin development. It is very likely that British Waterways Scotland as a public body will promote (and the Council as planning authority will support) a scheme that results in no net detriment to existing users. However, any enhancement to existing facilities will be a matter for a more commercial negotiation between parties.

IHT (352)

- IHT's support is welcomed. However, the Cairn Arc spit is not promoted for development through the Plan. It is constrained in terms of shape, flood risk, recreational value and the presence of considerable Scottish water infrastructure.

Any further plan changes commended by the council

Clarification of the purpose of Policy 6 by removing the final sentence from para. 9.15.1 and adding it to the end of Policy 6.

Reporter's conclusions:

Added by Reporter at later date.

Reporter's recommendations:

Added by Reporter at later date.