

Issue49	New/Extended Crofting Townships	
Development plan reference:	Policy 49 (Para 20.18, Page 95)	Reporter:
Body or person(s) submitting a representation raising the issue (including reference number)		
Scottish Natural Heritage (SNH) (118), Joyce Wilkinson (216), Kincaig & vicinity Community Council (225), Crofters Commission (271), Boyd Brothers Haulage (438), S & A Corbett, A & A Currie, W & K MacKenzie (519)		
Provision of the development plan to which the issue relates:		
Councils summary of the representation(s):		
<p><u>On use of Section 75's and similar mechanisms to retain the house within crofting tenure</u></p> <p>Would like to see housing development in windblown forestry areas, because they have good roads. Setting up of croft or crofting townships should be considered environmentally, economically and socially important. Feels that there should be no Section 75 Agreements on croft houses. (225)</p> <p>Considers that due to the difficulties in securing financial aid to build croft houses without first decrofting the site of the house the Commission has no mechanism to ensure that houses will be retained within crofting tenure and not sold on the open market. (271)</p> <p><u>On landscape and natural heritage issues</u></p> <p>In bullet point 1 of the policy the wording landscape form and character is confusing. (118)</p> <p>Bullet point 10 should also refer to EIA regulations related to agriculture. (118)</p> <p>Bullet point 11 should highlight the importance of density of housing in crofting communities. (118)</p> <p><u>Applying this criteria to all development in crofting areas</u></p> <p>Considers that using Highland Council's own siting and design guidelines in a National Scenic Area would have prevented the siting of very large out of scale properties next to traditional croft houses, situating them in the centre of the only inbye ground, and providing them with excessive garden areas. Applying the policy criteria for new townships to any future planning in existing ones should address this ongoing situation. Considers that the character and appearance of the Highland crofting counties is very quickly changing due to the misinformed decisions of local planning officers, some who have admitted it was a mistake to have allowed the large and imposing out of scale retirement properties in a small scale crofting environment, but have to continue to allow them based on the applicants argument to planning that the larger out of scale properties are now the norm.</p> <p>Considers that applying even some of the criteria for the Policy on planning for new townships to existing townships, even in National Scenic Areas or any area designated as having scenic value, would bring all of the Highland</p>		

crofting counties planning under one planning policy umbrella and give uniformity of character, enhancing the Highlands for those who live in them and visit them instead of destroying the natural beauty. The objector believes that there is benefit in applying the same criteria proposed for any new township development to any future planning in existing townships, especially those found in national scenic areas and other designated areas. (216)

Role of Private landowners

They feel that private land owners should be encouraged to create crofts or woodland crofts rather than relying on community buyouts. They feel that ability to live in a woodland and manage land in a croft style should be encouraged but not deterred by policy. (438)

Acceptability only through the Development Plan Process

As with policy 39 SNH would expect that any proposal for a new/extended crofting township should be brought forward through the area Local Development Plan Process. (118)

Support of the policy

Notes that spare-time crofting has great potential for sustaining viable populations in rural areas. Also notes Easter Ross in particular as it contains many from a crofting background who may feel crofting offers an ideal environment in which to raise a family. They are convinced that the positive treatment of crofting will result in positive outcomes from the planning (519)

The Commission encourages the expansion of crofting opportunities through the creation of new crofts. By doing so it will seek to enhance and consolidate rural communities, support community cohesion, enable beneficial and diverse settlements. Included in this will be the capacity to create different models that encourage land based activities, such as woodland crofts.

They consider that applications for the creation of new crofts or crofting communities must be supported by a development plan outlining the purpose of the croft(s), proposals for the working of the new crofts including access to existing infrastructure and services, the anticipated social and economic benefits, and benefit to the wider public interest. The Commission will normally contact the local Planning Authority when considering applications to create new crofts. (271)

Habitats Regulations Appraisal

As part of the Habitats Regulations appraisal of the plan bullet point 2 should be augmented with additional phrase on designated sites. (118)

Modifications sought by those submitting representations:

On use of Section 75's and similar mechanisms to retain the house within crofting tenure

Remove use of a mechanism to ensure that houses will be retained within crofting tenure and not sold on the open market (225) (271 assumed).

On landscape and natural heritage issues

Para. 20.17.1 first sentence amended to, "in terms of policy considerations,

such as accordance with settlement pattern or avoidance of any adverse effect on a natural, cultural or built heritage feature, they can be acceptable.” (118)

To differentiate between increasing the number of crofts as opposed the number of houses without associated crofts para. 20.17.1 first sentence should be reworded. (118)

The outset of the policy should make reference to supporting new and extended crofting townships where there is demonstrable demand and need for additional crofts. (118)

Policy should commence as follows, “Subject to the following, the council supports the creation of new crofting townships and the extension through additional crofts of existing townships where there is demonstrable demand for additional crofts within the local community.” In addition the start of the paragraph on hinterland areas should be amended to read, “In addition to local demand, proposals should also demonstrate a wider public interest...”(118)

First bullet point should be reworded to state, “compatibility with landscape character, including landform and landscape pattern, having regard to existing crofting settlements.” (118)

Move bullet point 7 to hinterland section of policy. (118)

Bullet point 10 to be augmented to read, “where deforestation of an area is required, or the proposal involves the large scale restructuring of agricultural land or use of uncultivated/semi-natural areas for intensive purposes, then an Environmental Impact Assessment (EIA) may be required.” (118)

Bullet point 11 augmented to read, “...focussing on issues such as the preferred density, siting, design and layout of buildings.” (118)

Apply the policy criteria for new townships to any future planning in existing ones. (216)

Applying this criteria to all development in crofting areas

Unsure as to the modification sought (216)

Role of Private landowners

Feels that the policy should be more supportive for private landowners (assumed) (438)

Acceptability only through the Development Plan Process

Suggests that the end of policy is augmented with following sentence, “The detail of any proposal for a new/extended crofting township should be brought forward through the area local development plan process.” (118)

Habitats Regulations Appraisal

Suggests that the second bullet point of policy augmented with, “...including

the avoidance of negative impacts on designated sites.” (118)

Summary of responses (including reasons) by Planning Authority:

On use of Section 75's and similar mechanisms to retain the house within crofting tenure

The use of a Section 75 should be sparing, and where there is an alternative mechanism which secures the tie of the croft to its house then this should be pursued instead. For instance in the sale of land to the crofter the title deeds could make explicit the tying of the house to the croft to ensure they could not be sold independently later.

The Council defend the need to use a Section 75 in some circumstances but a bankruptcy clause will be inserted to give any lender comfort. There is a need for this type of restriction within the Hinterland areas, as they are our pressurised countryside where we do not wish to generally encourage additional housing in the countryside. The associated housing to the new crofts is justified if the crofts bring sufficient wider public benefit but it is not desirable to the Council to allow additional houses on these crofts.

With regards to the merit of using a mechanism (within and outwith the Hinterland) which ensures that houses will be retained within crofting tenure and not sold on the open market, this is less clear. It is recognised that it is difficult to secure funding for the house if the plot is not decrofted, and once decrofted it is not under crofting tender. In terms of supporting crofting there is recognition that under Crofting law any absentee crofter could find their croft let to another crofter to ensure effective use of the land. The Crofters Commission also have discretionary powers to terminate a crofters tenancy if they live outwith 16 kilometres and there is a duty to live within 32 km of the croft. Whilst the ideal is that you live and work on the croft it is not essential for the working of the croft and the Crofters Commission is putting an enhanced emphasis on regulation to ensure purposeful use.

In the current economic climate with lending increasingly difficult to secure, and with an enhanced emphasis on regulation within the Crofters Commission if the reporter is minded to amend the wording of this policy to remove this requirement then the Council understands.

In hindsight when compared to our policy 48 for protecting inbye land it takes a more restrictive approach for the new crofts. Our policy 48 recognises that in certain circumstances (limited development minimising impact on inbye land, or if there is no alternative site of less agricultural value in the community and it is in the wider public (community) interest, there may be justification for development on your croft. If we were to tie all new crofts created to their houses then it does protect the purposeful use of the croft, but perhaps too restrictively.

Role of Private Landowners

The potential role of private landowners is acknowledged. The policy recognises the benefit if longer term benefits are to be secured (community

ownership is not essential just an example). The examples given are just that and are not suggested to be definitive. If it is a private landowner who establishes new crofts within our hinterland area they may establish wider public interest partly by providing a high proportion (or them all) as affordable housing. Their whole proposal with all the wider public benefits it brought would need to be assessed to see if it justifies an exception to the otherwise restrictive approach to housing in the countryside within this area.

Acceptability only through the Development Plan Process

Whilst we hope that the majority of new crofting settlements come through the development plan process we acknowledge that some flexibility is useful so that opportunities for community buyout are not lost because of unfortunate timing with the development plan process. After all securing funding will rest partly on the basis of securing development plan support or planning permission.

The criteria policy ensures that the Highland Council's approach to considering these applications is transparent and can be objected to at this stage. Also because it is not in the development plan the Council will have greater expectations on the community consultation.

Furthermore we intend to encourage these proposals through our major applications pre application process. This service offers advice on a wide range of issues and allows for any difficult issues to be ironed out up front. This way we can make sure that community consultation is built into the process early, as well as ensure that a full assessment has been made of the potential impact on existing infrastructure and identify what new provision might be required.

Natural, Built and Cultural Heritage

Generally unconcerned about the suggestions made for the rewording if the Reporter is minded to support them. However there are a few of them that raise concerns.

Rewording 20.17.1 and the 2nd bullet point in the way suggested by SNH takes a different position to policy 58 Natural, Built and Cultural heritage policy which does not talk in terms of 'avoidance of any adverse effect'. It is not felt that this policy needs rewording however if this bullet point is to be reworded then there should be a direct reference to policy 58. Using the wording suggested would introduce conflicting policy approaches.

Also whilst local demand is a prerequisite for a new or extended crofting townships a change to the policy is not considered necessary. It is essentially the applicant and perhaps the Crofters Commission's concern to establish the demand.

Regarding concerns about fit with landscape character and design of new houses our new [Siting and Design Supplementary Guidance](#) is to be applied throughout the Highland Council area and will bring a consistent approach. Also our new Landscape policy with accompanied training in using Landscape Character Assessments should help in this regard.

Habitats Regulation Appraisal

Separate discussions are ongoing with regard to completion of a Habitats Regulation Appraisal.

Any further plan changes commended by the council

Natural, Built and Cultural Heritage

To make it clearer the first sentence of 20.17.1 could read, "The Council wishes to support the creation of new crofting townships and significant extensions to existing ones (with associated housing) where circumstances allow."

On use of Section 75's and similar mechanisms to retain the house within crofting tenure

"the use of a mechanism which ensures that houses will be retained within crofting tenure and not sold on the open market" could if the reporter is minded be amended to "The council will require within the Hinterland of towns and sometimes within a sensitive area such as a National Scenic Area the use of a mechanism which ties the house to its croft (so that they cannot be later sold independently)."

Reporter's conclusions:

Reporter's recommendations: