

Issue (ref and heading):	GENERAL POLICIES: Introductory paragraphs	102
Development plan reference:	Chapter 7 General Policies, paragraph 7.2, WS 31	
Body or persons submitting a representation raising the issue (reference no.):		
Airtricity (961)		
Provision of the Development Plan to which the issue relates:	Advice in the Plan's text about how each planning application will be assessed.	
Summary of representation(s):		
<p><u>Airtricity (961)</u>: In the second introductory paragraph to the General Policies chapter, the Plan confirms that compliance with 'a single local plan policy will not necessarily indicate that a proposed development is acceptable'. It could also be argued that non-compliance with a single local plan policy will not necessarily indicate that a proposed development is unacceptable. Each development proposal will be assessed on its individual planning merits, as acknowledged in the Planning Act.</p>		
Modifications sought by those submitting representations:		
<p><u>Airtricity (961)</u>: This paragraph should be reworded to clarify that each development proposal will be assessed on its individual planning merits.</p>		
Summary of response (including reasons) by planning authority		
<p><u>Response(s) and Reasons</u> –</p> <p><u>Airtricity (961)</u>:</p> <p>Text should be added as requested but also the existing message to the plan user should be retained that applications will be assessed against all policies and legislation relevant and that conformity with a single policy will not necessarily indicate that a proposed development is acceptable.</p> <p>The Council agrees that the suggested modification will provide clarity and reflect the legal position. However, the Council also considers that the original message should also remain; it is a precautionary note to the Plan user, intended to guard against the possibility of the Plan user making the assumption, without full consideration of the issues, that their proposed development will be supported.</p> <p>[For information, Airtricity also raised essentially the same issue in respect of the Sutherland Local Plan and the Council's response on that issue in respect of both Plans is the same.</p> <p>NB. All of the General Policies are wholly or largely identical between the two Local Plans and, in the interests of streamlining its development plans, the Council wishes to maintain consistency between the policy frameworks where possible and appropriate.]</p>		
Any Further Plan Changes Commended by THC		
<p>Revise the second introductory paragraph to the General Policies chapter to read as follows:</p> <p>"It is very important that users of the Plan note that, in accordance with the Planning Act, each development proposal will be assessed on its individual planning merits. This will include each planning application being assessed against all policies and legislation relevant</p>		

to the particular proposal and location. Conformity with a single policy will not necessarily indicate that a proposed development is acceptable.”

Issue (ref and heading):	SETTLEMENT DEVELOPMENT AREAS	103
Development plan reference:	General Policy 1 Settlement Development Areas and supporting text 7.3-7.5, WS 32, and MB various	
Body or persons submitting a representation raising the issue (reference no.):		
Scottish Natural Heritage (697)		
Provision of the Development Plan to which the issue relates:	Policy framework relating to Settlement Development Areas identified in the Plan, and consequential references in Map Booklet.	
Summary of representation(s):		
<u>Scottish Natural Heritage (697):</u>		
<p>The third bullet point in the supporting text states that Settlement Development Areas (SDAs) have been defined taking into account the ability of the landscape to allow for development. Specific reference elsewhere in the supporting text for this policy to regard having been had to landscape character assessment documents is welcomed. However, a cross-reference to landscape character should be within this policy itself. This would bring it into line with the Policy 3 (second bullet point) and ensure landscape character is a consideration for proposals within SDAs as well as in the definition of the SDA boundaries.</p> <p>Features of natural and cultural heritage importance occur within the SDAs but do not appear on the inset maps. This fact is recognised in the text of Policy 1 with its cross-reference there to Policy 4. However, SNH considers that more specific reference should be made in the Plan to features present in respect of each individual SDA.</p>		
Modifications sought by those submitting representations:		
<u>Scottish Natural Heritage (697):</u>		
<p>Within Policy 1, after the words “how compatible they are with the existing pattern of development” insert “and landscape character”.</p> <p>Checking each SDA for any international and national features of natural or cultural heritage that are present within the SDA, mention those features within the Objectives list for that Settlement in the Map Booklet.</p>		
Summary of response (including reasons) by planning authority		
<u>Response(s) and Reasons -</u>		
<u>Scottish Natural Heritage (697):</u>		
<p>The Council agrees with SNH that inclusion in the policy of reference to landscape character would be appropriate. As suggested, it will bring it in to line with Policy 3 (second bullet point) (or third bullet point in the Council’s commended changed version of Policy 3). The Council further suggests addition to Policy 1’s supporting text of a further reference to landscape character assessments, which will make it more consistent with the supporting text of Policy 3.</p> <p>The Council understands the concern raised by SNH and is happy in principle with the suggestion. The concern could equally apply to built features. It would be onerous to attempt to list all local features. The exercise should be limited to international and national features.</p>		

Features that are large in area and few in number at individual settlement level such as National Scenic Areas may be referred to specifically by individual name, whilst the presence of those that may be more numerous such as Tree Preservation Orders may more appropriately be highlighted in more general terms.

[For information, SNH also raised essentially the same two sub-issues in respect of the Sutherland Local Plan and the Council's response on that issue in respect of both Plans is the same.]

Any Further Plan Changes Commended by THC

Within Policy 1, after the words "how compatible they are with the existing pattern of development" insert "and landscape character". Additionally, in the second paragraph of supporting text, after the final sentence, add: "Where necessary the landscape character assessment for the area will also be referred to as a material consideration when examining individual development proposals."

Checking each SDA for any international and national features of natural, built or cultural heritage that are present within the SDA, refer (in specific or general terms as appropriate) to the presence of those features within the Objectives list for that Settlement in the Map Booklet.

Issue (ref and heading):	WIDER COUNTRYSIDE	104
Development plan reference:	General Policy 3 Wider Countryside and supporting text 7.10-7.11, WS 34	
Body or persons submitting a representation raising the issue (reference no.):		
Brodies (for A Besterman) (273) Airtricity (961)		
Provision of the Development Plan to which the issue relates:	Policy framework relating to the Wider Countryside area.	
Summary of representation(s):		
<p><u>Brodies (for A Besterman) (273)</u>: The third bullet point of Policy 3 should be amended with regard to the drainage constraint and servicing considerations for proposals in the wider countryside. (This representation is associated with Brodies' representation on Policy 16 "Housing in the Countryside".)</p> <p><u>Airtricity (961)</u>: Policy 3 states that developments may be 'acceptable' where they 'support communities in fragile rural areas who are having difficulties in keeping their population and services by helping to repopulate communities and strengthen services'. The policy does not adequately explain what constitutes a 'fragile area'. It is generally accepted that larger wind farm development sites are more suited to sites outwith settlement areas (as directed through Scottish Planning Policy 6) i.e. wider countryside locations but the policy does not appear to accommodate onshore wind farm development as it is considered unlikely that this type of development will 'repopulate communities and strengthen services'. The policy also does not appear to consider the impact of development outwith settlement development areas on rural communities that are not of a fragile nature. The policy continues: 'suitably designed proposals will be supported if they: do not involve infrastructure out of keeping with the rural character of the area'. Onshore wind farm development infrastructure is not indigenous to the countryside. However, this does not mean that is inappropriate in a rural location. The policy should reflect wind farm development in a rural location.</p>		
Modifications sought by those submitting representations:		
<p><u>Brodies (for A Besterman) (273)</u>: Amendment of the third bullet point to read: "adequately account for drainage constraints and can otherwise be adequately serviced particularly in terms of road access, upgrade and maintenance during construction and use of development and do not involve undue public expenditure or infrastructure out of keeping with the rural character of the area."</p> <p><u>Airtricity (961)</u>: There should be a greater explanation of what constitutes a 'fragile area' and settlements that fit this category should be listed or identified on the proposals map. Also, the policy wording should be amended as appropriate to reflect wind farm development in a rural location.</p>		

Summary of response (including reasons) by planning authority
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<p><u>Response(s) and Reasons -</u></p>

Brodies (for A Besterman) (273): The Council does not agree with the changes suggested. Road access, upgrade and maintenance during construction are all issues capable of being dealt with via planning conditions to a planning permission. It is not necessary to specify these matters specifically in Policy 3. They can be of relevance as considerations in all locations, not just in the Wider Countryside. Proposals will also be assessed against all other relevant policies of the Local Plan and Structure Plan and regard will be had to location of the proposals and any particular planning considerations that this raises in that instance. In any case, the modifications sought by Brodies to the beginning of this bullet point in Policy 3 would change its meaning. The Council intends the part which reads “account for drainage constraints or can otherwise be adequately serviced” to refer solely to drainage matters and the need for proposals to be prepared having regard to any prevailing local constraint on that and the consideration of servicing arrangements, following General Policy 7.

Airtricity (961): The Council acknowledges that the policy would benefit from some rewording. In particular, it should be reworded to more clearly state the intended criteria for consideration, in the context of development in the wider countryside, emphasising the importance of design, referring to ‘patterns of development in the area’ rather than ‘settlement pattern’, including landscape capacity and removing the unnecessary reference to other policies if the Development Plan (which is a point covered in the introductory paragraphs to the General Policies chapter and in Introduction & Context chapter). Also, the policy could more clearly provide for the consideration of the extent to which proposals would help, if at all, to support communities in fragile areas; it is not intended that development in the wider countryside will only be permitted where it supports fragile communities, but development that does may gain particular support. However, mapping of fragile areas should not be included in this Plan. The Council has previously undertaken some mapping of ‘fragility’. Highlands & Islands Enterprise (HIE) has also previously worked on mapping of fragile areas and the Council continues to work with HIE to develop fragile areas information. A definition of ‘fragile areas’ is given in the Plan’s glossary which assists with implementation of Policy 3. The Council is examining fragile areas as a planning policy consideration further as part of preparation of the forthcoming Highland-wide Local Development Plan (HLDP). In that regard, the Council notes that National Planning Framework 2 includes mapping of fragile areas which fits with the HIE mapping. The HLDP and associated Guidance currently being prepared by the Council will provide a more specific spatial planning framework to guide and assist the consideration of windfarm developments in accordance with SPP6 Annex A. In the interim, the Structure Plan and the Highland Renewable Energy Strategy are important to the consideration of proposals. Information on the HLDP and associated Guidance being prepared is provided in the Council’s Development Plan Scheme.

The Development Plan Scheme is available at:

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

[For information, Airtricity also raised essentially the same issue in respect of the Sutherland Local Plan and the Council’s response on that issue in respect of both Plans is the same.]

Any Further Plan Changes Commended by THC
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Rewording of Policy 3 as follows:

“Outwith Settlement Development Areas, development proposals will be assessed for the extent to which they:

- are considered acceptable in terms of design;

- are sympathetic to existing patterns of development in the area;
- are compatible with landscape character and capacity;
- avoid, where possible, the loss of locally important croft land; and
- account for drainage constraints or can otherwise be adequately serviced and do not involve undue public expenditure or infrastructure out of keeping with the rural character of the area.

Development proposals may be supported if they are judged to be not significantly detrimental under the terms of this policy. In considering proposals, regard will also be had to the extent to which they would help, if at all, to support communities in fragile areas in maintaining their population and services by helping to repopulate communities and strengthen services.”

Issue (ref and heading):	NATURAL, BUILT AND CULTURAL HERITAGE	105
Development plan reference:	General Policy 4 Natural, Built and Cultural Heritage and supporting text 7.12-7.21, WS 35-36	
Body or persons submitting a representation raising the issue (reference no.):		
Historic Scotland (498) Scottish Natural Heritage (697) Airtricity (961) Scottish Wildlife Trust (983)		
Provision of the Development Plan to which the issue relates:	Policy framework relating to consideration of impact of development on Natural, Built and Cultural Heritage features as defined in the Plan.	
Summary of representation(s):		
<p><u>Historic Scotland (498):</u></p> <p>Policy 4 does not provide detailed policies and clear guidance on how the historic environment should be taken into account when making decisions on development proposals. Given this lack, there is a clear need for significant additional supplementary planning guidance (SPG) on the historic environment.</p> <p>Policy 4, as it stands, affords different levels of protection to features of different importance and thus to different categories of listed building. However, under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 and NPPG18, all buildings are provided with the same level of protection. In other words, the management of the resource does not flow from its categorisation but from its identification as a listed building.</p> <p>Policy 4, as it stands, does not recognise the need to protect a historic environment feature and its setting. The text of the policy and its supporting information should be altered to include such reference.</p> <p>The sixth paragraph of the supporting text to Policy 4 states: "How sensitive these features are to development depends on their level of importance and on the nature and scale of development and the likely effect on the feature in question". However, the sensitivity of a feature is not a function of its level of importance. The issue of importance is more to do with decision-making.</p> <p><u>Scottish Natural Heritage (697):</u></p> <p>In respect of Policy 4, paragraph number 2, it is understood that the Council wishes to broadly retain the policy wording in order to apply it to all the features of national importance, rather than introducing variations of the policy wording to reflect specific national policy tests applying to particular types of feature. Therefore SNH proposes that the first test in paragraph 25 of National Planning Policy Guidance 14 should be included under the 'Background' text for SSSIs, NNRs and NSAs in Appendix 1.</p> <p>The wording of Policy 4, paragraph number 3, is not quite compliant with the Conservation (Natural Habitats &c) Regulations 1994 as amended. SNH objects unless the policy is amended in accordance with the wording suggested. SNH is content to leave to the Council whether the features are listed (as at present) in the policy.</p>		

Airtricity (961):

With regard to renewable energy, one could argue that as the Scottish Government have pushed the matter to the forefront of national policy, especially in relation to National Planning Framework 2 (NPF2), renewable energy schemes could be considered as 'nationally important' and, therefore, qualify for the exemption under the paragraph numbered 2 in Policy 4. However, the policy is not clear about what qualifies as social or economic benefits of national importance. Furthermore, the policy does not adequately explain what constitutes a 'fragile area'.

Scottish Wildlife Trust (983):

In paragraph 7.13 of the supporting text, Sites of Local Nature Conservation Interest should be renamed Local Nature Conservation Sites and a definition given, whilst wildlife corridors and veteran trees should be included in the list of locally and regionally important features.

Regarding paragraph 7.17 of the supporting text, SWT does not agree that the sensitivity of these features is dependent on their level of importance.

Policy 4 places too much emphasis on a presumption for development under the paragraphs numbered 1, 2 and 3 dealing with locally and regionally, nationally and internationally important features respectively. Also, the wording of the policy is too weak and open to debate about interpretation. In respect of international sites it should be clearer about the requirements for appropriate assessment and provide that in the event of development being allowed on a site, compensatory habitat must be available to maintain the coherence of the network.

Modifications sought by those submitting representations:Historic Scotland (498):

The Local Plan should include a commitment to prepare SPG on the historic environment, and clearly identify its scope.

The wording of Policy 4 should be amended to reflect national legislation and policy for listed buildings.

In the first paragraph of Policy 4, after the first sentence, add: "Impact on historic environment features will be considered in terms of impact on both the site and setting of the feature."

In the supporting text to Policy 4, at the end of the ninth paragraph, add: "Impact on historic environment features (i.e. archaeological sites, Scheduled Ancient Monuments, listed buildings, and Gardens and Designed Landscapes) should be considered in terms of impact on both the site and setting of the feature".

The first sentence of the sixth paragraph of the supporting text to Policy 4 be amended to read "In assessing development proposals, the Council will consider the level of importance and nature of these features, the nature and scale of development, and the likely effect on the feature (including setting) in question".

Scottish Natural Heritage (697):

Words to the following effect should be included under the 'Background' text for SSSIs, NNRs and NSAs in Appendix 1: "These areas are protected by national policy in that the objectives or qualities of designation and the overall integrity of the area should not be

compromised”.

The paragraph numbered 3 in Policy 4 should be reworded as follows:

“For features of international importance, developments likely to have a significant effect on a site will be subject to an appropriate assessment. Where we are unable to ascertain that a proposal will not adversely affect the integrity of a site, we will allow development, provided there is no alternative solution and there are imperative reasons of overriding public interest, including those of a social or economic nature. Where a priority habitat or species (as defined in Annex 1 of the Habitats Directive) would be affected, development in such circumstances will be allowed provided that the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment, or other reasons subject to the opinion of the European Commission (via Scottish Ministers)”.

Airtricity (961):

There should be a greater explanation of what constitutes a ‘fragile area’ and settlements that fit this category should be listed or identified on the proposals map.

Scottish Wildlife Trust (983):

In paragraph 7.13 of the supporting text, Sites of Local Nature Conservation Interest to be renamed Local Nature Conservation Sites and a definition given, whilst wildlife corridors and veteran trees to be included in the list of locally and regionally important features.

Clarify meaning of paragraph 7.17 of the supporting text, as the sensitivity of these features is not necessarily dependent on their level of importance.

Revise Policy 4 to state a presumption against development under the paragraphs numbered 1, 2 and 3. Define ‘unacceptable impact’ in paragraph 1 and ‘not compromise the heritage resource’ in paragraph 2. Clarify paragraph 3 in respect of the requirements for appropriate assessment and state that in the unlikely event of development being allowed on an SAC, SPA or Ramsar site there must be like for like compensatory habitat must be available to maintain the coherence of the Natura network.

Summary of response (including reasons) by planning authority

Response(s) and Reasons

Historic Scotland (498):

The Council is satisfied that Policy 4, read in conjunction with Appendix 1 (to which it clearly cross-refers), other relevant policies of the Development Plan and national policy and guidance, provides a sound basis for decision-making whilst being succinct and avoiding undue repetition. Policy 4 provides a common form of words and policy approach for a range of natural, built and cultural heritage features, therefore by its very nature it cannot reflect the precise legal position of each designation in the policy. Therefore, the wording of the Policy should not be amended in respect of listed buildings. There will always be a requirement for readers to consult other documents, in conjunction with this general policy. Appendix 1 provides a definition of all the features, provides background (such as, in the case of listed buildings, the basis for their listing) and indicates relevant policy framework. For information, the Council has previously adopted a similar approach to that taken in Policy 4, within the Wester Ross Local Plan, which has been developed for the purposes of this Plan.

The Council does not currently have programmed in its Development Plan Scheme the

preparation of any SPG on the Historic Environment. However, as part of development of the policy framework for inclusion in the forthcoming Highland-wide Local Development Plan, there will be opportunity to consider whether any Guidance is required to supplement policy.

The Council has in fact already included, in the 2008 Deposit Draft version of Policy 4, reference to the consideration of setting that is similar to that suggested but which apply not only to features of the historic environment but to any features where that is a relevant consideration. Appendix 1 indicates in respect of a feature if that is a particular consideration. Given these references, the Council considers that further revision to the policy or addition to the supporting text on this issue (apart from that indicated below) is unnecessary.

It is agreed that the Plan could be clearer where it refers in the supporting text to the sensitivity of features; the alternative wording suggested is clear, subject to clarifying that setting is considered where relevant.

Scottish Natural Heritage (697):

Appendix 1 can be usefully embellished with information on the test referred to, enabling the Plan to retain the approach of a single policy for natural, built and cultural heritage features whilst still providing more information about how proposals will be considered in respect of individual feature types.

The Council also agrees that the wording of the Policy in respect of international sites should be modified to properly reflect the legal position, although it would be useful to retain the narrow list of feature types to which that part of the Policy applies.

Airtricity (961):

In response to Airtricity, commend no change.

The wording “social or economic benefits of national importance” is taken from NPPG14 para. 25 and is a commonly used policy test. Whilst NPF2 has identified certain electricity grid reinforcements as national developments, it does not do likewise for the development of windfarms. They stand to be considered in the context of the Development Plan and SPP6, the latter clearly identifying in Annex A that spatial policies must be used to afford significant protection to areas designated for their national or international natural heritage value. In the event that Scottish Government introduces any future changes to national policy in this regard, for example through Scottish Planning Policy Part 3, then the Council will need to respond to such change.

In respect of fragile areas, the Council responds as follows and this is consistent with the Council’s response on that matter in respect of Policy 3. Mapping of fragile areas should not be included in this Plan. The Council has previously undertaken some mapping of ‘fragility’. Highlands & Islands Enterprise (HIE) has also previously worked on mapping of fragile areas and the Council continues to work with HIE to develop fragile areas information. A definition of ‘fragile areas’ is given in the Plan’s glossary which assists with implementation of Policy 4. The Council is examining fragile areas as a planning policy consideration further as part of preparation of the forthcoming Highland-wide Local Development Plan (HLDP). In that regard, the Council notes that National Planning Framework 2 includes mapping of fragile areas which fits with the HIE mapping.

Scottish Wildlife Trust (983):

The title “Sites of Local Nature Conservation Interest” should not be changed. It is consistent with that used in other Local Plans across the Highlands and an explanation of what it covers

is given in Appendix 1. Wildlife corridors and veteran trees should not be added to the list of features at present. The features listed are ones that have been identified specifically (mapped) or where there is a clear intention to do so. Policy 13 of the Local Plan, "Important Habitats", covers wildlife corridors and may also provide a degree of protection to veteran trees, additional to any consideration under Policy 4 if they fall within one of the existing feature types.

It is agreed that the Plan could be clearer where it refers in the supporting text to the sensitivity of features and a change is commended.

The Council is satisfied that, subject to the further changes commended below, Policy 4 is appropriately worded and provides a sound basis for considering development proposals. In using the policy, regard will be had to Appendix 1 and to the other policy frameworks to which it refers in respect of specific feature types and relevant considerations. It is not necessary to further define the terms used. Nor is it necessary to refer to compensatory habitats in respect of international site interests, as any need for this would be identified through appropriate assessment.

The Council's other Local Plans are available at:

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

[For information, Scottish Natural Heritage and Historic Scotland also each raised essentially the same sub-issues in respect of the Sutherland Local Plan and the Council's response on the issue in respect of both Plans is the same.]

Any Further Plan Changes Commended by THC

Insert the wording suggested by SNH under the "Background" text for SSSIs, NNRs and NSAs in Appendix 1.

Reword the paragraph numbered 3 in Policy 4 in accordance with the wording suggested by SNH but also further modify it by including, after the words "international importance", the words "(Natura 2000 (SPA, SAC) and Ramsar sites)".

Amend the first sentence of the sixth paragraph of the supporting text to Policy 4 as suggested by Historic Scotland subject to inclusion after "setting" of the words "where appropriate".

Issue (ref and heading):	AFFORDABLE HOUSING	106
Development plan reference:	General Policy 5 Affordable Housing and supporting text 7.22-7.23, WS 37	
Body or persons submitting a representation raising the issue (reference no.):		
G H Johnston Ltd (for the Conaglen Estate per Broadland Properties Ltd) (510) White Young Green (for Ewen Gillies Builders) (630)		
Provision of the Development Plan to which the issue relates:	Policy framework relating to requirements for Affordable Housing provision.	
Summary of representation(s):		
<p><u>G H Johnston Ltd (for the Conaglen Estate per Broadland Properties Ltd) (510)</u>: The application of the Policy to every fourth dwelling granted permission across the whole ownership as set out in the last paragraph of the policy gives concern, particularly as that does not feature in the Council's Draft Affordable Housing Guidance. This part of the Plan has no proper basis or justification and it would be unreasonable to apply it across all the potential opportunities on the Conaglen Estate which range in scale and are strung out over a distance. It is understood that a precedent has been set for lowering the threshold to 4 dwellings on a site by site basis in other recent Local Plans. However, the last paragraph of Policy 5 goes beyond that and would not encourage the Estate to make sites available for the development of single or small groups of houses.</p> <p><u>White Young Green (for Ewen Gillies Builders) (630)</u>: It is noted that market and site conditions may justify a higher affordable housing contribution than the normal minimum of 25%, elaborated upon by the Council's Draft Guidance which states that a higher level may be expected where there are significant levels of demand and restricted supply. However no upper threshold is given, which adds to uncertainty for developers in purchasing sites and preparing proposals. Furthermore, it is common practice for a reduction in provision to be allowed if there are abnormally high land preparation costs such as remediating contamination or providing significant levels of infrastructure for the wider benefit of the area; the irregularities within the housing supply should not be ignored. Flexibility is currently not explicitly available in the Plan.</p>		
Modifications sought by those submitting representations:		
<p><u>G H Johnston Ltd (for the Conaglen Estate per Broadland Properties Ltd) (510)</u>: Delete the last paragraph of Policy 5.</p> <p><u>White Young Green (for Ewen Gillies Builders) (630)</u>: Articulate an upper threshold for provision and also allow for a reduction in the requirement where viability of a development scheme is threatened.</p>		
Summary of response (including reasons) by planning authority		
<u>Response(s) and Reasons -</u>		
<p><u>G H Johnston Ltd (for the Conaglen Estate per Broadland Properties Ltd) (510)</u>: The provision in the last paragraph of the policy that the affordable housing requirement should apply across a landownership is a reasonable response by the Council to the needs of rural areas. This is especially the case in areas where the land ownerships of estates are extensive and include land in and around settlements, townships and in the wider countryside and individual development proposals typically comprise one, two or three dwellings on land that often is not part of a housing allocation. SPP3 paragraph 94 indicates that approaches required to address affordable housing need in rural areas should be set out</p>		

by the Council. Whilst this particular provision is not specified in the Council's now finalised Affordable Housing SPG, it is reasonable for the provision to be introduced by the Local Plan for a particular area. The provision includes some flexibility, allowing owners to offer "off-site" provision within settlements.

White Young Green (for Ewen Gillies Builders) (630):

As is stated in the Council's Affordable Housing SPG, in line with Planning Advice Note 74 the Council expect the level of affordable housing to be a minimum of 25% of the total number of houses proposed (referred to in PAN 74 as the benchmark level). The SPG goes on to say that a higher level of contribution may be expected in areas where high levels of demand exist and land supply is restricted, and that these higher levels could be identified through individual Local Development Plans or site specific Development Briefs. The Council does not consider it to be appropriate to set an upper threshold that could limit its ability to negotiate on an individual proposal with a view to addressing specific needs and under particular circumstances. However, it would be a matter of negotiation and if the developer demonstrates that the level of contribution would make the site unviable then the Council would have regard to that in terms of its impact on the effectiveness of the housing land supply.

The Council acknowledges that PAN 74, paragraph 46 advises that where there are exceptional costs, the requirement for affordable housing may need to be reduced to ensure the cumulative burden on the overall development does not make site development unviable. However, PAN 74 indicates that this is in circumstances where the developer can demonstrate that there are exceptional costs. Policy 5 does say that the contribution will "normally" be a minimum of 25%, it indicates that the process involves "negotiations" and that they will be subject to "market and site conditions". The Council considers that the Plan provides an appropriate policy framework and a suitably robust basis for negotiation and would not wish that to be weakened by wording that may encourage developers to try to negotiate reduction in requirements as a matter of course.

The Council's Affordable Housing Supplementary Planning Guidance, in its finalised form, is available at:

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

Any Further Plan Changes Commended by THC

None.

Issue (ref and heading):	DESIGNING FOR SUSTAINABILITY	107
Development plan reference:	General Policy 6 Designing for Sustainability and supporting text 7.24-7.29, WS 38	
Body or persons submitting a representation raising the issue (reference no.):		
Scottish Environment Protection Agency (446) Airtricity (961)		
Provision of the Development Plan to which the issue relates:	Policy framework relating to requirements for Designing for Sustainability.	
Summary of representation(s):		
<p><u>Scottish Environment Protection Agency (446)</u>: SEPA welcomes the explanation in the Plan of how the Council will, in the near future, update its Development Plan Policy Guideline (DPPG) on Designing for Sustainability. It is SEPA's understanding that this will include a section on when a sustainable design statement will be required. For the avoidance of doubt and to provide clarity to developers, the word 'normally' should be deleted from the policy.</p> <p><u>Airtricity (961)</u>: The policy wording does not tie back successfully to Structure Plan policy G2. Policy 6 is unclear about whether the statement it requires to be submitted will be additional to the statutory design and access statement to be required in due course under the new Planning Act. The Council may need to review its DPPG in the light of National Planning Framework 2 and the newly emerging single Scottish Planning Policy document.</p>		
Modifications sought by those submitting representations:		
<p><u>Scottish Environment Protection Agency (446)</u>: The word 'normally' should be deleted from Policy 6.</p> <p><u>Airtricity (961)</u>: Rewording of Policy 6 to tie back to Structure Plan policy G2 and to clarify whether the statement it requires will be additional to the statutory design and access statement. (Implied, but no alternative wording suggested.)</p>		
Summary of response (including reasons) by planning authority		
<u>Response(s) and Reasons -</u>		
<p><u>Scottish Environment Protection Agency (446)</u>: The Council agrees that removal of the word 'normally' would clarify the policy. The policy refers to submission of statements in line with the Council's guideline. Through any necessary revision to the guideline and through information provided in association with the roll-out of its implementation, the Council will establish and make clear which development proposals will be required to be accompanied by a statement. Some additional wording is therefore suggested for inclusion in the policy to clarify this.</p> <p>[For information, SEPA also raised essentially the same sub-issue in respect of the Sutherland Local Plan and the Council's response on that issue in respect of both Plans is the same.]</p> <p><u>Airtricity (961)</u>: No change to the Plan. The Council's DPPG relates directly to the Structure Plan policy, which is referred to in the supporting text to Policy 6 and which appears on the following page of the Local Plan for information. The requirements of Structure Plan policy G2 are clearly addressed by the DPPG and the Local Plan policy requires the implementation of the DPPG. They should be read together. The Council is revisiting its guideline currently, bearing in mind the new statutory requirements for design and access</p>		

statements which will be required for certain developments from 3 August 2009. The Council will, in the interests of streamlining the planning process, seek to align them where appropriate and generally avoid requiring submission of duplicate information. The Council will also review the guideline if necessary in response to changes in national policy.

The Council's DPPG is available at:

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

Any Further Plan Changes Commended by THC

Delete 'normally' from Policy 6 but also insert 'implementation of the' to read thus:

"We will judge development proposals against a 'Design for Sustainability' statement which we will require developers to submit with their planning applications in line with the implementation of the Development Plan Policy Guideline on Designing for Sustainability."

Issue (ref and heading):	WASTE WATER TREATMENT	108
Development plan reference:	General Policy 7 Waste Water Treatment and supporting text 7.30-7.31, WS 40	
Body or persons submitting a representation raising the issue (reference no.):		
Scottish Environment Protection Agency (446) White Young Green (for Ewen Gillies Builders) (630)		
Provision of the Development Plan to which the issue relates:	Policy framework relating to arrangements for Waste Water Treatment for new development.	
Summary of representation(s):		
<p><u>Scottish Environment Protection Agency (446)</u>: Policy 7 should be revised to make foul drainage requirements clear to developers (wording is suggested). SEPA considers that this policy wording would make requirements for suitable foul drainage for all allocations explicit and therefore that generally the requirements do not need to be inserted in Developer Requirements for individual sites. However, SEPA does seek inclusion of a developer requirement for connection to the public sewer for each allocation of 25 or more units and for certain other allocated sites (identified by SEPA in its representation). SEPA considers that if a sustainable foul drainage solution is not feasible for an allocation then it is not a sustainable location for a development. In respect of a further list of allocated sites (identified by SEPA in its representation) SEPA seeks a developer requirement for a public sewer connection or interim private arrangement that will be compatible with and make a future public connection/ scheme more feasible.</p> <p><u>White Young Green (for Ewen Gillies Builders) (630)</u>: Policy 7 should allow for the provision of temporary private treatment works in instances where improvements to the public network are known to be forthcoming but as yet incomplete. This is considered to be a sensible measure given the typically lengthy time periods involved in upgrading waste water treatment works and the need to meet both housing targets within the plan period and affordable housing shortages in the locality.</p>		
Modifications sought by those submitting representations:		
<p><u>Scottish Environment Protection Agency (446)</u>:</p> <p>Reword Policy 7 as follows:</p> <p>"Connection to the public sewer as defined in the Sewerage (Scotland) Act 1968 is required for all new development proposals:</p> <ul style="list-style-type: none"> -either in settlements identified in the plan with a population equivalent of more than 2000; or -wherever single developments of 25 or more units are proposed. <p>In all other cases a connection to the public sewer will be required, unless the applicant can demonstrate that:</p> <ol style="list-style-type: none"> 1) the development is unable to connect to public sewer for technical or economic reasons; and 2) that the proposal is not likely to result in or add to significant environmental or health problems. <p>The Council's preference is that any private system should discharge to land rather than water.</p>		

For all proposals where connection to the public sewer is not currently feasible and Scottish Water has confirmed public sewer improvements or first time public sewerage within its investment programme that would enable the development to connect, a private system would only be supported if:

- the system is designed and built to a standard which will allow adoption by Scottish Water;
- the system is designed such that it can be easily connected to a public sewer in the future.

Typically this will mean providing a drainage line up to a likely point of connection. The developer must provide Scottish Water with the funds which will allow Scottish Water to complete the connection once the sewerage system has been upgraded."

Generally, remove the Developer Requirements for individual sites which specify foul drainage arrangements required. Include a developer requirement for connection to the public sewer for each allocation of 25 or more units and for certain other allocated sites (identified by SEPA in its representation). In respect of a further list of allocated sites (identified by SEPA in its representation) include a developer requirement for a public sewer connection or interim private arrangement that will be compatible with and make a future public connection/ scheme more feasible.

White Young Green (for Ewen Gillies Builders) (630): Policy 7 should allow for the provision of temporary private treatment works in instances where improvements to the public network are known to be forthcoming but as yet incomplete.

Summary of response (including reasons) by planning authority

Response(s) and Reasons -

Scottish Environment Protection Agency (446): The Council agrees with the suggested rewording of Policy 7. It will be clearer about the arrangements required for foul drainage and generally will be more effective at enabling and/ or achieving connection to the public sewer, whilst enabling some development to be served by private systems if necessary and appropriate and temporary private systems of a suitable standard under given circumstances. The Council agrees that this will enable developer requirements for individual sites to be removed from the Plan. The Council's response to SEPA's request for the inclusion of particular developer requirements for certain allocated sites is reported under the relevant 'site' issues and under the "General" Issue.

White Young Green (for Ewen Gillies Builders) (630): Policy 7 already provides for temporary private systems. Furthermore the Council considers that SEPA's suggested reworded version of the policy, which the Council commends as a change to the Plan, provides appropriately for temporary private systems and no additional change would be required to the Plan beyond that.

[For information, SEPA also raised essentially the same issue in respect of the Sutherland Local Plan and the Council's response on that issue in respect of both Plans is the same.]

Any Further Plan Changes Commended by THC

Modify Policy 7 to read as suggested by SEPA.

Remove developer requirement for individual sites where indicated by SEPA as not required. (See also any relevant commended changes reported under relevant 'site' issues and under the "General" Issue.)

Issue (ref and heading):	WASTE MANAGEMENT	109
Development plan reference:	General Policy 8 Waste Management and supporting text 7.32-7.34, WS 41	
Body or persons submitting a representation raising the issue (reference no.):		
Scottish Environment Protection Agency (446)		
Provision of the Development Plan to which the issue relates:	Policy framework relating to Waste Management including existing sites, new facilities and considerations for new development.	
Summary of representation(s):		
<p>In order to bring the Policy fully in line with the National Waste Plan, National Waste Strategy and Scottish Planning Policy 10 "Planning and Waste Management" (SPP10) further revisions are required. In assessing proposals, regard should be had to SEPA's Thermal Treatment Guidelines where relevant. The Plan should also provide clearer policy context for the consideration of proposals on, or which may affect, existing or former waste management sites.</p> <p>SPP10 is likely to be superseded prior to the Reporter's Report of the Examination by the forthcoming Scottish Planning Policy: Part Three. Policy references to SPP10 should therefore be amended at that time to reflect this change in national policy and ensure the final policy wording is up to date.</p> <p>The Plan's glossary should be updated to include reference to waste management facilities.</p>		
Modifications sought by those submitting representations:		
<p>Revision of the first sentence of the policy to include reference to SEPA's Thermal Treatment Guidelines, to read: ".....the National Waste Strategy, SPP10 and where relevant SEPA's Thermal Treatment Guidelines".</p> <p>Replacement of the penultimate paragraph of the policy with the following:</p> <p>"Existing or former waste management facilities and their sites shall be safeguarded. Development proposals on or adjacent to the site of such a facility will be assessed against the National Waste Strategy, the National Waste Plan, and the Area Waste Plan, and will be subject to consultation with SEPA. If the proposed development would adversely affect the operation of the waste management facility, or would be likely to cause the site of the facility to be unavailable or unsuitable for future waste management purposes for which it will be required, the proposed development will not be favoured."</p> <p>Policy references to SPP10 to be amended at the time of the new SPP Part 3 coming into force, to reflect this change in national policy and ensure the final policy wording is up to date.</p> <p>Updating of the Plan's glossary to include: "Waste management facilities- for the purposes of this Plan and specifically Policy 8, facilities for the treatment and disposal of municipal and commercial waste, including (but not limited to) waste transfer stations and recycling centres."</p>		
Summary of response (including reasons) by planning authority		
Response(s) and Reasons -		

The Council agrees that the Policy would benefit in this instance from the more comprehensive cross-referencing to material considerations, specifically to SEPA's guidelines that will be considered for such proposals as energy-from-waste plants.

The Council further agrees with the suggestion that the Policy could be clearer in its reference to the safeguarding of existing or former waste management sites and set out clearly how they will be considered in development proposals, including the circumstances in which development will be permissible. In doing so, the Policy should provide a context for considering not only proposals for redevelopment of such sites but any development proposals on or adjacent to such sites, the latter being absent from the Policy as currently written.

It is particularly useful therefore to define what is meant by 'waste management facilities' for the purposes of this Policy in the glossary and the definition suggested is suitable.

It would indeed be desirable to appropriately update references to national policy if it is replaced, particularly if that can be done with ease because the new national policy does not differ in a material way that raises conflict with the approach taken in the Plan. If updating references, it would be appropriate to do this not only in the Policy but to update such references in all parts of the Plan for consistency.

[For information, SEPA also raised essentially the same issue in respect of the Sutherland Local Plan and the Council's response on that issue in respect of both Plans is the same.]

Any Further Plan Changes Commended by THC

Modification of Policy 8 and the Plan's glossary, exactly as requested by SEPA.

In the event that SPP Part 3 is finalised before the Plan is, any appropriate updating of references to national policy in any part of the Plan.

Issue (ref and heading):	FLOOD RISK	110
Development plan reference:	General Policy 9 Flood Risk and supporting text 7.35-7.37, WS 42	
Body or persons submitting a representation raising the issue (reference no.):		
Scottish Environment Protection Agency (446)		
Provision of the Development Plan to which the issue relates:	Policy framework relating to Flood Risk as a development consideration.	
Summary of representation(s):		
<u>Scottish Environment Protection Agency (446):</u>		
<p>In order to fully comply with Scottish Planning Policy 7 "Planning and Flooding" (SPP7), Policy 9 should be modified as suggested. SEPA notes that SPP7 is likely to be superseded prior to the Reporter's Decision Letter by the forthcoming Scottish Planning Policy: Part Three. Therefore SEPA recommends that policy references to SPP7 are amended at that time to reflect this change in national policy and ensure the final policy wording is up to date. For the avoidance of doubt SEPA recommends that the explanation of medium to high flood risk areas in the supporting text is amended as suggested and would welcome this explanation included within the Glossary as well.</p> <p>For certain allocated sites (identified by SEPA in its representation) SEPA seeks one or more of the following:</p> <ul style="list-style-type: none"> • inclusion of specific developer requirements (dependent on site circumstances and/ or intended use); • modification of allocation boundaries; • various other changes to the text for the site in its reference to flood risk matters; • the undertaking of flood risk assessment at this stage to determine the suitability of the site for allocation, or otherwise deletion of the site. 		
Modifications sought by those submitting representations:		
<u>Scottish Environment Protection Agency (446):</u>		
<p>Revise Policy 9 to read:</p> <p>"Development proposals should avoid areas susceptible to flooding.</p> <p>Development proposals within or bordering medium to high flood risk areas, will need to demonstrate compliance with Scottish Planning Policy 7 "Planning and Flood Risk" through the submission of a Flood Risk Assessment.</p> <p>Development proposals outwith the medium to high flood risk areas may be acceptable. However, where better local flood risk information and/or the sensitivity of the proposed use suggest(s) otherwise, a Flood Risk Assessment which demonstrates compliance with SPP7 will be required.</p> <p>Developments may also be possible where they are in accord with the flood prevention or management measures as specified within a Local Plan allocation or a Development Brief. Any developments, particularly those on the flood plain, should not compromise the objectives of the EU Water Framework Directive."</p>		

In the supporting text to Policy 9, amend the explanation of medium to high flood risk areas to state "...medium to high flood risk areas (1 in 200 or greater than 0.5% annual probability of flooding)" and add that explanation to the Plan's Glossary as well.

Policy references to SPP7 to be amended at the time of the new SPP Part 3 coming into force, to reflect this change in national policy and ensure the final policy wording is up to date.

Inclusion of specific developer requirements for certain allocated sites (identified by SEPA in its representation) dependent on site circumstances and/ or intended use:

- For some, inclusion of the requirement: "Flood Risk Assessment will be required, built development to avoid flood risk area."
- For some, inclusion of the requirement: "Flood Risk Assessment will be required, built development to avoid flood risk area. Only water-related or harbour uses would be acceptable within flood risk areas."

Modification of the allocation boundaries for certain allocated sites (identified by SEPA in its representation) to exclude the medium to high flood risk areas.

Various other changes to the text for certain allocated sites (identified by SEPA in its representation) in their reference to flood risk matters.

The undertaking of flood risk assessment at this stage for certain allocated sites (identified by SEPA in its representation) to determine the suitability of those sites for allocation, or otherwise deletion of the sites.

Summary of response (including reasons) by planning authority

Response(s) and Reasons -

Scottish Environment Protection Agency (446):

The Council agrees with the suggested rewording of Policy 9. This will provide clarity, aligning the policy better to SPP7 whilst avoiding unnecessary repetition of that national policy. It will strengthen and promote the application of the flood avoidance principle.

It would indeed be desirable to appropriately update references to national policy if it is replaced, particularly if that can be done with ease because the new national policy does not differ in a material way that raises conflict with the approach taken in the Plan. If updating references, it would be appropriate to do this not only in the Policy but to update such references in all parts of the Plan for consistency.

The suggested amendment to the supporting text of Policy 9 will clarify its meaning, and inclusion additionally in the Glossary would be sensible.

The Council's response to SEPA's requests in respect of certain allocated sites is reported under the relevant 'site' issues and under the "General" Issue.

[For information, SEPA also raised essentially the same issue in respect of the Sutherland Local Plan and the Council's response on that issue in respect of both Plans is the same.]

Any Further Plan Changes Commended by THC

Modify Policy 9 and add to its supporting text and to the Glossary exactly as suggested by SEPA.

In the event that SPP Part 3 is finalised before the Plan is, any appropriate updating of references to national policy in any part of the Plan.

(See also any relevant commended changes reported under relevant 'site' issues and under the "General" Issue.)

Issue (ref and heading):	PHYSICAL CONSTRAINTS	111
Development plan reference:	General Policy 10 Physical Constraints and supporting text (Other Development Considerations) 7.38-7.39, WS 43	
Body or persons submitting a representation raising the issue (reference no.):		
Scottish Environment Protection Agency (446) Transport Scotland (859) Airtricity (961)		
Provision of the Development Plan to which the issue relates:	Policy framework relating to various Physical Constraints as development considerations, as identified in the Plan.	
Summary of representation(s):		
<p><u>Scottish Environment Protection Agency (446)</u>: Revisions are required to ensure that the Policy:</p> <ul style="list-style-type: none"> • safeguards existing waste sites; • in respect of land with possible contamination issues- provides clearer guidance to developers and brings it in line with best practice in respect of water environment considerations, and ensures measures which can actually be implemented are agreed prior to any activity on the site to ensure any contamination is dealt with adequately. <p><u>Transport Scotland (859)</u>: The Scottish Government has a policy of a presumption against new junctions on the trunk road network. This is set out and explained in national policy and advice, in Scottish Planning Policy 17 and Planning Advice Note 66 respectively. The Plan does not include a clear statement on that policy nor does it include it as a physical constraint in Policy 10.</p> <p><u>Airtricity (961)</u>: The Policy provides guidance to developers on constraints that should be observed when proposing a development. This includes a constraint of 'within 1000m of large wind generators'. There is no indication of what would constitute a 'large' wind generator. Scottish Planning Policy 6 suggests a separation distance between settlements and large scale wind farms as a guide but does not state that a development embargo should be implemented with a 1000m radius of a large scale wind farm.</p>		
Modifications sought by those submitting representations:		
<p><u>Scottish Environment Protection Agency (446)</u>:</p> <p>Add to the fifth bullet point: "(Regard must be had to the safeguarding of waste management sites as well as to any potential impact that the operation of facilities on such a site might have on the proposed development)".</p> <p>Modify the final sentence of Policy 10 from "...controlled waters..." to "...the water environment..." and also modify that sentence from "...the site prior to any further occupation.)" to " ... the site prior to development.)"</p> <p><u>Transport Scotland (859)</u>:</p> <p>Include the policy of a presumption against new junctions on the trunk road network as an additional physical constraint in Policy 10.</p> <p>Include the following statement within the Plan's Written Statement:</p>		

“It should be noted that there is a Scottish Government policy of a presumption against new junctions on the trunk road network. Where a new or significantly improved junction is proposed to facilitate development, within the transport accessibility assessment for a specific land use allocation, appropriate justification of such a strategy will require to be provided in support of such an access strategy. This will enable Transport Scotland to determine if such a justification is sufficient to set aside this policy.”

Airtricity (961): Delete from the policy the constraint of ‘within 1000m of large wind generators’.

Summary of response (including reasons) by planning authority

Response(s) and Reasons -

Scottish Environment Protection Agency (446): Revise the policy wording as suggested. The modification in respect of waste sites would be a sensible improvement and reflect changes commended by the Council to Policy 8. The modifications on the matter of possibly contaminated land would likewise be sensible improvements to the policy, for the reasons stated by SEPA.

Transport Scotland (859): No change. The plan already indicates in the supporting text to Policy 19 “Travel” that regard will be had to national transport policies and priorities in implementing the plan. It is not necessary for the Local Plan to repeat individual policies from other documents. It should be noted that Policy 10 currently refers to Trunk Roads, together with A Roads and Rail Lines- as constraint features in general terms and in so doing relates to the Background Map (in the Map Booklet) entitled “Road and Rail Buffers”. This mechanism helps to highlight at Local Plan level some considerations for development, which are set out in more general and strategic terms in Structure Plan Policy G2.

Airtricity (961): No change. The policy lists constraints and asks for appropriate consultation and mitigation. It does not carry an automatic negative policy presumption. In any case, in respect of wind energy its intent is to safeguard the operational efficiency of approved and constructed wind farms in the consideration of adjacent proposed developments or other land use changes, in accordance with Structure Plan Policy E3.

Any Further Plan Changes Commended by THC

Modification of Policy 10 exactly as requested by SEPA.

No other changes.

Issue (ref and heading):	DEVELOPER CONTRIBUTIONS	112
Development plan reference:	General Policy 15 Developer Contributions and supporting text 7.44-7.46, WS 47-48	
Body or persons submitting a representation raising the issue (reference no.):		
Highlands & Islands Enterprise (495) G L Hearn (for Co-operative Group) (515) White Young Green (for Ewen Gillies Builders) (630) Theatres Trust (635) Airtricity (961)		
Provision of the Development Plan to which the issue relates:	Policy framework relating to requirements for Developer Contributions from new development.	
Summary of representation(s):		
<p><u>Highlands & Islands Enterprise (495)</u>: The range of potential contributions is too wide and so it is simply not possible for any potential development to accurately gauge the level of contributions which will be sought from them. Furthermore, it is suggested that Policy 15 make explicit reference to the potential reduction in developer contributions where development costs on allocated sites are abnormally high (for example due to ground conditions). This is to avoid potential developers being put off and development potential thus being stifled. (See also “General” Issue 101.)</p> <p><u>G L Hearn (for Co-operative Group) (515)</u>: Policy 15 fails to provide certainty as to the circumstances where the Council will seek developer contributions. The policy should be amended to clarify that developers will only be required to make developer contributions where development will create or exacerbate deficiencies in, or impose significantly increased burdens on existing infrastructure. The policy should also be strengthened by clarifying the manner in which the Council will seek to determine the nature and scale of any developer contribution. In this respect it is suggested that the policy is amended to make reference to the provisions of 'Circular 12/96 – Planning Agreements' as it will provide developers with confidence that any development contribution sought, as detailed in the policy, will meet the relevant tests as outlined in this Circular.</p> <p><u>White Young Green (for Ewen Gillies Builders) (630)</u>: Whilst Policy 15 states that the Council will seek appropriate developer contributions proportionate to the scale, nature, impact and planning purposes associated with the development, a degree of uncertainty still exists as to what the legitimate expectations of the Council will be with regard to the level of contributions required. Care should be taken not to compromise the overall viability of proposals in areas which, although in need of additional facilities, are also in need of development.</p> <p><u>Theatres Trust (635)</u>: It is noted that ‘community facilities’ are included in the list of potential developer contributions but it is not clear what comprises ‘community facilities’ and whether it includes leisure facilities. The Theatres Trust recognises the importance of developer contributions to assist the owners of leisure venues to become more self-reliant and obtain better buildings by using the planning system and working with the private sector. The Theatres Trust are concerned that such buildings do not benefit appropriately under the terms of developer contributions and that it will increasingly be necessary to unlock new sources of funding to help pay for significant improvements to them. (See also “General” Issue 101.)</p> <p><u>Airtricity (961)</u>: Policy 15 states that ‘the Council will seek appropriate developer contributions in association with development proposals’ and the level of contribution will be ‘proportionate</p>		

to the scale, nature, impact and planning purposes associated with the development'. While it is implied through this policy that the developer contributions referred to are applicable to residential development this is not explicit in the text that this is the only type of development that this policy could be applied to and therefore it could also be applied to wind farm development. Firstly, it should be reminded that for wind farm development there is no legal obligation for the developer to make any voluntary financial payment to either the local community or the appropriate planning authority. Secondly, there needs to be a clear distinction made between community benefit and developer contributions (payment made to the planning authority). Any contribution made to a community should not be used to replicate a service that would otherwise be provided by the Council or Government. A developer contribution on the other hand would financially assist in the provision of a service provided by the council or government. At present, the Plan is ambiguous and subjective.

Modifications sought by those submitting representations:

Highlands & Islands Enterprise (495): Policy 15 to make explicit reference to the potential reduction in developer contributions where development costs on allocated sites are abnormally high (for example due to ground conditions).

G L Hearn (for Co-operative Group) (515): Modification of Policy 15 to clarify that developers will only be required to make developer contributions where development will create or exacerbate deficiencies in, or impose significantly increased burdens on existing infrastructure. Strengthening of the policy by clarifying the manner in which the Council will seek to determine the nature and scale of any developer contribution. In this respect, amendment of the policy to make reference to the provisions of 'Circular 12/96 – Planning Agreements'.

White Young Green (for Ewen Gillies Builders) (630): Modification of Policy 15 to state that developer contributions are required to be prepared and agreed with all relevant parties and subject to appropriate levels of discussion and consultation.

Theatres Trust (635): Condense the description of potential recipients for developer contributions to – community facilities that provide for the health, welfare, social, educational, leisure and cultural needs of the community.

Airtricity (961): The Plan should clarify: that for wind farm development there is no legal obligation for the developer to make any voluntary financial payment to either the local community or the appropriate planning authority; that there needs to be a clear distinction made between community benefit and developer contributions.

Summary of response (including reasons) by planning authority

Response(s) and Reasons -

Highlands & Islands Enterprise (495): It is to be expected that the range of potential developer contributions is wide. The supporting text to Policy 15 explains that the Council is moving towards a position where its Local Plans will provide specific information on the anticipated deficiencies to be met and mitigation to be provided through developments. This information will be developed further through preparation of the new-style Local Development Plans within the context to be provided by the forthcoming Supplementary Guidance (SG) on Developer Contributions, which is being prepared by the Council as is referred to in its Development Plan Scheme. This will help to provide greater certainty about requirements for particular areas, settlements and sites. The Council considers that an 'across the board' reduction of developer contributions in the whole or parts of the Plan area would not be appropriate given that contributions are sought to address deficiencies created or magnified by developments, which are not lessened by the level of development costs of the site. However, the Council is agreeable to modification of Policy 15 to provide for reduction if

exceptional/ abnormal development costs can be demonstrated by open book accounting.

G L Hearn (for Co-operative Group) (515): The Council considers that the Plan does not require modification in response to this objection. The supporting text to Policy 15 refers to the policy underpinning the principle of “proportionate” developer contributions, secured through a Section 75 “Agreement” where necessary. The forthcoming SG on Developer Contributions will indicate the process for consideration and for reaching agreement such that a development proposal may proceed. In preparing the SG the Council will have regard to prevailing national advice and to good practice. Furthermore, the Council is moving towards a position where its Development Plans will provide specific information on the anticipated deficiencies to be met.

White Young Green (for Ewen Gillies Builders) (630): The Council does not agree with the modifications to the Policy suggested by the objector. The Policy is correct. The forthcoming SG on Developer Contributions will indicate the process for consideration and for reaching agreement such that a development proposal may proceed. In terms of viability, the Council agrees that the Policy could be modified to provide for reduction if exceptional/ abnormal development costs can be demonstrated by open book accounting.

Theatres Trust (635): Theatres are semi-commercial operations that do not justify planning gain contributions, particularly because there is no direct connection with the physical environment or the impact of a particular development proposal. Therefore no changes are commended in response.

Airtricity (961): Policy 15 neither refers to nor seeks voluntary community benefit payments. It deals solely with developer contributions through the planning system. Developer contributions are not sought solely from residential developers. The Council is very clear about the distinction between developer contributions and community benefit payments. This is evidenced by its corporate policy on Community Benefits and information on its website. The forthcoming SG on Developer Contributions will provide further clarity. Therefore no modifications are required in response.

The Development Plan Scheme is available at:

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

The Council's corporate policy on Community Benefit is available at:

<http://www.highland.gov.uk/livinghere/communityplanning/communitybenefit/>

Any Further Plan Changes Commended by THC

Modification of Policy 15 (it is suggested by inclusion of a second paragraph) to provide for reduction in developer contributions if exceptional/ abnormal development costs can be demonstrated by open book accounting.

Issue (ref and heading):	HOUSING IN THE COUNTRYSIDE	113
Development plan reference:	General Policy 16 Housing in the Countryside and supporting text 7.47-7.49, WS 49	
Body or persons submitting a representation raising the issue (reference no.):		
Brodies (for A Besterman) (273)		
Provision of the Development Plan to which the issue relates:	Policy framework relating to Housing in the Countryside within the identified hinterlands of towns.	
Summary of representation(s):		
<u>Brodies (for A Besterman) (273):</u>		
<p>Structure Plan policy H3 Housing in the Countryside does not permit housing in the open countryside unless it can be demonstrated that it is required for management of the land related family purposes. Policy 16 should be modified to reflect the Structure Plan policy. Methods of establishing exceptional need for housing could include investigation of business plans and consideration of the viability of projects, particularly if they are to rely on subsidies. It could also be based on temporary accommodation on site being used as a stepping stone to permanent building.</p> <p>All of the exceptions referred to in policy 16 should be subject to an assessment of the infrastructure constraints and a requirement for necessary maintenance and upgrading as a result of development. Previous local plans have required contributions to the upgrading of roads and servicing by the developer and this should be specified again. Individual housing in the countryside should also be subject to a reality check. Policy 16 in respect of open countryside outwith hinterland, expressly refers to Policy 3 as the only restraint yet Policy 3 relates to all types of development and not housing in particular.</p> <p>(This representation is associated with Brodies' representation on Policy 3 "Wider Countryside".)</p>		
Modifications sought by those submitting representations:		
<u>Brodies (for A Besterman) (273):</u>		
<ul style="list-style-type: none"> • The words "it is demonstrated that" should be added to the end of the phrase "Exceptions to the policy will only be made where" in draft policy 16. • The words "land management or" should be deleted from the first exception so that it should read "A house is essential for family purposes related to the management of the land (retired farmers/spouses)". • In exceptions 1, 2 and 5 of Policy 16 the words "and the need for housing in those circumstances is proved" should be added to the end of these three exceptions. • The words "and where, the status of 'the dwelling' is in doubt, the need for housing in those circumstances is proved" should be added to the end of exception 4. • In the second paragraph, the word "indicate" should be replaced by the word "establish". • The beginning of the third paragraph should be modified to read "In the open countryside outwith the hinterland of towns, we will assess proposals in terms of viability, need and infrastructure consequences and in the context of Policy 3.....". 		
Summary of response (including reasons) by planning authority		

Response(s) and Reasons -**Brodies (for A Besterman) (273):**

The Council considers that no changes should be made to this part of the Plan. The Local Plan policy has been designed to fit closely with the Structure Plan and with the Council's Housing in the Countryside Development Plan Policy Guideline (DPPG). In particular, the wording of the exceptional circumstances in the Policy 16 closely fit with the wording used in the DPPG. It is not necessary to change Policy 16 in this respect and doing so may cause confusion. The DPPG provides useful advice to applicants about what they will need to demonstrate. In respect of the final paragraph of the policy, referring to housing development in the open countryside outwith the hinterland of towns, that paragraph is primarily included for clarity to inform the reader of the Plan that such proposals are not subject of the more restrictive approach set out in the previous paragraphs of the policy. In cross-referring to Policy 3, it is not intended to signpost all of the policies that must be considered for such development. Furthermore, Policy 3 does provide a basis for taking into account aspects of viability, need and infrastructure consequences.

For information, the DPPG has recently been under review. The review examined the effectiveness and fit for purpose of the existing housing in the countryside policy as set out in the Structure Plan, Local Plans and associated Development Plan Policy Guidance. An outcome of the review has been the preparation of Interim Supplementary Planning Guidance which has recently been consulted upon. The results of consultation will soon be considered by Committee. It is intended that the interim guidance will provide the Council's policy approach to Housing in the Countryside in advance of the Highland wide Local Development Plan.

The Housing in the Countryside DPPG and Draft Interim SPG are both available at:

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

Any Further Plan Changes Commended by THC

None.

Issue (ref and heading):	DESIGN QUALITY AND PLACE-MAKING	114
Development plan reference:	General Policy 18 Design Quality and Place-Making and supporting text 7.51, WS 51	
Body or persons submitting a representation raising the issue (reference no.):		
Scottish Natural Heritage (697)		
Provision of the Development Plan to which the issue relates:	Policy framework relating to Design Quality and Place-Making considerations for new development.	
Summary of representation(s):		
<u>Scottish Natural Heritage (697):</u>		
<p>The Plan currently does not meet guidance set out in NPPG 14 and SPP 11 in its coverage of public access, including core paths, rights of way and other routes. There is no policy on access and recreation and no explicit reference to the protection of rights of way and other important paths, nor to the enhancement of recreational opportunities through the development of further paths. Because access rights and core paths plans are material considerations in determining applications for planning permission, the Local Plan should contain appropriate policy references for this purpose.</p> <p>SNH therefore wishes the Council's Development Plan to include the key recreational path network on its proposals map, and a further general policy which has regard to the maintenance and enhancement of that network (SNH has suggested some wording). However, SNH understands that Access (with linkage to Core Path Plans) will be dealt with in the forthcoming Highland-wide Local Development Plan. Given that, SNH would be content for this Local Plan to include a more explicit reference to the Core Path Plan than it has currently. In the absence of a section and policy on access, this could be incorporated in the general policy section under Design Quality and Place Making.</p>		
Modifications sought by those submitting representations:		
<u>Scottish Natural Heritage (697):</u>		
<p>Include the following wording in the justification text preceding General Policy 18: "Public access should be maintained and improved, with core paths upheld" (reference to Core Path Plan).</p>		
Summary of response (including reasons) by planning authority		
<u>Scottish Natural Heritage (697):</u>		
<p><u>Response(s)</u> – NO CHANGE.</p> <p><u>Reasons</u> - The Local Plan does already make reference to Core Path Plans, within the Vision and within the policy sections on Developer Contributions and Travel. The wording suggested for inclusion in the justification text preceding General Policy 18 is itself written as a policy; the forthcoming Highland-wide Local Development Plan (HLDP) and other guidance will cover this issue with adequate balance. The Council's Development Plan Scheme (Spring 2009) listed 22 key policy areas which will be looked at as part of the HLDP and includes the topic of 'Access', which will include considering further the matters raised by the objectors on this issue and policy options.</p>		
[For information, SEPA also raised essentially the same issue in respect of the Sutherland		

Local Plan and the Council's response on that issue in respect of both Plans is the same.]

The Development Plan Scheme is available at:

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

Information on the preparation of Core Path Plans for the Highland Council is available at:

<http://www.highland.gov.uk/leisureandtourism/what-to-see/countrysideaccess/>

Any Further Plan Changes Commended by THC

None.

Issue (ref and heading):	GENERAL POLICIES: Omission of policy on protection of the Water Environment	115
Development plan reference:	Chapter 7 General Policies, WS 31-52	
Body or persons submitting a representation raising the issue (reference no.):		
Scottish Environment Protection Agency (446)		
Provision of the Development Plan to which the issue relates:	Policy framework's provision for protection of the Water Environment.	
Summary of representation(s):		
<u>Scottish Environment Protection Agency (446):</u>		
<p>SEPA objects to the omission of a specific policy on protection of the water environment, for the following reasons:</p> <ul style="list-style-type: none"> • NPPG 14 states that planning authorities should seek to safeguard the natural heritage value of certain types of water bodies within the context of a wider framework of water catchment management, particularly important in this Plan area where allocations in close proximity or enclosing watercourses are common. • Structure Plan Policy FA11 states that the Council will, in co-operation in partners, use the planning system and voluntary codes of good practice to ensure the proper management of river systems. • The EC Water Framework Directive (2000/60/EC) is aimed at maintaining and improving the quality of aquatic ecosystems and requires that any ecological risks to the water environment associated with development (including engineering operations) be identified and controlled. • The Water Environment and Water Services (Scotland) (WEWS) Act 2003 implements the Directive and under the Act Local Authorities are Responsible Authorities and therefore must give consideration to the aims of the Directive when exercising their functions, including preparation of Development Plans. One of the key tasks of the Directive regime is the production of River Basin Management Plans (RBMP) and the land use planning system has an important role to play in maintaining and enhancing the water environment, particularly prior to RBMPs being produced. The Highland Council is partner in the production of RBMP covering this area. 		
Modifications sought by those submitting representations:		
<u>Scottish Environment Protection Agency (446):</u>		
<p>1. A policy included in the Plan which states that planning applications will be determined in compliance with the Water Framework Directive, SEPA recommending that such policy would state that any development that may have a detrimental impact on the water environment would not be supported unless suitable mitigation can be put in place to ensure compliance with the objectives of the Water Framework Directive or SEPA have confirmed that an exemption from Water Framework Directive requirements will apply.</p> <p>Or alternatively SEPA will now agree to:</p> <p>2. No modification to the Plan but a formal commitment by the Council to including a policy on this in the forthcoming Highland Local Development Plan.</p>		
Summary of response (including reasons) by planning authority		

Scottish Environment Protection Agency (446):

Response(s) – NO CHANGE but the Council will continue to work with SEPA on this issue in respect of the Highland-wide Local Development Plan in order to explore policy options.

Reasons - A key task of The Water Framework Directive regime is the production of River Basin Management Plans. That work is ongoing and will inform the future Development Plan. It would be appropriate that consideration of what planning policy framework may be required for assessing compliance of planning applications with the Directive be carried out on a Highland-wide basis. The Council is considering policy options for this through preparation of the Highland-wide Local Development Plan (HLDP). The Council's Development Plan Scheme (Spring 2009) listed 22 key policy areas which will be looked at as part of the HLDP. Whilst that list did not include the Water Environment (and RBMP) specifically, that topic has since been added and has been discussed with SEPA together with Council officers involved in RBMP work in order to inform the Main Issues Report for the HLDP (although clearly, in advance of consultation on the Main Issues Report, the Council is unable to confirm at this time the inclusion of a particular policy within the eventual Proposed Plan). In the interim, Structure Plan policies FA11 and G2 provide a broad basis for consideration of relevant issues. In addition, certain development land allocations in the Plan have a developer requirement requiring retention and integration of existing watercourses as natural features within the development.

[For information, SEPA also raised essentially the same issue in respect of the Sutherland Local Plan and the Council's response on that issue in respect of both Plans is the same.]

The Development Plan Scheme is available at:

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

Any Further Plan Changes Commended by THC

None.

Issue (ref and heading):	GENERAL POLICIES: Omission of policy on Air Quality issues	116
Development plan reference:	Chapter 7 General Policies, WS 31-52	
Body or persons submitting a representation raising the issue (reference no.):		
Scottish Environment Protection Agency (446)		
Provision of the Development Plan to which the issue relates:	Policy framework's provision for Air Quality issues.	
Summary of representation(s):		
<u>Scottish Environment Protection Agency (446):</u>		
<p>SEPA objects to the omission of an appropriate policy addressing air quality, for the following reasons:</p> <ul style="list-style-type: none"> • Structure Plan Policy W12 requires the Council to adhere to certain principles in considering development proposals, and where appropriate, new developments will be required to submit an environmental assessment which address air pollution. • Policy guidance from the Scottish Executive dated March 2004 'Air Quality and Land Use Planning' states that the planning system has a particularly important role to play both in efforts to improve air quality and to at least ensure that existing air quality does not deteriorate. It says that local authorities should integrate air quality considerations within the planning process at the earliest possible stage and consider developing supplementary planning guidance or protocols. SEPA considers that review of the Local Plan provides the opportunity for such integration of air quality considerations. • The guidance goes on to identify a number of issues that should be considered in the preparation of development plans, and which may also be material in the consideration of individual planning applications, as follows: <ul style="list-style-type: none"> - ensuring that land use planning makes an appropriate contribution to the achievement of air quality objectives; - the need to identify land, or establish criteria for the location of potentially polluting developments and the availability of alternative sites; - inclusion of policies on the appropriate location for new development, including reducing the need to travel and promoting public transport; - the potential effects of particular types of development on existing and likely future air quality, particularly in and around Air Quality Management Areas; and - the requirements of air quality action plans. 		
Modifications sought by those submitting representations:		
<u>Scottish Environment Protection Agency (446):</u>		
<p>1. A policy included in the Plan which states that the Planning Authority will take into account the impact of development on air quality in general and the findings of its Local Air Quality Management review and assessment of air quality in particular, and in addition which states that an assessment of the impact on air quality would be required for all development proposals that are likely to have significant air quality impacts.</p> <p>Or alternatively SEPA will now agree to:</p> <p>2. No modification to the Plan but a formal commitment by the Council to including a policy on this in the forthcoming Highland Local Development Plan.</p>		
Summary of response (including reasons) by planning authority		

Scottish Environment Protection Agency (446):

Response(s) – NO CHANGE but the Council will continue to work with SEPA on this issue in respect of the Highland-wide Local Development Plan in order to explore policy options.

Reasons – Air quality is only one of many important matters for consideration and the Council would be concerned if it were highlighted above other relevant planning considerations. It would be appropriate that consideration of what planning policy framework may be required for assessing the air quality implications of planning applications be carried out on a Highland-wide basis. The Council is considering policy options for this through preparation of the Highland-wide Local Development Plan (HLDP). The Council's Development Plan Scheme (Spring 2009) listed 22 key policy areas which will be looked at as part of the HLDP. That list includes Air Quality specifically and has since been discussed with SEPA together with Council officers dealing with air quality matters in order to inform the Main Issues Report for the HLDP (although clearly, in advance of consultation on the Main Issues Report, the Council is unable to confirm at this time the inclusion of a particular policy within the eventual Proposed Plan). In the interim, Structure Plan policies W12 and G2 provide a broad basis for consideration of relevant issues. The Council considers therefore that it is not necessary to introduce air quality as a specific consideration within the policies of the Plan which is subject of this Examination, but suggests that if the Reporter disagrees then a brief reference to air quality as a development consideration be added to General Policy 10 Physical Constraints (Other Development Considerations).

[For information, SEPA also raised essentially the same issue in respect of the Sutherland Local Plan and the Council's response on that issue in respect of both Plans is the same.]

The Development Plan Scheme is available at:

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

Any Further Plan Changes Commended by THC

None.

Issue (ref and heading):	GENERAL POLICIES: Omission of policy on Renewable Energy Development issues	117
Development plan reference:	Chapter 7 General Policies, WS 31-52	
Body or persons submitting a representation raising the issue (reference no.):		
Airtricity (961)		
Provision of the Development Plan to which the issue relates:	Policy framework's provision for Renewable Energy Development issues.	
Summary of representation(s):		
Airtricity (961): Whilst it is recognised that any proposed onshore wind farm development will be 'guided' by the Council's emerging revised "Renewable Energy Strategy and Planning Guidelines" (HRES), and assessed against new supplementary planning guidance (currently being prepared), the Plan lacks policy and preferred areas of search mapping for renewable energy development and should reflect the requirements of national planning policy and advice on this and be informed by consultation.		
Modifications sought by those submitting representations:		
Airtricity (961): The inclusion of policy specifically dealing with renewable energy development.		
Summary of response (including reasons) by planning authority		
Airtricity (961):		
<u>Response(s) and Reasons –</u>		
<p>No change should be made to the Local Plan, other than certain minor changes. Earlier drafts of the Plan contained some locational guidance for renewable technologies based on HRES. However, in view of it not being fully compliant with Scottish Planning Policy 6 and that it is going to be updated and partly replaced as explained below, the 2008 Deposit Draft generally does not contain such locational guidance. For the avoidance of doubt, any remaining locational guidance should be deleted (whilst retaining references to support in principle for renewable energy development). Cross-references to HRES and emerging policy and guidance for renewables should be updated to reflect progress made.</p> <p>The forthcoming Highland-wide Local Development Plan (HLDP) and associated Guidance for on-shore wind energy development currently being prepared by the Council, and related updating of HRES, will respond to SPP6 and National Planning Framework 2 (NPF2). Together they will provide a suite of policies for renewable energy, and a more specific spatial planning framework to guide and assist the consideration of windfarm developments in accordance with SPP6 Annex A. It is appropriate to develop these policies and guidance (including reviewing existing ones) on a Highland-wide basis. Preparation of both the HLDP and associated Guidance are in progress and they will be consulted on later this year before finalisation and adoption. In the interim, as well as the Local Plan the Structure Plan and HRES are important to the consideration of proposals, together with SPP6. Information on the HLDP and associated Guidance being prepared is provided in the Council's Development Plan Scheme. A key consideration within those documents in respect of windfarms will be landscape sensitivity and impact assessment, including cumulative impact assessment which is not fully addressed by the Council's existing documents. A major input to the work is therefore a landscape study looking at these issues and the final report of the consultant undertaking that study for the Council is expected during Summer 2009. With</p>		

regard to national policy, the Council made representations on NPF2 including on renewable energy and grid issues. The Council is aware of the current grid constraints in the context of seeking to meet targets for renewables set out in HRES. The Council will continue to engage with Scottish Government and others on these issues.

[For information, Airtricity also raised essentially the same issue in respect of the Sutherland Local Plan and the Council's response on that issue in respect of both Plans is the same.]

The Development Plan Scheme is available at:

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

Any Further Plan Changes Commended by THC

Delete any remaining locational guidance in the Local Plan for renewable technologies (whilst retaining references to support in principle for renewable energy development). Update cross-references to HRES and emerging policy and guidance for renewables to reflect progress made.

Issue (ref and heading):	GENERAL POLICIES: Omission of policy on Open Space issues	118
Development plan reference:	Chapter 7 General Policies, WS 31-52	
Body or persons submitting a representation raising the issue (reference no.):		
Sport Scotland (762)		
Provision of the Development Plan to which the issue relates:	Policy framework's provision for Open Space issues.	
Summary of representation(s):		
<u>Sport Scotland (762):</u>		
<p>Objection to the omission of adequate policy and basis for addressing open space issues, for the following reasons:</p> <ul style="list-style-type: none"> • There is an allocation for Open Space however there is no Open Space policy or justification in the Local Plan. Scottish Planning Policy 11 'Open Space and Physical Activity' sets out national planning policy on the provision and protection of open space. The local plan needs to address the SPP 11 objectives. There is no evidence that the local plan is based on an open space audit and strategy which would include one for playing fields and sports pitches. • The local plan does identify areas of open space within settlement proposal maps. However there are some inconsistencies in how these have been identified. Under SPP 11 all playing fields would be covered by paragraphs 45-47 and the criteria of paragraph 46 if such sites were subject to any proposal for redevelopment that came forward. • Placing an open space definition in the glossary is not an appropriate policy solution and it is not considered that this is a tighter definition than that in SPP11. SportScotland will not support any development on sports pitches or playing fields unless the conditions in SPP11 are satisfied. 		
Modifications sought by those submitting representations:		
<u>Sport Scotland (762):</u>		
The local plan should address the need to comply with SPP 11 and include open space policies.		
Summary of response (including reasons) by planning authority		
<u>Sport Scotland (762):</u>		
<u>Response(s) and Reasons –</u>		
NO CHANGE.		
<p>The Local Plan's General Policy 2 and its justification include an allocation type for Public Open Space (OS) and is the relevant policy on this matter. This allocation is for areas of public open space within Settlement Development Areas (SDAs) which are greenspace cherished by the local community and which the Plan specifically allocates in order to safeguard them from development. This is therefore a tighter definition for the purposes of this policy than the wider meaning of 'open space' in SPP11. This definition for the purposes of Policy 2 is given in the Glossary section of the Plan. Not all playing fields are covered by the Public Open Space allocation. Furthermore, Public Open Spaces outside SDAs are not allocated, although some degree of safeguard may be afforded by virtue of the policy</p>		

considerations under General Policy 3 'Wider Countryside', albeit not specifically.

Between successive drafts of the Plan, the Council has reviewed the mapping and made some changes in relation to specific settlements such that the 2008 Deposit Draft achieves greater consistency as to which types of open space are identified in the Plan.

The Council has recently produced new Supplementary Planning Guidance for Open Space Provision in New Residential Developments. This, coupled on large sites with a masterplanning approach to development, will assist in delivering new open space provision. The Council is also undertaking significant work in terms of facilities modelling at present.

It is acknowledged that there is a need to carry this work through and address other aspects of SPP11. This work will not be available in sufficient time to inform this Local Plan; it is programmed as part of the production of the suite of new-style Local Development Plans and Supplementary Guidance set out in the Council's Development Plan Scheme. The Council has therefore recently embarked on a considerable programme of audit work and will consider options for policies and associated mapping. In the Local Development Plans the Council will use the typology of open space, sport and recreation provision set out in PAN65.

In the interim, Structure Plan Policies SR1 and, of particular relevance, SR2 remain part of the Development Plan and SPP11 is a material consideration, additional to the policy coverage set out in the Local Plan.

[For information, SportScotland also raised essentially the same issue in respect of the Sutherland Local Plan and the Council's response on that issue in respect of both Plans is the same.]

The Development Plan Scheme is available at:

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

The Open Space SPG is available at:

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

Any Further Plan Changes Commended by THC

None.

Issue (ref and heading):	GENERAL POLICIES: Omission of policy on Contaminated Land issues	119
Development plan reference:	Chapter 7 General Policies, WS 31-52	
Body or persons submitting a representation raising the issue (reference no.):		
Scottish Environment Protection Agency (446)		
Provision of the Development Plan to which the issue relates:	Policy framework's provision for Contaminated Land issues.	
Summary of representation(s):		
<u>Scottish Environment Protection Agency (446):</u>		
<p>SEPA objects to the omission of clear policy on contaminated land, for the following reasons:</p> <ul style="list-style-type: none"> • Whilst General Policy 10 refers to land with possible contamination issues, a separate policy on the issue would provide clearer guidance to developers on how contaminated land needs to be risk-assessed, remediated and redeveloped. Land subject to contaminative uses is an important issue in the Highland Council area, as it contains a significant area of such land. • Planning Advice Note 33 'Development of Contaminated Land' states that: <ul style="list-style-type: none"> - In preparing development plans, planning authorities are expected to encourage and promote the reuse of Brownfield land, including contaminated sites. Development plans provide an opportunity for authorities to set out their priorities for the reclamation and re-use of contaminated land, and to inform developers of the availability of sites, and the potential constraints attached to them. - Planning authorities should therefore require that applications include suitable remediation measures. If they do not, then there are grounds for refusal. Where applications are approved, conditions should be put in place to ensure that land is remediated before the commencement of any new use. - The planning authority must consider whether a developer's restoration plan is adequate to avoid unacceptable risks to human health and the wider environment from the contamination on the site, both during the restoration period and for the final end use. The end use of the site is a crucial consideration when determining whether a restoration plan is adequate. • The Planning Authority should satisfy itself that the potential for contamination is properly investigated, that risks associated with any contamination are assessed and that any necessary remediation is undertaken to ensure that the land is suitable for its proposed new use and does not represent a risk to the wider environment. SEPA's role is to provide advice to Local Authorities primarily with respect to the water environment aspects of the identification and treatment of contaminated sites. The Council's own Contaminated Land Team should be engaged to advise further in developing policy. 		
Modifications sought by those submitting representations:		
<u>Scottish Environment Protection Agency (446):</u>		
<p>1. A separate policy is inserted into the Plan to the following effect: "Where development is to take place on land that has been subject to contaminative uses, the developer is required to undertake an adequate risk assessment of the site, and to propose measures to avoid unacceptable risks to human health and the wider environment both during the restoration period and for the final end use."</p>		
Or alternatively SEPA will now agree to:		

2. No modification to the Plan but a formal commitment by the Council to including a policy on this in the forthcoming Highland Local Development Plan.

Summary of response (including reasons) by planning authority

Scottish Environment Protection Agency (446):

Response(s) – NO CHANGE but the Council will continue to work with SEPA on this issue in respect of the Highland-wide Local Development Plan in order to explore policy options.

Reasons – It would be appropriate that consideration of what planning policy framework may be required to address contaminated land issues be carried out on a Highland-wide basis. The Council is considering policy options for this through preparation of the Highland-wide Local Development Plan (HLDP). The Council's Development Plan Scheme (Spring 2009) listed 22 key policy areas which will be looked at as part of the HLDP. That list includes Contaminated Land specifically and has since been discussed with SEPA and the Council's Contaminated Land Team in order to inform the Main Issues Report for the HLDP (although clearly, in advance of consultation on the Main Issues Report, the Council is unable to confirm at this time the inclusion of a particular policy within the eventual Proposed Plan). In the interim, General Policy 10 Physical Constraints (Other Development Considerations) provides a reference to land with possible contamination issues as a development consideration. That reference in General Policy 10 has been added to since an earlier draft of the Plan, such that the 2008 Deposit Draft provides additional guidance to developers (the section in brackets).

[For information, SEPA also raised essentially the same issue in respect of the Sutherland Local Plan and the Council's response on that issue in respect of both Plans is the same.]

The Development Plan Scheme is available at:

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

Any Further Plan Changes Commended by THC

None.