

THE HIGHLAND COUNCIL

ROSS & CROMARTY EAST LOCAL PLAN INQUIRY

**STATEMENT OF OBSERVATIONS by the
DIRECTOR OF PLANNING and DEVELOPMENT**

ISSUE 5: Affordable Housing

1. Introduction

- 1.1 The Highland Council (THC) has undertaken to hold a Public Local Inquiry to consider objections lodged by Knockbain Community Council [CD30/123] on the Deposit Draft of the above Local Plan in respect of Chapter 5: General Policies, General Supporting Policy (GSP) 8: Affordable Housing. Mr Owen Smith, Chairman of the Community Council, wishes to appear at the Inquiry.
- 1.2 Ferintosh CC [CD30/78] have confirmed that they supported policy GSP8, particularly in response to the Proposed Modifications. Objections lodged by Homes for Scotland [CD30/194] have either been sustained on the basis of the original submission lodged in respect of the Deposit Draft Local Plan or not withdrawn. In addition, the Black Isle Forum [CD30/91] has failed to confirm whether their comments were intended as objections. The Council's responses are contained in the 25 January 2005 Area Planning Committee report on Objections and Representations on the Deposit Draft Local Plan [CD27]. An objection from SEPA [CD30/170] in respect of GSP8 was conditionally withdrawn.
- 1.3 THC will call Alan Ogilvie, Principal Planner as planning witness.
- 1.4 THC wishes to submit the productions listed below. References to productions are shown in the text as follows, [CD 1]. Quotes from productions are shown as follows, "extract".

[CD1] The Highland Structure Plan: Approved Plan: The Highland Council: March 2001

[CD6] Development Plan Policy Guidelines: The Highland Council: October 2003

[CD8] Ross & Cromarty East Local Plan: Consultative Draft: The Highland Council: May 2002

[CD9] Ross & Cromarty East Local Plan: Deposit Draft: The Highland Council: October 2003

[CD10] Ross & Cromarty East Local Plan: Statement of Publicity, Consultation and representations: The Highland Council: October 2003

[CD11] Ross & Cromarty East Local Plan: Proposed Modifications to the Deposit Draft (Prior to Public Local Inquiry): The Highland Council: February 2005

[CD15] SPP3: Planning for Housing: Scottish Executive: February 2003

[CD24] PAN74: Affordable Housing: Scottish Executive: March 2005

[CD25] Ross & Cromarty Area Planning Committee Item: Representations on the

Consultative Draft Local Plan: The Highland Council: 15 September 2003
[CD27] Ross & Cromarty Area Planning Committee Item: Objections and Representations on the Deposit Draft Local Plan: The Highland Council: 25 January 2005
[CD30] Letters of objection and representation to the Deposit Draft Local Plan
[THC5/1] Extract from Highland Housing Needs Study: Sub-Area Profiles: DTZ Pieda Consulting & The Highland Council: December 2003

2. Background

National Planning Guidance/Advice

- 2.1 Scottish Planning Policy (SPP) 3: Planning for Housing [CD15] sets out the Scottish Executive's planning policies on housing. Attention is drawn to the following paragraphs: -

24 refers to the encouragement of *“more diverse, attractive, mixed residential communities, both in terms of tenure and land use.”* This requires *“a range of housing types, providing for the needs of all in the community, and all segments of the market, from affordable housing and starter homes to executive housing, and including homes for families, older people, and people with special housing needs.”*

72 refers to the requirement of the Housing (Scotland) Act 2001 for *“local authorities to undertake an assessment of housing needs and conditions in their areas and produce a local housing strategy covering 5 years. including any need for affordable housing”* and for housing and planning departments to *“work together to ensure consistency between the development plan and the local housing strategy in identifying housing needs (see paragraphs 74-83).”*

74 to 83 refer to the delivery of affordable housing.

77 refers to the need for development plans to allocate sufficient land to ensure land is available to meet requirements including affordable housing needs.

81 states: *“The development plan should give clarity on the expected scale of provision and the locations in which this will be sought. The provision of land for affordable housing in a particular local plan area need not relate to the specific requirements of households resident in that area. The aim is to help address the shortage of land for affordable housing in the housing market area as a whole.”*

- 2.2 Planning Advice Note (PAN) 74 Affordable Housing [CD24] sets out how the planning system can support the Executive's commitment to increase the supply of affordable housing. Attention is drawn to the following paragraphs: -

27 provides a cross reference to Scottish Planning Policy (SPP) 3: *“that where a planning authority believes the planning system has a role to play in the provision of affordable housing, this should be signalled in the development plan, setting out what is*

expected from prospective developers.”

28 refers to the structure plan and the need for affordable housing identified in a local housing strategy to *“be taken into account in the housing land requirementand indicate how local plans will be expected to deal with the shortage”* of affordable housing.”

29 refers to the requirement for affordable housing to be seen as part of the overall housing requirement in local plans and for an *“up-to-date understanding of requirements consistent with a local housing strategy”*

30 states: *“Where a local authority intends to use the planning system to support affordable housing provision it is essential to set this out in local plan policy.”*

31 refers to the need for percentage contributions of affordable housing on private housing sites to be *“set out as a clear policy in the local plan”*, as justified by a housing needs assessment as part of the local housing strategy.

32 refers to the to steps be taken in determining the appropriate measures to support affordable housing through the development plan.

33 refers to the role for supplementary detailed non statutory planning guidance, which may cover issues such as the approach to negotiating planning agreements, off-site provision and commuted sums.

34 & 35 deal with the nature of the affordable housing contribution including a percentage figure, the benchmark being 25% of the total number of units on each site as affordable housing. However, this *“should not preclude a developer offering to include a higher percentage in an individual development”* and the local authority seeking this in exceptional circumstances.

36 requires a higher percentage figure to be fully justified by reference to all relevant factors and policies in local plans.

Highland Structure Plan

- 2.3 The Highland Structure Plan [**CD1**] was approved in March 2001. The following are relevant to the objections: -

General Strategic Policy G4 refers to community benefit and developer contributions whereby *“The Council will seek to enter into agreements with developers as appropriate on behalf of local communities for environmental and socio-economic purposes.”*

Policy H5 on affordable housing indicates the requirement to *“identify areas in Local Plans and through Local Housing Development Fora where there is a demonstrable need for affordable housing.”*

Policy H7 refers to encouragement of *“the provision of a range of house types,.....”* and for Local Plans to *“identify suitable sites to meet the requirement*

for specific housing needs and, where there is a clearly demonstrated need, to secure a proportion of suitable housing through negotiation, Section 75 agreements or other appropriate mechanisms.”

Supplementary Planning Guidance

- 2.4 Further to the approved Structure Plan the Council prepared Development Plan Policy Guideline: 2 Affordable Housing [CD6]. This was approved by THC in April 2003 following consultation and provides detailed guidance as to the alternative mechanisms by which the Council expects to secure affordable housing; in this case by application of General Supporting Policy (GSP) 8 of the Ross and Cromarty East Local Plan.

Consultative Draft Plan

- 2.5 The Consultative Draft [CD8] of the Ross and Cromarty East Local Plan was published in May 2002. The following provisions are relevant: -

- 2.5.1 Chapter 3: Key Issues - 5. Affordable Housing stated:

“The availability of housing at an affordable price is fundamental to individual security and well being. Unfortunately, some 30% of households in Highland are unable to afford the cheapest houses on the market. Right to Buy legislation has also significantly reduced the availability of housing for rent. Key areas of housing related stress are from Fortrose on the Black Isle through Conon Bridge and Dingwall to Alness and Invergordon, where commuting pressures are greatest.”

- 2.5.2 Chapter 4: Strategy - Strategic Themes:

“Addressing the need for quality living environments by.....working through the Rural Partnership for Change Highland Pilot to develop innovative means of working with housing agencies, including the Highlands Small Communities Housing Trust and the Housing Associations, to identify and meet the needs for affordable housing”.

- 2.5.3 Chapter 5: General Policies – Supporting Policy 7. Affordable Housing stated:

“Where housing land is being allocated for the first time or the allocation is reaffirmed from an earlier Local Plan and a planning permission for housing does not already exist, the Planning Authority will expect to negotiate a Section 75 Agreement with the landowner/s and other interested parties which provides inter alia for an affordable housing contribution. The Planning Authority will operate a sequential set of mechanisms, as set out in its Draft Development Plan Policy Guideline Affordable Housing to achieve affordable housing provision by negotiation with owners/developers in each case. The Council will expect to negotiate with developers coming forward with proposals in the settlements listed below on the basis of the following proportions

Avoch	25%
Conon Bridge	20 - 25%
Cromarty (Black Isle North)	20 - 25%
Culbokie	25%
Dingwall	25%
Evanton	20%

<i>Fortrose</i>	25%
<i>Invergordon</i>	20%
<i>Maryburgh</i>	25%
<i>Muir of Ord</i>	20 - 25%
<i>Munlochy</i>	25%
<i>North Kessock</i>	25%
<i>Portmahomack</i>	20%
<i>Rosemarkie</i>	25%
<i>Strathpeffer</i>	20%
<i>Tain</i>	10%
<i>Tore</i>	25%

The list of settlements and proportions will be finalised following further more detailed housing needs assessment being undertaken as part of the development of the Highland Council's Local Housing Strategy 2002 - 2007. Categories of affordable housing comprise social rented housing and low cost home ownership housing including: shared ownership (equity); subsidised affordable home ownership; and discounted serviced plots."

2.6 Representations were made in respect of the following: -

2.6.1 On Chapter 3: Key Issues - 5. Affordable Housing:

- The Highlands Small Communities Housing Trust [CD10/32]

2.6.2 On Chapter 5: General Policies – Supporting Policy 7. Affordable Housing:

- Albyn Housing Society Ltd [CD10/196]
- The Highlands Small Communities Housing Trust [CD10/32]
- SEPA [CD10/157]
- Chisholm & Chisholm [CD10/60]
- The Association for the Protection of Rural Scotland [CD10/127]
- Communities Scotland [CD10/177]
- Homes for Scotland [CD10/218]
- Mr S A Campbell [CD10/267]
- Ferintosh CC [CD10/172]
- Mr J R Piercy [CD10/18]
- Culbokie Public Meeting [CD10/399]
- Muir Of Ord Public Meeting [CD10/407]
- Cromarty Public Meeting [CD10/398]
- Fortrose Public Meeting [CD10/403].

2.6.3 On Development Plan Policy Guideline: 2 - Affordable Housing:

- The Highlands Small Communities Housing Trust [CD10/32]
- Homes for Scotland [CD10/218]

2.7 THC's response and reasoning in respect of these comments is set out in **CD10** and **CD25**. Changes were agreed as follows: -

2.7.1 Chapter 5: General Policies – Supporting Policy 7. Affordable Housing:

- Change policy ref to “GSP8”.
- At the start of the sentence, before the table of proportions, ADD “*With due regard to market and site conditions,*”
- For consistency, it was agreed to ADD similar references to all chapters where a need has been identified as part of the overall assessment of housing requirements.
- A number of factual changes were also agreed:
 - (a) In the second sentence, DELETE the word "Draft".
 - (b) Add "*Marybank*" to the list of settlements with a requirement for "25%" of houses to meet affordable needs.
 - (c) In the third sentence of the policy, INSERT "*minimum*" before "proportion".
 - (d) At the end of the policy, ADD "*The Council will allocate parts of its own land for affordable housing [H4 to 6].*"

2.7.2 Development Plan Policy Guideline: 2 - Affordable Housing:

In April 2003 the representations on the Guideline raised in response to the Inverness and Ross and Cromarty East Local Plan reported to the Council and changes agreed to paragraphs 4.1 to 4.3 to:

- clarify that if the Housing Authority is unable to attract public funding within a 5 year period, from completion of the first private non-subsided unit, developers will be expected to agree an equivalent financial contribution and will be entitled to develop the remainder of the site for private non-subsidised housing;
- include reference to approved private rented housing as an acceptable category of affordable housing; and to delete the requirement for the Section 75 agreement to be registered in Sasines prior to finalising and adopting the Local Plan; and
- to require the transfer of land, erection of buildings or financial payments for affordable housing purposes to be completed to a similar timescale to the non-affordable housing units, unless otherwise agreed by the Planning Authority (paragraph 4.4).

Deposit Draft Local Plan

2.8 The Deposit Draft [CD9] of the Local Plan was published in November 2003. This gave rise to the following: -

- Support for the inclusion of policy (GSP8) from **Ferintosh CC [CD30/78]**.
- Comments from **the Black Isle Forum [CD30/91]** on policy GSP8 and supplementary guidance in DPPG2.
- Objections from **Knockbain CC [CD30/123]** on policy GSP8 and supplementary guidance in DPPG2.
- An objection from **SEPA [CD30/170]** on policy GSP8.
- Objections from **Homes For Scotland [CD30/194]** on policy GSP8 and supplementary guidance in DPPG2.

Deposit Draft with Modifications (Proposed Changes)

2.9 In part response to the objections, the following Proposed Changes to the Deposit Draft [CD11] in respect of policy GSP8 were approved in January 2005: -

- DELETE “in the settlements listed below on the basis of the following minimum proportions” from the third sentence, the table of settlements with percentages and the

whole of the fourth sentence.

- In the third sentence, after “proposals” INSERT “for 10 or more houses in the Main Settlements of the Local Plan area (Chapters 7 to 34) to secure a minimum proportion of 25% as affordable housing.”

2.10 No further objections were received to the Proposed Changes.

3. The Council’s Observations

The Objections

3.1 The Knockbain CC [CD30/123] objection to the Deposit Draft Local Plan is as follows: -

We are concerned that the local needs for social housing are not being met. We understand that some communities have agreements in order to ensure that local needs are met by housing developments in their area. This information should be contained in the Local Plan.

The Council’s Response

3.2 THC as Planning Authority wishes to respond to the objections as set out in paras. 3.3 to 4.2 below. These are in the Annex to the Committee report of 25 January 2005 and expanded as necessary.

3.3 The Local Plan sets out the guidance/policy for securing affordable housing against other housing development in compliance with SPP 3: Planning for Housing (2003) [CD15], PAN 74 [CD24] and the Highland Structure Plan [CD1]. SPP 3 requires development plans to provide clarity on the expected scale of affordable housing provision, and the locations in which this will be sought. Policy GSP8 sets out the main principles that will be employed in applying the policy, and is sufficiently flexible to allow the range of circumstances that are likely to arise in practice to be taken into account.

3.4 Policy GSP8 and Development Plan Policy Guideline (DPPG) 2 [CD6] are intended to provide a policy basis for negotiation with landowners and developers to secure affordable housing through developer contributions. The principles of the DPPG underpin the implementation of policy H5 in the Structure Plan and GSP8 of the Draft Local Plan. It sets out clear guidance on what constitutes affordable housing and the appropriate mechanism for securing it. This refers to the application of the policy: in *local housing stress areas* and an objective target of 25% affordable housing provision as part of future housing developments comprising ten or more homes; and where housing land is being allocated for the first time or reallocated and a valid planning permission does not exist; and indicates Section 75 Agreement as appropriate for securing affordable housing in the context of any grant of planning permission. Such Agreements can only be made for each development as it comes forward. In any case it is not appropriate for the Local Plan to include this information, particularly as it will soon become outdated as developments are implemented.

- 3.5 The DPPG further elaborates a sequential set of mechanisms to achieve affordable housing provision by negotiation with landowners/developers embracing either the transfer of land or development of an agreed number, type and mix of affordable housing units; or to secure such commitments on other land, or to make an equal or equivalent financial contribution.
- 3.6 In responding to Homes For Scotland [CD30/194], it is advised that the Housing Needs Assessment (HNA) [THC5/1] undertaken by DTZ Peida, in preparation of THC's Housing Strategy, clarifies the shortfall of affordable housing. In Table 8.9 on page 90 of the Sub-Area Profiles this is quantified in the Ross and Cromarty East Area as a shortfall of 230 - 314 of such homes per annum during the 5 year period to 2008 (1150 - 1570 houses). Land is allocated for approximately 3600 houses on sites of 10 or more units in the Plan area. If all of this land were to be developed over the next 15 years this would equate to a minimum of around 900 for affordable purposes (60 per annum). This clarifies concerns shared by THC and Knockbain CC that the level of affordable housing that could be secured through 25% of any development would only represent about a fifth to a quarter of the number of houses required to meet the need from the HNA.
- 3.7 As an area of high demand and extreme pressure for housing, the Black Isle merits a high priority for the development of affordable housing, particularly in relation to private sector proposals. National planning guidance allows developers to offer and planning and housing authorities to seek much higher levels of affordable housing than the 25%. Paragraph 36 of PAN 74 [CD24] requires a higher percentage figure to be fully justified on the basis of:
- “1. full consultation with stakeholders, including the development industry;*
 - 2. a housing needs assessment;*
 - 3. land values and other financial obligations linked to particular developments, including any infrastructure and supporting development;*
 - 4. different levels of need in different parts of the local authority area; and”*
 - 5. a clear and reasoned justification” .*
- 3.8 To help address the shortfall in the next five years, THC and its housing partners are seeking to maximise investment through additional public funding sources likely to be available. A draft investment programme is in preparation, bringing together the priorities identified in the Housing Strategy by the Area Housing Development Fora and potential sources of funding. In communities where more detailed housing needs surveys undertaken confirm a significantly higher level of need, it would be appropriate to negotiate with developers for a higher contribution and for appropriate public investment. The latter might include land acquisition or a specific development by a housing association. It should also be noted that housing associations and charitable housing trusts can be more effective at maintaining affordable housing in perpetuity than the planning system.

4. Conclusions

- 4.1 The matter of ensuring that local needs are met in relation to site specific proposals is for the planning and housing authorities, in partnership with Communities Scotland and

various bodies responsible for delivery of affordable housing to negotiate with developers on the basis of Policy GSP8 and DPPG2. These provisions are based upon national and Highland wide policies. These reflect a responsive and flexible framework and the balance of THC's concerns for meeting projected housing needs and taking reasonable steps to ensure that an appropriate proportion of land committed and properties built address the affordable housing objectives identified. The Housing Strategy and clarification of detailed needs through local surveys will act as the basis for seeking higher levels of developer contribution to and public investment in affordable housing.

- 4.2 **Accordingly, The Council would ask that the Reporter support the provisions of the Deposit Draft Plan with the proposed Modifications indicated at paragraph 2.9 above.**