

THE HIGHLAND COUNCIL

ROSS & CROMARTY EAST LOCAL PLAN INQUIRY

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

ISSUE 13: Housing Development Potential at Newton of Kinkell

1. Introduction

- 1.1 The Highland Council (THC) has been asked to hold a Public Local Inquiry to consider “comments” by Ferintosh Community Council [CD30/78] in respect of Chapter 6: Landward, paragraph 26, Newton of Kinkell, in the Deposit Draft of the above Local Plan, with regard to the remaining potential for new housing. The Community Council wishes to appear at the Inquiry despite THC’s view that their “comments” appear to support the provisions of the Draft Plan.
- 1.2 Objections lodged by SEPA [CD30/78] in respect of drainage issues for small rural settlements in general, with implications for Newton of Kinkell, have been maintained in response to Proposed Modifications to the Deposit Draft Local Plan. These are covered in the Statement for Issue 4.
- 1.3 If necessary, 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, [CD1]. Quotes from productions are shown as follows, “*extract*”.
- [CD2] Black Isle Local Plan: Adopted Plan: Highland Regional Council: September 1985
- [CD5] Black Isle Local Plan: Alteration No.2: Housing: Highland Regional Council: September 1996
- [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
- [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

2. Background

Adopted Local Plan

2.1 The Black Isle Local Plan [CD3] was adopted in September 1985. The following provisions are relevant to the Newton of Kinkell area: -

- The policy at **para. 2.5** presumed in favour of housing in the countryside subject to developments avoiding:
 - the creation of a potential hazard to the free flow of traffic through direct accesses on to the B9169 road;
 - unprogrammed drainage expenditure in areas of suspect soil conditions such as Leanig/Easter Kinkell;
 - prejudicing standards of rural privacy and amenity in terms of separation distances between dwellings; and
 - causing detriment to the general amenity of the area in terms of landscape impact, poor house designs, loss of trees or damage to features of nature conservation value.
- **Para. 4.7** referred to the infill housing development potential in the Leanig/Rootfield area.
- **Para. 4.10** referred to the allocation of land for light industry at Rootfield adjacent to the junction of the A835(T) and B9169 roads.

2.2 Housing Alteration No. 2 to the Black Isle Local Plan [CD5] was adopted in September 1996. Policy 5.7 applies a presumption in favour of housing proposals within the boundaries of a number of settlements designated as Small Villages (page 39). More specifically, the Small Village of Newton of Kinkell/ Highfield Park/ Bishop Kinkell is identified at 5.7.1 (page 39). Reference is made to imperfectly draining soil conditions on the higher ground at Newton of Kinkell. The development potential was confined to “*limited infill where services permit*”.

Consultative Draft Plan

2.3 The Consultative Draft [CD8] of the Ross and Cromarty East Local Plan was published in May 2002. The following policies in Chapter 6: Landward are relevant to representations made at the time: -

- Paragraph 3 referred to the potential for development within the defined boundaries of 31 small rural settlements listed in a table thereafter.
- Paragraph 26 covered the settlement of Newton of Kinkell where a capacity of 5 additional houses was indicated. Reference was made to the lack of mains drainage and imperfectly draining soils. The development potential, subject to satisfactory drainage, was “*two infill plots in dispersed area plus three in the redevelopment of former contractor's yard at Rootfield.*”

- 2.4 The representations made and the changes agreed by THC in response are detailed in **CD25**. Relevant comments made are summarised as follows: -

David M Gibb [CD25/36] objected to redevelopment of the former contractor's yard at Rootfield as it was still being used as such. In a rural location with the school at Mulbuie at capacity, there was no reason for additional housing. Speculative build, to give financial gain, should not be allowed to influence the decision of the planning authority.

SEPA [CD25/157] advised that the yard could be considered a potentially contaminative use. Clarification was also sought over the capacity for further development and raised the need to provide satisfactory drainage.

Ferintosh CC [CD25/172] also sought clarification of the capacity for further development and raised the need to provide satisfactory drainage. Early consultation had concluded that no further development should be considered other than indicated in the Plan otherwise they would object to this or to any expansion of the village envelope.

Brian Main [CD25/159] supported the Draft Plan in highlighting clearly the problems of drainage and infrastructure and striking the appropriate balance between protecting the rural nature of the environment for the residents of the area while identifying specific areas for further development. He also called for the Council to adhere to the Plan

- 2.5 THC's response and reasoning in respect of each of these comments is set out in **CD10** and **CD25**. Changes were agreed as follows: -
- CHANGE name of settlement to "Newton of Kinkell".
 - Reduce the capacity to "4" houses to reflect the completion of one of the 5 houses and in the Comments/Constraints column:
 - in the second sentence, CHANGE "two infill plots" to "*one infill plot*"; and
 - after the last sentence, ADD "*Consider whether decontamination of the yard is required.*"
 - On the OS base for the Inset Map CHANGE name of settlement to "Newton of Kinkell" and indicate houses completed or nearing completion.

Deposit Draft Local Plan

- 2.6 The Deposit Draft [**CD9**] of the Local Plan was published in November 2003. Various objections were lodged by **SEPA [CD30/170]** on the issue of Waste Water Treatment expressing concern about the Plan encouraging development in small rural settlements with know sub-soil problems and no public drainage system.
- 2.7 In addition, **Ferintosh CC [CD30/78]** wrote essentially in support of THC's view that the development potential indicated is the limit and that it is subject to satisfactory drainage.

Deposit Draft with Modifications (Proposed Changes)

- 2.8 Proposed changes to the Deposit Draft [CD11] were approved in January 2005. Those made largely in response to objections and comments indicated at 3.4 and 3.5 below are as follows: -

In Chapter 6: Landward, para. 3, using the new GSP2 as background, DELETE the first part of the third bullet point from "can" to "do" and INSERT "*can be connected to a public sewer with adequate sewage treatment (GSP2) and where other servicing does.....*". It was considered that this would also address the comments on the detailed settlement provisions in subsequent paragraphs 4 to 33 and help reduce the text in the corresponding Comments/Constraints column in the table.

In Chapter 6: Landward, para. 26 (changing to 25), Newton of Kinkell, in the second sentence of the Comments/Constraints column, DELETE "Subject to satisfactory drainage," and "(GSP2)".

- 2.10 No further objections were received to the Proposed Changes. However, SEPA maintained their original objections to the Deposit Draft. THC is surprised that Ferintosh CC stated that they wished to "Appear at Inquiry" in clarifying their position in respect of the comments made on the Deposit Draft.

3. The Council's Observations

The Objections

- 3.1 The objection by SEPA [CD30/170] to the Deposit Draft Local Plan, in respect of Chapter 6: Landward, paragraph 3, the introductory policy for all the small rural settlements, is as follows: -

As stated at the Consultative Draft stage, SEPA objects to significant allocations in areas without public foul drainage infrastructure, with no prospect of public foul drainage infrastructure and known to suffer from drainage problems or are particularly sensitive to pollution. It is considered that it is inappropriate to allocate significant further expansion of these villages or settlements where a significant risk of harm to the environment is entailed. SEPA is particularly concerned that the Local Plan itself identifies that several of these settlements suffer from drainage problems but nevertheless allocates further housing "subject to servicing." SEPA is pleased to note that in some cases such as Alcaig the text states: "No new development until adequate public drainage and sewage treatment is available for connection. Otherwise developers are expected to contribute towards a public drainage connection and improvements under Scottish Water's Site Servicing policy" and considers that a variation of this could be made a more general requirement.

- 3.2 The comments by Ferintosh CC [CD30/78] are as follows: -

The map for Newton of Kinkell defines the village envelope within which there is an indicated capacity for an additional 1infill plot. We understand from the public meeting that this lies between Highlea and Drum Ard and is shown as unshaded polygon some 50 metres to the South of Highlea. There is also the possibility of 3 further houses within the contractor's yard (if redeveloped) at the A835 and the B9169 junction and assume Policy GSP6 will apply. We support the Council's view that this is all the development that should proceed in this area subject to satisfactory drainage.

The Planning Authority's Response

- 3.3 THC as Planning Authority wishes to respond to the objections set out in paras. 3.4 to 4.1 below. Those made in response to the Deposit Draft are contained in the Annex to the Committee report of 25 January 2005 and expanded as necessary.

SEPA

- 3.4 The response is related to SEPA objections to Chapter 5: General Policies, GSP2 Wastewater Treatment and Chapter 6: Landward, paragraph 3, which sets out the general considerations for land identified for housing development within the small rural settlements. The overall drainage objections lodged by SEPA to these provisions are addressed in Issue 4.
- 3.5 THC considered that the proposal to Modify Policy GSP2 would address general concerns and using the new GSP2 as background it was also agreed that Policy 3 in Chapter 6 should be Modified to address the comments on the detailed settlement provisions in subsequent paragraphs 4 to 33 and so help reduce the text in the corresponding Comments/Constraints column of the table. Specific changes were also recommended to the Comments/Constraints column for Newton of Kinkell (see para 2.8 above). Further changes are also recommended in relation to the overall drainage concerns and covered in THC's statement for Issue 4.

Ferintosh Community Council

- 3.6 The response made in the report was "Note support. No change." THC has very little to add to this other than to point out the proposed further Modifications indicated in Issue 4 that address the objections by SEPA to GSP2 and paragraph 3 of Chapter 6.

4. Conclusion

- 4.1 **Accordingly, The Council would ask that the Reporter support the provisions of the Deposit Draft Plan with the Proposed Modifications indicated at para. 3.5 above. The Reporter is also asked to support the Modifications relative to drainage requirements indicated in THC's statement on Issue 4.**