

Comments on LDP1 Policies

Comments on PM1: Placemaking

KEY AGENCIES

SNH welcome the proposed reference to active travel/green networks (Appendix 1). They also note that supplementary guidance (SG) is currently being prepared and they request their input into the draft (Appendix 4). They encourage a strong context-led approach to spatial planning of SDA's, design frameworks and masterplan areas. They recommend the focus of the SG is on delivery; ensuring the sound policy framework for placemaking and green infrastructure is delivered in new development, clarifying what developers need to do, and how they should engage with other stakeholders to deliver these aspirations.

Transport Scotland supports the amendment to include reference to the requirement for Design Frameworks to be submitted for the Strategic Development Areas. Where there is likely to be a development impact on the strategic transport network, they request to be consulted on the relevant emerging Design Frameworks.

SEPA recommend that good air quality is recognised in the policy as an element of sustainable place making which contributes towards health and well-being, and that the policy and forthcoming placemaking SG incorporates the relevant objectives of the Scottish Government's national strategy Cleaner Air for Scotland – The Road to a Healthier Future (CAFS). They consider that the recognition of air quality as an element of sustainable place making accords with the vision in NPF3 for a Successful, Sustainable place which states "We have a growing low carbon economy which provides opportunities that are more fairly distributed between, and within, all our communities. We live in high quality, vibrant and sustainable places with enough, good quality homes. Our living environments foster better health."

OPPOSITION

The Theatres Trust recommends the proposed LDP be strengthened to protect community and cultural facilities which they consider to be important for the vitality of town centres. They recommend adding a policy such as: "The Council will resist the loss or change of use of existing community and cultural facilities unless replacement facilities are provided on site or within the vicinity which meet the need of the local population, or necessary services can be delivered from other facilities without leading to, or increasing, any shortfall in provision, and it has been demonstrated that there is no community need for the facility or demand for another community use on site." They go on to state that "place-making and well-being is more than just providing homes and work places. Cultural well-being is about having a sense of satisfaction in life by having the opportunity to enjoy and participate in those un-measurable personal experiences that make us happy and content. The protection, provision and promotion of cultural infrastructure for tourism and education (e.g. cultural heritage), town centre vitality (e.g. cultural facilities) and social participation (e.g. cultural events) etc. are vital for their contribution to the life satisfaction of residents and visitors, and to sustainable communities." They feel that access to a variety of cultural facilities and opportunities is also becoming an increasingly important element in attracting and retaining residents and a skilled workforce. As town centre locations come under pressure from greater land values, these cultural facilities are under pressure and have difficulty finding alternative sites. They consider it important to retain existing and viable facilities to meet future needs.

COUNCIL RESPONSE

The policy will be updated to reflect some of the comments made by the key agencies and further work will be undertaken on the Placemaking Supplementary Guidance to reflect some of the points raised by the Theatres Trust. It is not recommended at this time that a new policy is developed to protect cultural and community facilities as further work will be required to establish what criteria would be required to categorise such buildings and what the local community consider to be of value to their area.

Comments on ED3: Rural Business

No key agencies made comments on rural business and diversification or Policy ED3.

OPPOSITION

Policy ED3 should explicitly support destination, niche retailing of a range of sizes. These provide a specific visitor experience or are complementary to, and an intrinsic part of, other visitor attractions. Paragraph 1 should be amended (changes underlined): “...or are related to site specific resource, local produce or other site specific opportunity. This is provided that they will contribute to the local economy through the provision of permanent employment, or visitor accommodation, or additional tourism or recreational facilities, including farm shops, or involve the re-use of existing buildings”

Housing can play a key role in the viability of rural businesses. Paragraph 3 is unclear and should be more positive in supporting applications which include a residential element.

The policy should be amended to accord with Policy ED5: Major Tourism Resorts (change underlined): “...There is a preference that this will generally be within or adjacent to existing settlements or major facilities...” Alternatively, if policy ED5 is to be removed, Policy ED3 should detail the type of tourism and leisure offers that would be acceptable in rural areas, subject to site specific considerations. There is huge potential for rural areas within Perth and Kinross to prosper from increased tourism development and this should be recognised in LDP2 in a manner consistent with the aspirations of the Scottish Government's Tourism Agency. Policy ED3 should therefore highlight the relevance of Visit Scotland's 'Tourism Development Framework' and 'Regional Action Plans for Development', in informing planning decisions on a case by case basis.

A number of specific amendments to the criteria of Policy ED3 are requested:

- (e) Should state that if the infrastructure lacks capacity, then the capacity for the proposed development must be provided by appropriate means. If the capacity is not provided, the proposed development must not proceed.
- (f) should be expanded as follows: “...or is providing a niche, destination, retailing experience which supports the tourism/visitor offer of Perth and Kinross”
- (f) should be expanded as follows: “...or is providing a niche, destination, retailing experience which supports the tourism/visitor offer of Perth and Kinross and enhances the overall visitor experience of the area”
- (g) Must include penalties for non-compliance with agreed Staff Travel Plan commitments.

One respondent voiced support for the continuation of the current wording for policy ED4.

COUNCIL RESPONSE

There is considered to be sufficient scope within the existing policy wording to allow for uses like farm shops, without the need to make specific reference to this particular type of rural business.

Housing can play a key role in the viability of rural businesses but it is important that any housing development is appropriate to its location as well as enabling and supporting rural business. A wording change is proposed to improve clarity.

Policy ED5 is to be deleted from the Proposed Plan. Paragraph 2 already sets out the circumstances under which new and existing tourism-related development will be supported and it is not considered necessary to add further to this.

A wording change is proposed re the capability of the local road network to accommodate development.

Whilst retailing can help support an existing or new rural business – whether tourism-related or not – it is important that this element remains as an ancillary and not a main use in order to support existing retailing centres.

Any penalties for non-compliance with agreed Staff Travel Plan commitments would need to be dealt with through the development management and, if necessary, the enforcement processes.

Most principal settlements – as listed in TAYplan – will have employment areas and / or employment land allocations within the boundary so the preference will usually be for new employment uses to be located within rather than on the edge of these settlements. A new note to the policy is therefore proposed to clarify that the policy only applies to those settlements which are not listed as principal settlements in TAYplan.

Comments on ED5: Tourism

No key stakeholders made comments on tourism or Policy ED5.

OPPOSITION

Auchterarder & District Community Council (A&DCC) and Gleneagles Hotel both object to the removal of this Policy, namely that the policy adds value to the LDP and recognises the economic importance of major tourism destinations, such as Gleneagles Hotel, to the regional, national and international economy. Gleneagles Hotel also suggests revised policy text which recognises the importance of such developments to Perth & Kinross and their contribution to the overall vision of the LDP. Gleneagles Hotel also provides further commentary on the need for strong framework of policies to support contribution to tourism and highlight various sections of SPP.

COUNCIL RESPONSE

The Council acknowledges the important role that tourist facilities play in the local and wider economy, and the benefits that this brings to Perth & Kinross. However, in light of the Reporter's comments from the adopted LDP Examination, the Council does not seek to retain Policy ED5. Following an assessment of SPP and the National Tourism Development Framework, it is considered

that additional policy support is not required and that those major tourist facilities which contribute significantly will be suitably considered through other parts of the Proposed Plan.

Comments on RD3: Housing in the Countryside

KEY AGENCIES

SNH note the intent to review the supplementary guidance and request input to the draft.

OPPOSITION

The forthcoming review of the supplementary guidance is noted. One respondent noted the need for review given the apparent decision by the Chief Planner that supplementary guidance is not to have a statutory role. More detail should therefore be within the Plan itself. There is doubt that the present policy can be relied upon given the current land audit shows the projected provision of affordable housing in Highland Perthshire is only 10 for the next 7 years. Another respondent considered that there should be no relaxation of the policy; any changes should be to strengthen its terms.

In addition, three specific changes are sought:

- Proposed LDP2 should clearly state that Policy RD3 applies to villages and settlements which are not in the tiers of settlements and do not have settlement boundaries.
- Policy RD3 should be amended to allow categories (a) building groups, and (b) infill developments within the Green Belt.
- Similar to the section in the guidance on exemplar green energy housing developments, similar criteria should apply to developments which choose to advance affordable housing, such as self build homes, for which there is identified demand.

COUNCIL RESPONSE

The Housing in the Countryside supplementary guidance will be reviewed. The aim of this review is to clarify the existing guidance where issues have arisen in its interpretation and to expand upon it where necessary to include new issues.

It is not proposed to amend Policy NE4 Green Belt therefore there is no need to amend policy RD3 to take account of changes to policy NE4.

Land will be identified for housing in in the Highland Housing Market Area to meet the housing land requirement set out in the Strategic Development Plan. The Affordable Housing Policy requires that 25% of all sites coming forward for 5 or more houses are affordable.

No changes to policy wording are proposed.

Comments on RD4: Affordable Housing

No key stakeholders made comments on affordable housing or Policy RD4.

OPPOSITION

On sites with an affordable housing element, the affordable housing should always be kept separate from market housing.

The approved HNDA concluded that the requirement for affordable housing was 50% but TAYplan proposes the percentage should be arbitrarily altered to 25% because meeting the full need would not be practical. No further explanation is offered. The building of affordable housing should be prioritised in the earlier phase of the plan rather than reducing the target from 50% of what is needed to 25%. First homes and retirement homes should be included within the affordable sector and the overall affordable housing target increased, not reduced. Consideration should be given to the impact on demand for affordable housing as the area continues to be a draw for in-migration.

The development of specialist accommodation for elderly people often has viability issues. The Council should therefore consider removing the requirement for affordable housing contributions from such developments. The application of developer contributions should be reviewed in the emerging plan so ensure they are only sought where they are relevant and fit for purpose.

In addition, two specific changes are proposed:

- The policy should be amended to include: “The type of affordable housing provided should be in accordance with the various options in tenure suggested in PAN 2/2010” to reflect the need for a flexible approach.
- A new criterion should be added to ensure that a contribution to meeting affordable housing need is material to the determination of planning applications.

COUNCIL RESPONSE

TAYplan background papers explain why the affordable percentage was reduced to 25%. The delivery of a significant proportion of affordable housing relies on the delivery of private housing so this cannot be brought forward in preference to private housing. First and retirement homes are not specific categories of affordable housing identified in PAN2/2010. Migration projections were included in the Housing Needs and Demand Assessment which informed the housing land requirements.

The principle of integrating affordable and market housing is established in PAN2/2010.

The supplementary guidance already acknowledges that it will not be appropriate to require an affordable housing contribution from some types of specialist accommodation for elderly people such as care homes or residential institutions. There is always the option of putting forward a viability case to reduce or remove the affordable contribution for any development and these are assessed on a case-by-case basis. No change to the policy is therefore considered necessary.

Neither is it considered necessary to amend the policy wording to include specific reference to the PAN tenures or that meeting affordable housing need is material to the determination of planning applications.

Comments on HE2: Listed Buildings

KEY AGENCIES

Historic Scotland welcome the analysis carried out on the exiting LDP policies. Their advice to Local Authorities is that their historic environment policies transpose the key aspects of Scottish Historic Environment Policy (SHEP) directly into the development plan policy framework. In considering the existing policies within the adopted Perth and Kinross LDP we would request that more explicit policy content relating to policy on the demolition of listed buildings is included.

COUNCIL RESPONSE

As recommend by HES we will redraft policy HE2 to provide more explicit policy content relating the demolition of listed buildings.

Comments on NE1: Environment & Conservation

KEY AGENCIES

SNH recommend inserting under this policy the intention to review and identify local nature conservation sites within the lifespan of the LDP. They go on to highlight ways in which this could be done to highlight the willingness to advise in the development of a methodology to review and identify sites and stating that fact that this work has already been undertaken by other Local Authorities.

They go on to say that the Tayside LBAP is currently under review and this action should also be included here for the Council to progress. SNH indicate they are happy to explore what resource they'd be able to contribute.

COUNCIL RESPONSE

The Council does not have the resources to undertake a review of local nature conservation sites within the lifespan of the next LDP.

Comments on NE2: Forestry and Woodland

KEY AGENCIES

SNH support the intent to amend this policy in accordance with SG's Control of Woodland Removal (CWRP) but suggest that the 2nd paragraph does not wholly reflect this and recommend a statement that development will be expected to fully accord with its requirements or adding a strong presumption against removing certain types of woodland.

There is a commitment in this policy to identify trees and woodlands where nature conservation is of primary importance, in accordance with SPP. This has not been implemented in the LDP or supplementary guidance to date, so SNH would support and assist the LDP's intent to progress this. SNH have concerns that the Main Issues Report identifies several proposals and sites for development, parts of which contain woodland listed in the Ancient Woodland Inventory, and in their responses to individual MIR questions they have referred to need for accordance with SG's CWRP.

SUPPORT

A comment notes the Council's intention that Policy NE2 Forestry, Woodland and Trees is to be slightly amended to better reflect the Government's Control of Woodland Removal policy.

COUNCIL RESPONSE

The Council support the Scottish Government policy so an amendment to state that they will be expected to fully accord with its requirements is accepted. Whilst there is a stronger presumption against woodland removal for Ancient Woodland there are still exceptions. The proposal for some loss of Ancient Woodland at Perth West is not considered to lead to fragmentation or disconnection and with the developer requirements more clearly stated it is considered that it will achieve significant net public benefit, taking account of the current and future benefits/disbenefits of the existing woodland (as required by the Scottish Government's Policy on Control of Woodland Removal). Any loss should be compensated through a combination of measures including extending native planting to the north and south and by facilitating wider public amenity use of the woodland (thus ensuring it achieves the significant net public benefit required by Scottish Government's Policy on Control of Woodland Removal).

Comments on NE4: Green Infrastructure

KEY AGENCIES

SEPA recommend the wording of policy NE4 is amended to include 'water environment' as this definition includes the ecological status of the water environment and is consistent with Water Framework Directive terminology. SEPA support the proposed inclusion in policy of green and blue networks identified in Appendix 1 of the Main Issues Report and encourage the incorporation of existing and proposed green network into local settlement maps in the forthcoming Proposed LDP2.

SNH recommend LDP2 proposals maps spatially show green networks (and enhancement opportunities) at a local, locationally specific scale so these can inform the design of the masterplans and/or design statements. Proposed LDP2 should provide new green networks in accordance with Proposed TAYplan2 Policy 8 'Planning for green networks'. Specific mention is made of the priority to plan for better links between the West/North West Perth Strategic Development Area and Perth

City centre and the opportunities to improve strategic active travel links between Perth and Dundee through the Carse of Gowrie.

SUPPORT

The Scottish Government welcomes the forthcoming changes to Policy NE4 to ensure it complies with Scottish Planning Policy in terms of allotments and temporary greening. The revision should also encourage opportunities for a range of community growing spaces.

COUNCIL RESPONSE

The Green Infrastructure supplementary guidance will be amended to reflect Scottish Planning Policy and TAYplan, and to make minor clarifications.

It is appropriate to amend the policy wording to include reference to the water environment. The existing strategic green network will be shown on a strategy map. Site drawings will show more information on the landscaping of the site, existing landscaping and path connections. Green infrastructure will be included as a site specific developer requirement where appropriate.

Minor wording changes are also proposed to the policy to reflect Proposed TAYplan policy 8 and Scottish Planning Policy, including reference to temporary greening.

Comments on ER1: Renewables

Various comments were received in relation to this policy covering a variety of points. Key agencies (Scottish Government, SNH, SEPA) provided comments on how to update the existing policy and concerns were raised at the lack of a spatial framework for wind energy proposals and Supplementary Guidance for Policy ER1 not yet being published. Cairngorms National Park Authority (CNPA) also raised the need for stronger policy protection against inappropriate wind energy development within and adjacent to the National Park. Gleneagles Hotel also commented that a separate policy for onshore wind is required in relation to concerns about landscape and visual impact and ABO Wind Ltd contend that the MIR discussion should have focused on renewable energy more generally including further support for the deployment of renewable technologies.

COUNCIL RESPONSE

The Council is fully supportive of the deployment of renewable and low carbon energy technologies, provided these are located in sustainable locations, of a suitable scale and that all relevant impacts can be adequately addressed / mitigated against, including cumulative visual and landscape impacts. In response to the Scottish Government, a spatial framework for wind energy developments has been included as part of the revised Policy ER1 (now Policy 31) as well as in the Supplementary Guidance for the existing Policy ER1 which was consulted on during summer 2017. In response to CNPA, it is noted that a text revision would provide further protection of the potential impacts of wind energy development on the qualifying features of the National Park.

Comments on ER2 Electricity Transmission Infrastructure

KEY AGENCIES

SEPA require that the wording of the policy be expanded, or relevant references included to other policies or SG, for example EP1A to ensure that these issues related to associated activities are highlighted and the environment protected.

COUNCIL RESPONSE

The development plan needs to be read as a whole so there is no necessity to cross refer to all the applicable policies, as it will depend on the site context as to which policies apply. It is considered that no change is necessary to the current policy wording. There has been some amendment to the text in relation to undergrounding to state that in sensitive locations mitigation should be considered and may include where appropriate underground alternatives to over ground route proposals.

Comments on ER5: Prime Agricultural Land

No key stakeholders made comments on prime agricultural land or Policy ER5.

OPPOSITION

Councillor Barnacle would like to see greater protection given to prime agricultural land whilst promoting more development at appropriate brownfield sites.

A representation suggests that a strong presumption against such development should apply at all times stating that building on arable ground (as opposed to Greenfield sites) is extremely wasteful of the nation's resources.

COUNCIL RESPONSE

Policy ER5 states that outside identified settlements development on prime agricultural land will not be permitted unless it is necessary to meet a specific established need. This will provide a high level of protection Prime Agricultural Land and is in line with SPP 2014.

Through the site selection process there is a presumption in favour of using previously developed land where appropriate. As well as this through the Strategic Environmental Assessment process the environmental effects (including loss of Prime Agricultural Land) as a result of development on allocated sites has been considered and compared against the relative impact of development of alternative sites. Environmental, social and economic factors are all considered and the most suitable and effective sites have been proposed within the Proposed plan. No changes to the policy are recommended.

Comments on ER6: Landscape

KEY AGENCIES

SNH consider that there is a need to update ER6 in accordance with para 197 of SPP to reflect the new Supplementary Guidance. SNH welcome the proposed policy changes to safeguard Wild land as

per SPP p. 200 as identified by SNH (2014 map). SNH recommend the 5 LDP Area maps clearly show the new local landscape designations, and wild land areas. SNH welcomes the opportunity to review the SG being prepared in support of this Policy.

OPPOSITION

Kinross Civic Trust and Cllr Barnacle are concerned that the Landscape Supplementary Guidance did not include Rumbling Bridge or Cleish Hills as Local Landscape Areas (LLA). The Trust also strongly supports the draft candidate LLAs 10 and 11 the Ochil Hills and Loch Leven and Bishophill. It is considered that the Cleish Hills should not be separated from the other hills which surround the basin. The Trust submits a statement of significance to support its inclusion. They point out that Fife Council designates land to the south side of the Cleish Hills as a LLA. They also consider that the dramatic box canyon gorge at Rumbling Bridge deserves to be protected as a LLA. Cllr Barnacle also restates his call for Regional Park status for the Ochil Hills considering that LLA designations do not offer this beautiful hill landscape sufficient protection.

COUNCIL RESPONSE

The request for the designation, as Special Landscape Areas, of Cleish Hills and the Devon Gorge was debated and rejected by the Council in their consideration of the Statutory Supplementary Guidance on Special Landscape Areas. The correct procedure for identifying new Local Landscape Areas is through the review of the supplementary guidance and not in the LDP. The Enterprise and Infrastructure Committee then considered a report in January 2018 on priorities for the preparation and review of supplementary guidance and considered but rejected the motion to review the designation of the Cleish hill and Devon Gorge as a Special Landscape Areas. We acknowledge SNH welcome our proposed change in policy to safeguard Wild land as per SPP. SNH were involved in the review of the SG which has already been prepared.

Comments on EP1: Climate Change, Carbon Reduction & Sustainable Construction

KEY AGENCIES:

SNH consider that setting silver level by 2016 and gold level by 2020 is inadequate and suggests this is upgraded to the good practice of Aberdeenshire Proposed Plan which requires Gold sustainability level for new domestic buildings or BREEAM level 5 for non-domestic. They welcome the Council's proposal to amend the policy to reflect SPP regarding soil erosion or compaction and reference SNH's Carbon and Peatland map, and suggest that carbon rich soil should be spatially represented on the 5 LDP area maps.

SEPA recommend that the issue of district heating is also included in the Policy EP1 Climate Change, Carbon Reduction and Sustainable Construction as this policy is relevant to developments that generate a heat demand. They welcome a number of the additional points they have previously raised have been identified as potential amendments. SEPA have further recommendations as follows: expand wording to promote the minimisation of waste generation from the construction phase of a development (as this accords with Zero Waste Plan objectives and the guidance in SPP paragraph 179); terminology on part 'a' should be amended from 'water resources' to 'water environment'; commitment could be made in the policy to development being designed to conserve water usage; that the issue of protecting soils is included within Policy EP1, and the Sustainable Design and Zero Carbon Development SG and the associated Sustainability checklist. An example of relevant policy coverage is found in Stirling Council adopted LDP Primary Policy 14.

SEPA require that the wording for policy EP1A is amended to state that the avoidance of the disturbance and associated loss of carbon rich soil (CRS) in any location is preferred in the first instance to protect carbon stores and clarifies that where exceptions set out in the existing policy allow for development in areas of CRS, development should be informed by:

- an appropriate peat survey and management plan;
- any disturbance or excavation be minimised; and,
- suitable mitigation measures implemented to abate carbon emissions.

SEPA also recommend that the word “undisturbed” is removed from the policy as areas of peat and CRS which have been previously disturbed are also carbon stores and should, where possible, be reinstated and at least protected to ensure there is not further degradation of the carbon store.

OPPOSITION

Friends of Ochils are concerned that the SNH map for CRS is only a point in time snapshot (and that Government has made significant funds available for the protection and restoration of peatlands) and they therefore consider this should be acknowledged in the policy.

COUNCIL RESPONSE

Having read the paragraph from the SG position statement it is considered that it would be best to remove this adopted LDP1 policy and where logical take some appropriate elements into other policies. Scottish Government feel section 37F of the TCP act 1997 is of “limited value”. Also there was duplication with the Building Standards regulations whilst adopted LDP1 EP1 policy sought higher standards. The consideration is that we are duplicating Building Standards and that there are viability/deliverability issues around increasing the standards beyond Building Standards through planning policy. Also it is not currently being successfully implemented.

It is considered that increasing standards needs to be consistent across Councils and carried out through Building Standards by Scottish Government. Big strides are being made by Building Standards, for example we are now getting 45% higher standards than 2007, for domestic, and these Building Standards are being reviewed and updated every 3 years which is more frequently than a Local Development Plan could.

It is proposed that addition of the following bullet to the Placemaking policy will cover all the table section of the adopted LDP1 EP1 policy –

“All proposals should meet all the following placemaking criteria:

- j) Sustainable design and construction.”*

Also the Placemaking policy contains a link to the technical notes that will sit alongside this Placemaking Supplementary Guidance which will allow us to keep relevant parts (Section 4 - Achieving Sustainable Design and Zero Carbon Development) of the current Sustainable Design and Zero Carbon Development Supplementary Guidance. This section provides practical suggestions for enhancing the sustainability of the construction, design and use of buildings in Perth & Kinross. The sustainable design themes put forward in section 4 of this guidance should still be fully considered as part of the design stage and integrated wherever feasible.

Also it is considered that we should add the following bullet to the Placemaking policy

“All proposals should meet all the following placemaking criteria:

i) Provision of satisfactory arrangements for the storage and collection of refuse and recyclable materials (with consideration of communal facilities for major developments)”.

With regards to high speed broad band statement this is proposed to be covered in more detail under Policy 57 Digital infrastructure.

With regard to combined heat and power statement this has been replaced by Building Standards and enhanced by new policy 32 Sustainable Heating and Cooling and forthcoming Supplementary Guidance which will identify heat network zones.

Also although we propose to remove the requirement for a sustainability statement there is a requirement for Design Statements under Policy 2 and the new draft Supplementary Guidance for Placemaking considers relevant sustainability criteria such as SUDS, green/blue network connections, energy efficiency measures, and recycling. Therefore the Design Statements should adequately cover sustainability issues.

Already indicated and supported changes in relation to soil erosion and compaction and reference to SNH’s Carbon and Peatland map have been taken forward in the Proposed Plan in a new policy 49 Soils . This enhanced policy has an amendment which provides more detail on approach by clarifying where exceptions allow for development that would disturb carbon rich soils, development should be informed by:

- an appropriate peat survey and management plan;
- any disturbance or excavation be minimised; and
- suitable mitigation measures implemented to abate carbon emissions

In response to Friends of Ochils we consider this to be a comment for SNH to consider in terms of the frequency that they can update the mapping of this resource as improvements are made.

Comments on EP3: New Development & Flooding

KEY AGENCIES

SNH recommend either revising this policy or introducing a new coastal policy as TAYplan’s Proposed Plan spatially identifies the coast downstream of Perth and along the Tay estuary as unspoiled coast i.e. generally unsuitable for development (SPP). SNH expect this to be shown spatially in the LDP with a policy for its protection and management, and include areas at risk from sea level rise and areas of potential managed realignment. The Scottish Government commissioned a ‘National Coastal Change Assessment’ which aims to create a shared evidence base on coastal erosion and this is expected to be available in time to inform this LDP. Scottish Government also mentioned that the National Marine Plan may be of relevance to some decision making and development planning by Perth and Kinross Council given the coastal area within its plan area. There would therefore be benefit in recognising the National Marine Plan, and any subsequent regional marine plans thus helping to promote alignment between marine and terrestrial policy in coastal areas.

Scottish Government mentions that the council should explore any potential implications climate change could have on the city and other settlements and to factor in climate change mitigation to

those areas at highest risk of flooding. In applying the risk framework they state that the effects of climate change including an allowance for “freeboard” should also be taken into account. Whilst SPP doesn’t stipulate the 20% recommended by SEPA for Freeboard allowance, it indicates provision for climate change would be additional to the 1 in 200 scenario and therefore the council should consider what might be appropriate.

SEPA suggest some wording amendments to the policy to remove general from the first line and to add the caveat “unless it accords with the risk framework in SPP” added near the end of the first sentence. They also seek that the definition of ‘significant probability’ is included either in policy or SG, or amended to 0.5% annual exceedance probability as defined in SEPA technical guidance. SEPA recommend that the wording of the third paragraph and category (ii) of the table is expanded to include the fact that water resilient measures should be incorporated in low to medium areas adjacent to medium to high risk areas in order to limit the impact of potential flood risk. SEPA also state that the terminology in the diagram associated with the policy requires to be updated to accord with the current SPP, and the policy expanded to support the delivery of relevant objectives and actions within the Flood Risk Management Strategies and Local Flood Risk Management Plans relevant to the PKC area (once published). Scottish Government also seeks that any land use implications from these strategies are picked up.

SEPA state that a FRA (in accordance with their technical guidance) is required for any development located at medium to high risk of any source of flooding and in low to medium areas identified in the risk framework.

SEPA also require a commitment to be made through plan policy and allocation of sites that undeveloped land in the natural flood plain behind flood protection schemes is not developed, by expanding the text in the table category I point 1 to read “and land has previously been developed”. The reason is that FPS can still fail and because we share a duty to reduce overall flood risk. SEPA could only support the redevelopment of previously developed land behind a flood protection scheme within a built up area. SEPA also require policy wording which stipulates any applications for development on land in the natural flood plain behind FPS are not developed until a FPS is operational. SEPA also recommend that the LDP uses Land Use Vulnerability Guidance to inform spatial decisions and making a policy commitment that development should accord with the vulnerability guidance matrix of flood risk.

OPPOSITION: PKC flood team mention as general point any developer for any site should be made aware of the Flood Risk and Flood Risk Assessment guidance document. Kinross Community Council considers that at full planning application stage outputs from an independently approved flood risk model are needed to prove that the probability of flooding has not increased.

COUNCIL RESPONSE: In response to SNH it is considered that there is no isolated/unspoiled coast in the Perth and Kinross area as determined when assessed during preparation of the Perth Structure Plan. TAYplan adopted 2012 identified all of this coastline as being undeveloped and it is considered that this should have been translated into being the SPP “areas subject to significant constraints” rather than unspoiled coast. TAYplan 2016 says “The unspoiled coast is illustrated on Map 1..... Local Development Plans will define the nature and extent of these areas, as appropriate, and the types and scale of appropriate development where necessary”. TAYplan 2016 does suggest there might be some unspoiled coastline within these areas however although there is a largely undeveloped coastline from Invergowrie to Perth it is not a wild or remote unspoiled coastline, never being far from settlement, the road network and railway line, or other signs of human activity. The previous assessment of the coast carried out for the Structure Plan identified that there are no areas of isolated/unspoiled coastline.

The Proposed LDP2 guides the sustainable development and use of Perth and Kinross's coastal zone whilst safeguarding its natural and cultural heritage assets. The LDP identifies appropriate opportunities for development within the settlements that lie along this coastline and its policies allow limited development outwith these settlements with greater control applied within the Perth Greenbelt which covers areas from the edge of Perth to Inchyra/Balhepburn to the west. This respects Scottish Planning Policy which states that Plans should identify "areas of largely developed coast that are a major focus of economic or recreational activity that are likely to be suitable for further development;" and "areas subject to significant constraints." The Proposed LDP2 does not identify any of its coastline as being within the third category suggested, that of "largely unspoiled areas of the coast that are generally unsuitable for development."

With regard to freeboard allowance it is considered more appropriate to cover this detail in Supplementary Guidance as it could be more readily updated when the evidence base requires it. In accordance with recent DEFRA research, PKC require a climate change (CC) allowance (a 20% increase in the estimated peak flow) to be applied to the 0.5% AP (200-year) and this is set out in our Flood Risk and Flood Risk Assessment Supplementary Guidance.

We resist SEPA's sought commitment regarding undeveloped land protected by flood defences. It is considered that undeveloped land on the natural flood plain behind appropriate flood protection schemes may be suitable for development where they are important components of the settlement strategy, and where there are no equally suitable sites. These sites could be made subject to appropriate mitigation measures rather than being removed. Also the LDP needs to provide sufficient certainty to developers, and SEPA's approach would undermine the certainty provided in LDP1.

We resist the SEPA suggested insertion of "and land has been previously developed" as this goes beyond the requirements of SPP which refers only to within the built up area. Also in light of the approach stated in the Flood Risk Management Plan Annex 3 Approach to Land Use Planning in the Tay Local Plan District (see extract below) it is considered that under category (i) this policy should now be amended to add that any important component of the development plan settlement strategies may be acceptable and add reference to evacuation procedures as this accurately reflects our agreed approach:

"The Scottish Planning Policy sets out a flood risk framework to guide development. Areas of medium to high risk – where the annual probability of coastal or watercourse flooding is greater than 0.5% (1:200 years) – may be suitable for development provided flood protection measures to the appropriate standard (1:200 years) already exist and are maintained, are under construction, or are a planned measure in a current flood risk management plan. This is a matter for careful consideration through review of the Development Plan and its Strategic Environmental Assessment. However if the site is an important component of the settlement strategy and no other equally suitable site is available then development (apart from civic infrastructure and the most vulnerable uses) may be suitable. Any development in such areas would also be subject to appropriate mitigation measures: including water resistance, and water resilience measures and evacuation procedures."

We agree that the policy should be updated to support the actions and objectives of the FRM and the new SPP therefore appropriate wording has been recommended for the Proposed LDP2.

We recommend the Council resist the suggested changes to remove general from the first line and to add the caveat "unless it accords with the risk framework in SPP" as the Council has confirmed a

small variation on the SPP approach and this approach has been confirmed in the Tay Local Plan District Flood Risk Management Plan. This approach allows the LDP to consider sites outwith the built-up area to identify that any important component of the development plan settlement strategies may be acceptable. We do accept the suggested change that any applications for development on land in the natural flood plain behind FPS (flood Protection Scheme) are not developed until a FPS is operational and this should be added to category (i).

It is proposed that we resist SEPA's sought commitment to not allow development on undeveloped land protected by appropriate flood protection schemes. SEPA are concerned because flood protection schemes can fail. However it is considered that undeveloped land on the natural flood plain behind appropriate flood protection schemes may be suitable for development. These sites could be made subject to appropriate mitigation measures rather than being removed. SEPA's position is different to Scottish Planning Policy which refers to land within the built up area behind appropriate flood defences rather than being concerned about whether land has been previously developed or not. The LDP needs to provide sufficient certainty to developers, and SEPA's approach would undermine the certainty provided in LDP1. SEPA now seek removal of E3 (Arran Road), E1 (the Triangle) of the current LDP, and suggest a new commitment to no development on undeveloped land within E38 (Ruthvenfield Road) and H73 (Almond Valley). There is no Scottish Government policy change that supports or prompts this SEPA change in position from LDP1 and it should be resisted. If considering our proposed position in terms of Scottish Planning Policy this position should only be a potential issue for the northern part of E3 Food and Drink Park which might be considered to be beyond the built up area. All the other allocations are considered to lie within the built up area.

Our view is that allocations within the settlement boundary of Perth where the flood scheme has incidentally offered protection rather than by design should be carefully considered through review of the LDP and its Strategic Environmental Assessment. To be clear, we do not support designing a flood defence scheme to specifically increase the developable area but where the logical engineering solution provides protection, and then such opportunities should be considered. It is considered that undeveloped land on the natural flood plain behind flood protection schemes may be suitable for development and E3 is an important component of the settlement strategy, and there is no equally suitable site. The LDP needs to provide sufficient certainty to developers, and SEPA's approach would undermine the certainty provided in LDP1, and provide an unnecessary constraint.

E3 (Food and Drink Park) is an important part of the settlement strategy, and all of this allocation should be retained. Local Authorities have a legal responsibility for maintaining their Flood Protection Schemes. Local Authorities can also seek minimum floor heights to mitigate the likelihood of significant impacts. A level of autonomy is required, and where the Local Authorities are willing to commit to maintaining schemes and protecting existing/future residents then this should be a decision available to Local Authorities. If a site lies on the periphery of the settlement then there should be scope to consider and weigh up all planning considerations before deciding whether it is the best location overall. It would sometimes be more sustainable to develop adjacent to key settlements (such as Perth and E3) rather than to push development outwith (if flood risk issues are suitably mitigated). Flood Risk is a very important consideration, but it is not the only one, and where flood risk is suitably addressed by a Flood Protection Scheme and mitigation then Local Authorities need to have the scope to consider development within these areas if the alternatives are much less desirable overall. Our view is that allocations within the settlement boundary of Perth where the flood scheme has incidentally offered protection rather than by design should be carefully considered through review of the LDP and its Strategic Environmental Assessment. To be clear, we do not support designing a flood defence scheme to specifically increase the developable area but

where the logical engineering solution provides protection, and then such opportunities should be carefully considered.

With regard to the PKC flood team comment we agree, and there is a link to the supplementary guidance in the policy.

With regard to Kinross Community Council's comment we confirm and agree that at full planning application stage outputs from a flood risk model are independently assessed to ensure proposals are generally in line with our policy approach (including that the probability of flooding is not increased elsewhere). The methodology of the developer's Flood Risk Assessment (FRA) is set by PKC and SEPA guidance, and there is independent review of the assumptions and conclusions of the individual FRA's.

Comments on EP3 Water Environment & Drainage

KEY AGENCIES

SEPA highlight the need to comply with the Water framework directive and suggest that the policy wording is expanded. SEPA state that the wording should ensure that that development at any location and of any scale protects and improves the water environment in accordance with WFD. The policy should require that development incorporates all relevant mitigation measures, including RBMP measures where relevant. SEPA support the commitment within the policy to de-culverting but recommend that that development at any location and of any scale protects and improves the water environment in accordance with WFD. The policy should require that development incorporates all relevant mitigation measures, including RBMP measures where relevant. They provide links to documents which sets out the limited situations where a culvert would be acceptable under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended). SEPA require that the policy wording is strengthened to clarify that the only situations where culverting for land gain may be permissible is where a development is of over-riding public interest.

SEPA go on to recommend that this policy highlights a minimum 6 meter buffer between a development and a watercourse in keeping with the flood risk supplementary guidance. They note that depending on specific local factors such as flood risk and pressures on the water environment, including hydro-geomorphology issues, that the width on an appropriate buffer for a specific watercourse may be considerably larger.

SNH support the addition of groundwater and state that where connection to public sewerage is proposed there should be sufficient capacity within the WWTW to accommodate the development. SNH also suggest the following changes to policy wording:

EP3C; Recommend insert "SUDS will be encouraged to achieve multiple benefits, such as floodwater management, landscape, green infrastructure, biodiversity and opportunities to experience nature near where people live. Ecological solutions to SUDs will be sought and SUDS integration with green/blue networks wherever possible."

EP3D: Recommend amend this policy to include the following "A suitable riparian buffer zone between development and the watercourse should be provided."

COUNCIL RESPONSE

This policy should be redrafted in line with the comments from Key Stakeholders to ensure it meets legislative requirements and SEPA's licensing position, and highlights the buffer strips to watercourses (with reference to the flood risk SG) and the multiple benefits of SUDs. Also this policy has been amended to include a new section for private water supply responding to comments from our Environmental Health colleagues.

Comments on EP6: Lunan Valley

KEY AGENCIES

SNH support the inclusion of this policy and the proposed revisions to the supplementary guidance and would like to engage in discussions to see how the policy is working in terms of adequacy of applications and monitoring of their success.

They query the inclusion of the criteria in EP6 and suggest this could be addressed through the development in the countryside policy.

COUNCIL RESPONSE

We have liaised with SNH on Policy EP6 and the Policy has been revised accordingly, in agreement with SNH. With the support of SNH we will continue to engage in meetings to discuss ways to improve the monitoring and implementation of policies EP6, EP7 and EP15.

Comments on EP7: Loch Leven Drainage

KEY AGENCIES

SEPA would like to see greater detail included within this policy that would clarify that applicants are expected to submit details of the proposed method of drainage and the details of phosphorus mitigation measures where applicable when applying for detailed planning consent.

SNH support the inclusion of this policy and the proposed revisions to the supplementary guidance and would like to engage in discussions to see how the policy is working in terms of adequacy of applications and monitoring of their success.

An elected member would also like to see enhanced protection to Loch Leven to be provided through this policy.

COUNCIL RESPONSE

With the support of SNH we will continue to engage in meetings to discuss ways to improve the monitoring and implementation of policies EP6, PE7 and EP15.

Information regarding the details that need to be submitted is provided within the supplementary guidance and we do not feel it is necessary to include this within the policy. The policy currently states that applicants will be required to submit details of the proposed method of drainage with their planning consent.

We note the comments calling for enhanced protection of Loch Leven, however given the nature of the comments and the suggested measure this has been addressed through the analysis of RD5.

Comments on EP15: Tay Catchment Area

KEY AGENCIES

SNH support the inclusion of this policy and the proposed revisions to the supplementary guidance and would like to engage in discussions to see how the policy is working in terms of adequacy of applications and monitoring of their success.

COUNCIL RESPONSE

With the support of SNH we will continue to engage in meetings to discuss ways to improve the monitoring and implementation of policies EP6, PE7 and EP15.