

Issue 20	Prime Agricultural Land & Soils – Policies 48 & 49	
Development plan reference:	Policy 48, page 78 Policy 49, page 78-9	Reporter:
Body or person(s) submitting a representation raising the issue (including reference number):		
Braes of the Carse Conservation Group (0161) Jean Squires (0340) Scottish Natural Heritage (SNH) (0353) Alistair Godfrey (0410) The Royal Society for the Protection of Birds (RSPB) (0546) Scottish Environmental Protection Agency (SEPA) (0742)		
Provision of the development plan to which the issue relates:	Policies 48 & 49 relating to Prime Agricultural Land & Soils	
Planning authority's summary of the representation(s):		
<p>Policy 48 - Prime Agricultural Land</p> <p>Braes of the Carse Conservation Group (0161/01/012) seek to amend the policy to specifically protect fruit orchards in the Carse from development.</p> <p>SEPA (0742/01/015) support Policy 48 based on the following points:</p> <ul style="list-style-type: none">• Support the policy commitment that development on prime agricultural land will not be permitted except if it is necessary to meet a specific established need as this protects soil functionality.• The commitment accords with Local Authority's duties under Section 44 Climate Change Act (CD025), NPF3 para 4.9 (CD003), Land Use Strategy 2016 Principles c, d and f (RD077), TAYPlan 2016-2036 policy 2 C v. (CD022) and SPP para 29, 80 and 194 (CD004). <p>Policy 49 - Soils</p> <p>Jean Squires (0340/01/003) objects to the use of agricultural land/greenfield sites being developed and instead advocates for the Council to focus development on brownfield sites, as agricultural land is productive and food security is a vitally important issue and the Council should be encouraging local food production and sale to reduce 'food miles' and carbon emissions. Objection is also raised to the Council's proposed mitigation for soil loss by removing good quality soils and re-using them elsewhere in the Council area as this would not implement this policy effectively.</p> <p>SNH (0353/01/018) seeks the following changes to Policy 49:</p> <ul style="list-style-type: none">• Reference to Carbon and Peatland Map (2016) (CD126) should be spatially shown in the Plan.• Add additional text to qualify that presence of carbon rich (CR) soils will need to be validated by appropriate field surveys.		

SNH (0353/01/018) also seek the following technical amendments to Policy 49:

- Amend criterion (c) of the Policy to change reference from '2010 Natural Scotland Regulatory Guidance' to 'Scottish Soils website' where there is a single portal to access up-to-date soil information to better inform users of the Policy.
- Add reference in the Policy Note to refer to Scotland Soils website (SSW), SEWeb and/or SEweb own land information system as sources of reference.

The Council intends to address these minor amendments separately through a non-notifiable modification as set out in the non-notifiable document (CD375).

Alistair Godfrey (0410/01/014) identifies the following concerns in relation to Policy 49:

- criterion (a) and (b) of the Policy are incompatible as development cannot avoid damaging soils
- moving soils off site would have an adverse effect, namely agricultural soils would lose their prime function and transportation off-site generates dust and greenhouse gases.

RSPB (0546/01/014) seeks to make the following changes to Policy 49 in order to ensure the policy adequately protects peatland and controls peatland extraction:

- Add following text: 'Commercial extraction of peat will not be permitted.' This change would ensure that SPP (para 241) (CD004) is adhered to, taking the view that damaged peatland would not be able to be restored and therefore all commercial extraction should be restricted.
- Revise last bullet point of Policy 49 to ensure compliance with SPP (para 205) (CD004) as the Policy currently does not require applicants to undertake an assessment of likely effects of development on carbon dioxide (CO₂) emissions.
- Add an additional bullet point to Policy 49 to support peatland enhancement or restoration as well as wider environmental benefits, reflecting the requirements of SPP (para 194) (CD004), Scotland's Biodiversity: a Route Map to 2020 (CD128), and Scotland's National Peatland Plan (2015) (CD126), as well as ensuring compliance with Nature Conservation (Scotland) Act 2004 (CD032).

SEPA (0742/01/016) support Policy 49.

Modifications sought by those submitting representations:

Policy 48 - Prime Agricultural Land

Braes of the Carse Conservation Group (0161/01/012) seek to amend the policy to specifically protect fruit orchards in the Carse from development.

Policy 49 - Soils

Jean Squires (0340/01/003) raises a number of concerns in relation to Policy 49 and its implementation but does not seek specific changes.

SNH (0353/01/018) seek the following changes:

- Add in Policy Map spatially showing areas of Class 1, 2 and 5 soils contained in the Carbon and Peatland Map (2016) (CD117).
- Add additional text to qualify that presence of CR soils will need to be validated by appropriate field surveys.

Alistair Godfrey (0410/01/014): the following concerns are identified but specific changes sought are not identified:

- criterion (a) and (b) of the Policy being incompatible as development cannot avoid damaging soils
- moving soils off site would have an adverse effect, namely agricultural soils would lose their prime function and transportation off-site generates dust and greenhouse gases.

RSPB (0546/01/014) seeks to make the following changes to Policy 49:

- Add following text to Policy 49: 'Commercial extraction of peat will not be permitted.'
- Replace last bullet point of Policy 49 ('suitable mitigation measures implemented to abate carbon emissions') with the following text: 'an assessment of the likely effects of the development on carbon dioxide emissions, and suitable mitigation measures implemented to minimise carbon emissions (with details of both submitted as part of the application).'
- Add an additional bullet point to Policy 49: 'how the development could contribute towards local or strategic peatland habitat enhancement or restoration.'

Summary of responses (including reasons) by planning authority:

Policy 48 - Prime Agricultural Land

Braes of the Carse Conservation Group (0161/01/012): The consideration of orchard trees is considered to be an issue more relevant to Policy 38: Forestry, Woodland Trees and has been considered further in this issue (refer to Schedule 4 Issue 16). It is not considered necessary to include a specific protection for orchard trees within Policy 48 as this policy specifically deals with soil conditions suitable for agricultural purposes rather than protecting trees which is more suitably covered by Policy 38.

No modification is proposed to the Plan.

Policy 49 - Soils

Jean Squires (0340/01/003): The Council seeks the development of brownfield sites, including vacant and derelict land, as a priority however due to the requirement to identify sufficient land for housing and employment and a lack of availability of suitable brownfield sites the majority of new sites will require the development of greenfield land to meet the housing land requirement. Through the SEA process, the Council uses environmental information including information on soils to identify the most environmentally suitable sites. There will be occasions when sites - which include prime agricultural land - may have to be developed when there are no other suitable sites. As part of the SEA mitigation for developing these sites, when no other suitable sites are available, the site assessment identifies that re-using the soils elsewhere within the Council area at a suitable location would help to mitigate against the effects of development. It is considered that Policy 49 is sufficient in protecting against the loss of prime agricultural land through the various tests that development proposals are considered against.

No modification is proposed to the Plan.

SNH (0353/01/018): it is not considered necessary to include a Policy Map within the Policy to illustrate the presence of carbon rich soils as this information is available elsewhere and would replicate existing information. Spatially showing carbon rich soils is

more appropriate at a local scale rather than illustrating these at a Council-wide scale.

No modification is proposed to the Plan.

Requiring that the presence of carbon rich soils is validated through an appropriate field survey is considered to be a useful test to ensure that a localised assessment is undertaken to determine the presence of CR soils.

If the Reporter is minded to accept the proposed modification, the Council would be comfortable with adding the following text after paragraph 3 of Policy 49 to read: ‘...the development would outweigh any potential detrimental effect on the environment. The presence of any carbon rich soils, including peatland, will require to be validated through the undertaking of an appropriate field survey.’

Alistair Godfrey (0410/01/014): It is considered that the criteria identified at the start of Policy 49 provide suitable steps to protect good quality agricultural soils from development but where this is unavoidable various mitigation measures are sought to ensure that any impacts are minimised. The key mitigation measure for impact on good quality agricultural soils is to firstly avoid any impacts, however, where there are circumstances that require development on land which contains such soils, criterion (d) of Policy 49 is a commonly applied measure that would assist in mitigating the effects of development. Proposals to move soils would be strictly controlled through condition to ensure that any associated negative impacts are suitably addressed.

No modification is proposed to the Plan.

RSPB (0546/01/014): Overall the thrust of RSPB’s suggested modification in relation to commercial peat extraction is accepted however, the request to add text to control commercial extraction of peat is not fully in accordance with SPP (para 241) (CD004). It states that commercial peat extraction will only be permitted ‘in areas suffering historic, significant damage through human activity and where the conservation value is low and restoration is impossible.’ Therefore the Council would propose using the above stated text from SPP (para 241) (CD004).

If the Reporter is minded to accept the modification in relation to commercial peat extraction the Council would be comfortable with making this change and using the stated text as currently drafted in SPP (para 241) (CD004).

RSPB (0546/01/014): The current wording of Policy 49 is in accordance with SEPA’s Development Plan Guidance Note 2e on Soils (CD130) in relation to mitigation therefore the Council does not propose to amend the policy in this regard. However the suggested text is potentially useful in identifying to applicants/developers the relevant requirements at the planning application stage and would be in accordance with the requirements of SPP (para 205) (CD004) relating specifically to applicants assessing the likely effects of development on carbon dioxide emissions.

No modification is proposed to the Plan. However, if the Reporter is minded to accept the modification the Council would be comfortable with making this change as it would not have any implications for any other aspect of the plan.

RSPB (0546/01/014): With respect to peatland enhancement or restoration the Council will refer to the listed documents (as noted in the representation) as part of the assessment of

development proposals at the planning application stage to ensure suitable restoration proposals are planned for and implemented. The Plan also already considers issues of restoration which could include peatland restoration - for example Policy 31 of the Plan considers the restoration requirements for renewable and low carbon energy technologies. It is accepted however that a specific policy requirement would potentially make it clearer to applicants what requirements there would be for restoration and/or enhancement.

No modification is proposed to the Plan. However, if the Reporter is minded to accept the modification the Council would be comfortable with making this change as it would not have any implications for any other aspect of the plan and would ensure that the Council meets the relevant provisions of SPP (para 194) (CD004), Scotland's Biodiversity: a Route Map to 2020 (CD128), Scotland's National Peatland Plan (2015) (CD126), and Nature Conservation (Scotland) Act 2004 (CD032).

Reporter's conclusions:
Reporter's recommendations: