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Your ref:
Our ref: LDP-270-3

29 July 2011

Dear Mr McKenzie

**THE TOWN AND COUNTRY PLANNING (DEVELOPMENT PLANNING)
(SCOTLAND) REGULATIONS 2008
HIGHLAND COUNCIL – HIGHLAND WIDE LOCAL PLAN
NOTICE: REQUEST FOR FURTHER INFORMATION**

I am writing regarding Highland Wide Local Plan which has been submitted to DPEA for examination by Scottish Ministers. Under Regulation 22 of the Town and Country Planning (Development Planning)(Scotland) Regulations 2008 the appointed reporters can request, by way of notice, further information in connection with the examination. This letter is a notice under Regulation 22.

1. The Scottish Government representation (reference 324) in relation to Policy 2 of the proposed Highland-wide Local Development Plan invites the reporters to examine whether, for each instance where the plan states that supplementary guidance is to be prepared, there is a sufficiently full and clear policy objective on which the guidance is to be based. In response to that invitation, Mr Maslin has made a preliminary examination of a number of the instances in question and requests further information.

General

2. The last sentence of the second paragraph in Appendix 6.3 of the proposed plan says:

However, where guidance is intended to be statutory i.e. part of the Plan and used to assist decision making on planning applications, the main principles or context for the guidance must be established within the Plan itself.

3. The reporter agrees that the main principles or context must be established within the plan. This has not always been done, and specific instances are given later in this request.

Item 1

In setting out the main principles of supplementary guidance, a concise account of the objectives and general scope of the guidance should be included.

4. In relevant instances, it may be possible to draw from the material in existing draft guidance.

Appendix 6.3: Supplementary Guidance

5. Appendix 6.3 begins “The Council has in place various supplementary guidance which supplements the Local Plan...” From this, the Council’s intention is not clear. The wording could be interpreted as meaning that the Council envisages existing supplementary guidance continuing in force without further action on its part. If this is the intention, the reporter draws attention to paragraph 98 of Circular 1/2009, which says:

Guidance adopted in connection with a plan falls when that plan is replaced, but if it remains up-to-date, authorities may readopt it in connection with the replacement plan after limited re-consultation, provided a proper connection with the plan remains.....

6. If it is the intention of the council to readopt the existing supplementary guidance, the text in Appendix 6.3 should make this explicit.

Item 2

(a) Is it the intention of the council to go through a re-adoption process regarding the existing supplementary guidance?

(b) If this is the council’s intention, please provide text that may be inserted in Appendix 6.3 to make this clear.

Issue 38: Accommodation for an Ageing Population

7. Policy 38 says that the Council intends to produce future supplementary guidance regarding ageing population. The reporter considers that the main principles of the proposed guidance must be stated in the policy.

Item 3

Please submit text setting out the main principles of this guidance, in accordance with item 1.

Issue 57: Travel (1)

8. Paragraph 20.31.3 says that the *Local Transport Strategy* will be adopted as supplementary guidance. Before an item may be adopted as supplementary guidance, it must be publicised, and any representations must be considered. This is laid down in section 22 of the Town and Country Planning (Scotland) Act 1997 (as amended).
9. From the foregoing, it appears to the reporter that a document which is put forward for eventual adoption as supplementary guidance would come into one of two categories:
 - either it is a document that is capable of being amended in the light of any representations arising during the adoption process; or
 - it is a finalised document that is not capable of being amended, in which case consideration of representations can result in one of only two possible outcomes: adoption of the document as it stands or rejection of the document.
10. The reporter notes that the *Local Transport Strategy* is a document that was published in 2010, that it is a finalised document in its own right, and that it does not appear to be a document that is now open to amendment. On this basis, it comes within the second of the two categories.
11. In the light of the preceding considerations, the reporter wishes to have the view of the Council regarding an alternative approach. This alternative approach would be for the plan to say that, when development proposals that have travel implications are being determined, the *Local Transport Strategy* will be a material consideration. A statement to this effect might be included in policy 57, and might address the concern raised in the Scottish Government representation insofar as it applies to this particular part of the plan.

Item 4

(a) Does the Council agree with, or have any other views on, the reporter's identification of the two categories of proposed supplementary guidance and the way in which they apply in the present instance?

(b) What is the Council's view regarding the suggestion that the plan might refer to the *Local Transport Strategy* as a material consideration?

Issue 57: Travel (2)

12. The last sentence of policy 57: *Travel* says that the Council intends to adopt "all the Highland Core Path Plans as Supplementary Guidance to this Plan." It seems to the reporter that this sentence does not contain any policy objective, as is sought in the Scottish Government representation. However,

the reporter notes that policy 78: *Public Access* does contain policy relevant to core paths. With regard to policy 57, the representation might perhaps be addressed by adjusting the last two sentences of the policy to make reference to policy 78.

Item 5

(a) Does the Council agree that, with respect to core paths, policy 57 should make reference to policy 78?

(b) If the answer to (a) is yes, please submit text that might be included in policy 57 for this purpose.

Issue 58: Natural, Built and Cultural Heritage

13. Paragraph 21.1.8 says that the Council “has in place Supplementary Guidance: Highland Historic Environment Strategy”. Guidance with this title does not appear to be included in appendix 6.3. The reporter wishes clarification. In connection with this, the extract from circular 1/2009 in paragraph 5 above may be relevant.

Item 6

(a) Was the guidance prepared in connection with an existing adopted plan?

(b) Is it the intention of the Council that the guidance be readopted?

(c) If the guidance is to be readopted, please submit text setting out its main principles, in accordance with item 1 and in a form suitable for possible inclusion in policy 58.

Issue 59: Protected Species

14. Paragraph 21.3.2 refers to supplementary guidance on “Development and Biodiversity“. In appendix 6.3, this is listed under “Future Supplementary Guidance”.

15. The text in paragraph 21.3.2 suggests that this guidance may be technical in nature, rather than policy-orientated. If this is the case, there would be no need for a statement of policy objectives.

Item 7

(a) Please confirm whether the guidance is technical in nature.

(b) If the answer to (a) is no, and the guidance is policy-orientated, please submit text setting out its main principles, in accordance with item 1, and suggest in which policy the text might be inserted.

Issue 62: Landscape (1)

16. Policy 62 refers to “Supplementary Guidance on Sustainable Design”. In appendix 6.3, under “Existing Supplementary Guidance”, one entry is “Designing for Sustainability”. It is not clear whether both of these refer to the same guidance. If the guidance is associated with an existing adopted plan, paragraph 98 of Circular 1/2009 may be relevant (paragraph 5, above).

Item 8

(a) Is the guidance mentioned in policy 62 the same as the guidance listed in appendix 6.3? If it is the same, what is the correct title of the guidance?

(b) Please submit text setting out the main principles of the guidance, in accordance with item 1.

Issue 62: Landscape (2)

17. Appendix 6.2 deals with heritage features. On page 143, under “Wild areas”, it says that supplementary guidance will be produced that will contain advice on change within wild areas. It is not clear whether this guidance will be technical in nature, or policy-orientated. If the latter, text setting out the main principles should be included as part of the policy content of the plan – perhaps as part of policy 62.

Item 9

(a) Will the proposed guidance be technical in nature, or will it be policy-orientated?

(b) If the guidance will be policy-orientated, please submit text setting out the main principles of the guidance, in accordance with item 1, and suggest where in the plan such text should be inserted.

Issue 71: Waste Management Facilities

18. Paragraph 22.5.2 refers to supplementary guidance regarding waste management in new developments. In Appendix 6.3, the section headed *Future Supplementary Guidance* includes *Managing Wastes in New Developments*. The reporter wishes to know whether this is the same guidance.
19. Paragraph 22.5.2 indicates that the guidance is to show how the Council will consider waste management in new developments. This suggests that the guidance should be mentioned in one of the policies, perhaps policy 71: *Waste Management Facilities*.

Item 10

- (a) Is the supplementary guidance to which reference is made in paragraph 22.5.2 the same guidance as that listed in appendix 6.3?
- (b) If the answer to (a) is yes, what is the correct title of the supplementary guidance?
- (c) Does the Council agree that, to give the supplementary guidance the weight described in paragraph 22.5.2, it should be mentioned in policy 71?
- (d) Please submit text that gives the main principles of the proposed supplementary guidance, in accordance with item 1.

Policy 73: Pollution

20. Policy 73 refers to a Council guidance note entitled *Construction Environmental Management Process for Large Scale Projects*. It is not clear whether the guidance note is intended to be statutory planning guidance. Nor is it clear whether the guidance is technical in nature or policy-orientated.

Item 11

- (a) Is it the intention that the guidance note be adopted as supplementary guidance?
- (b) If the answer to (a) is yes, is the proposed guidance policy-orientated?
- (c) If the answer to (b) is yes, please submit text setting out the main principles of the guidance, in accordance with item 1.

Policy 76: Open Space

21. Policy 76 refers to supplementary guidance entitled *Open Space in New Residential Development*. Appendix 6.3 lists this guidance as “existing”. As indicated in Circular 1/2009 (please see paragraph 5, above), if existing guidance is to continue on a statutory basis, it will have to be readopted following adoption of the local development plan. The latter must establish the main principles of the guidance.

Item 12

Please submit text setting out the main principles of the guidance, in accordance with item 1.

Issue 78: Public Access

22. Paragraph 23.7.2 says that the Council’s *Access Strategy* will be adopted as supplementary guidance. From the entry in appendix 6.3, it appears that this

guidance will be policy-orientated. This being so, to address the Scottish Government representation the main principles should be included in the plan. Consideration should be given to placing the principles within policy 78: *Public Access*.

23. Paragraph 23.7.3 says more detailed guidance regarding delivery of aspirational routes may be provided as supplementary guidance. Such guidance does not appear to be included in the future guidance listed in appendix 6.3. If the reference to this guidance is to be retained in the plan, the main principles should be set out.

Item 13

(a) Please submit text setting out the main principles of the Access Strategy guidance, in accordance with item 1.

(b) Please submit text setting out the main principles of the aspirational routes guidance, in accordance with item 1.

It would be helpful if you could send this information to me, to pass on to the reporters, by 11 August 2011.

For each issue, the parties who made representations on that issue will be invited to comment on the Council's response. Until they have seen any such comments, the reporters will not be coming to a final view on any of the matters raised in this request.

Please acknowledge receipt of this letter and confirm that it and, in due course, the Council's responses, have been posted on the Council's website. Please do not hesitate to contact me if there is anything you would like to clarify.

Yours sincerely

Morag I Smith

**Morag I Smith
Development Plan Assistant**