

THE HIGHLAND COUNCIL

PLANNING, ENVIRONMENT AND DEVELOPMENT COMMITTEE

8TH JANUARY 2014

Agenda Item	6
Report No	PED 4/14

RESPONSE TO DRAFT SCOTTISH PLANNING POLICY: SUSTAINABILITY AND PLANNING CONSULTATION AND SNH CORE AREAS OF WILD LAND CONSULTATION

Report by Director of Planning and Development

Summary

This report informs the Committee of the Council's response to the Scottish Government's consultation on Draft Scottish Planning Policy: 'Sustainability and Planning' and the Council's proposed response to the Scottish Natural Heritage (SNH) consultation on Core Areas of Wild Land.

The Council has previously provided responses to the National Planning Framework 3 – Main Issues Report and draft Scottish Planning Policy consultations. These were homologated at this Committee on the 14th of August 2013.

The Scottish Government 'Sustainability and Planning' consultation is focused on the inclusion of a presumption in favour of development that contributes to sustainable development. This is a small but important change in approach compared to the contents of the draft SPP and it responds positively to the response of The Highland Council and other organisations. There are some outstanding concerns which we have raised through our response to the consultation. The consultation closed on 16th December 2013, no extension to the consultation period was available.

The SNH consultation follows on from consultations on National Planning Framework 3 – Main Issues Report and draft Scottish Planning Policy but does not move the wild land issue much further on, consulting on the same Core Areas of Wild Land (CAWLs). There still needs to be full consideration by Scottish Government and Scottish Natural Heritage of comments already submitted on the draft Scottish Planning Policy and National Planning Framework 3 consultation. These comments have not been reiterated within this response but are referred to as still being applicable. However further comments are proposed in relation to new information provided on the methodology and on SNH's defence of the extents of the CAWLs which include areas of lower wildness scores. The consultation closes on 20th December 2013; however, we have been granted an extension to the consultation period to allow for this Committee's consideration.

The Committee is asked to homologate the Highland Council response to the draft SPP: Sustainability and Planning consultation which has already been submitted and to approve the Highland Council response to the SNH CAWLs both contained in Appendix A and B respectively.

1. Background

- 1.1. At Planning, Environment and Development Committee on the 14th August 2013 Members will recall homologating responses to Scottish Government's consultations on National Planning Framework 3 – Main Issues Report (NPF3) and the draft Scottish Planning Policy (SPP). The Highland Council submitted comments covering all aspects of SPP and NPF3 relevant to Highland including those which are considered further through these new consultations.
- 1.2. The Scottish Government consultation on Sustainability and Planning considers the inclusion of a presumption in favour of development that contributes to sustainable development. This approach differs from that set out in the draft SPP as it gives due consideration and weight to each element of sustainability (economic, environmental and social).
- 1.3. This current Scottish Natural Heritage (SNH) consultation on Core Areas of Wild Land (CAWL) consults on the same CAWL as the NPF3 and SPP consultation but provides some additional information as to the methodology used to identify these areas and provides a brief response to some of the key issues raised by the NPF3 and SPP consultation.

2. Key Issues raised in our consultation responses

SPP consultation on draft SPP Sustainability and Planning

- 2.1. The consultation on the draft SPP (April 2013) set out an approach to Sustainable economic growth which supported development. While supported in principle this approach attached “significant weight to economic development as a material consideration, particularly in the creation of new jobs, recognising and responding to economic and financial considerations.” It was the view of the Council that taking this approach had the potential to undermine the plan led planning system and would be difficult to monitor and enforce.
- 2.2. While continuing to take a similar approach, the consultation on Sustainability and Planning seeks to rebalance the issue and ensure that all elements of sustainability – economic, environment and social – are given due consideration and equal weight in determination of planning applications and preparation of the development plan. This change in approach helps to address a number of concerns raised by The Highland Council and other organisations. This approach supports the current approach of The Highland Council to support economic growth, safeguard our environment and strengthen our communities.
- 2.3. Other issues raised through the consultation which are supported by The Highland Council include:
 - the need for Local Development Plan Actions Programmes to be actively used to support the delivery of sustainable development; and
 - that planning applications need to be supported by proportionate, good quality and timely supporting information to facilitate the determination

of planning applications. The preparation of a validation checklist at a national level would greatly assist this process.
The full response to the consultation is set out in Appendix A.

SNH consultation on Core Areas of Wild Land (CAWL)

- 2.4. The Highland Council response to the NPF3 and SPP consultation raised significant concerns over the methodology used in identifying the relative wildness mapping and then also on the methodology in identifying the CAWL which included areas important to the setting of the CAWL, which SNH refer to as “contiguous areas of lower scoring wildness”. Notwithstanding these comments, we welcomed the effort being made to provide clarity about wild land as a constraint through mapping and clear guidance. Given the particular significance of this issue to Highland, we requested to be further engaged in taking this process forward in advance of finalisation of NPF3 and SPP. However, because this consultation does not move the wild land debate much further on or fully address the key issues raised, there is still a need for further engagement prior to finalisation of NPF3 and SPP.
- 2.5. One of the concerns the Highland Council raised in its response to the SPP and NPF3 consultation regarding the methodology used to identify the CAWLs was that the relative wildness mapping did not take account of major windfarm/hydro planning permissions granted within the last few years. We therefore welcome the additional information provided by this consultation which shows that major windfarm/hydro planning permissions since November 2010 have been taken account of to some extent. However this issue has only been partially addressed by excluding the permitted areas from the CAWLs. The Highland Council still considers that these permissions need to be inputted into the Lack of built modern artefacts layer as this layer accounts for the visibility of these features from outwith and this influences the wildness scores of areas outwith the development site itself.
- 2.6. Another concern that The Highland Council raised in its response to the NPF3 and one that SNH have sought to provide defence of through this consultation is the extent of the CAWLs and inclusion of areas with lower wildness scores within them. The defence of this approach given by SNH is that “Wildness is a quality that strengthens progressively as a person moves into an area. The areas of the highest quality are inherently dependent on an adjacent contiguous area of lower wildness.” It is recognised that if further policy guidance was prepared it could recognise that the level of restriction/protection across the CAWL is not consistent. However this approach does not fit well with current planning policies which account for both direct and indirect effects on a designation interest. To identify core wild areas in the same manner as other natural heritage designations means that they should only identify the areas of highest natural heritage value. To argue that contiguous areas are important to the experience of CAWLs is for example no less applicable to National Scenic Areas (NSAs) and yet NSAs only identify the areas of highest value within the designation itself and proposals nearby need to consider their impact on the designation. This practice of joining up the higher value wildness areas with large areas of lower quality wildness which include some small and fragmented areas of higher value wildness as a large CAWL is considered inappropriate.

2.7. In summary due to

- the limitations of this consultation (i.e. lack of any changes to the CAWLs since the SPP/NPF3 consultation); and
- the significance of the concerns that the Highland Council has already expressed in our response to the SPP and NPF3 on the CAWLs including their potential to impact on all development ;

it is considered that there is still a need for further discussions with Scottish Government and SNH prior to the publication of a finalised SPP and NPF3. The full response to the consultation is set out in Appendix B.

3. Resource Implications

3.1. It is not anticipated that there will be any direct resource implications for the Council as a result of this report.

4. Equality, Climate Change and Carbon Clever Implications

4.1. It is not anticipated that there will be any equality or climate change implications for The Highland Council. The Scottish Government and SNH are the responsible authority for undertaking the relevant equality and climate change assessments for NPF3 and SPP.

5. Legal and Risk Implications

5.1. It is not anticipated that there will be any legal or risk implications for The Highland Council. The Scottish Government are the responsible authority for assessing any legal and risk implications of NPF3 and SPP.

Recommendation

The Committee is asked to

- i. homologate the response to draft Scottish Planning Policy: 'Sustainability and Planning';
- ii. approve the response to the SNH Core Areas of Wild Land Consultation.

Designation: Director of Planning and Development

Date: 10 December 2013

Author: Katie Briggs, Simon Hindson.

Background Papers:

[Highland Council's response to SPP and NPF3 on wild land](#)

[Draft Scottish Planning Policy: Sustainability and Planning consultation](#)

[SNH Core Wild Areas Consultation](#)

Appendix A – The Highland Council’s Consultation response on draft Scottish Planning Policy: ‘Sustainability and Planning’

Consultation Question 1

Y N

Do you think the SPP should include a presumption in favour of development that contributes to sustainable development?

It is considered that in taking forward a presumption in favour of development that contributes to all aspects of sustainable development, that this will facilitate the delivery of the right types of development in the right places ensuring that the balance is struck between social, economic and environmental considerations.

Consultation Question 2

Y N

Do you think the proposed approach to sustainability and planning is appropriate?

The approach set out in the consultation is a welcome response to the issues which were raised by The Highland Council and others through the consultation on the draft Scottish Planning Policy.

The clarification of the role of the development plan in supporting sustainable development is supported by The Highland Council as it mirrors the current approach of The Council to support economic growth, safeguard the environment and strengthen communities. The Highland Council believe that the presumption in favour of sustainable development is already built into planning policy in Highland through the Highland-wide Local Development Plan (specifically Policy 28 – Sustainable Development). We also support the recognition of the role of the Action Programme in facilitating the delivery of sustainable development.

In publishing the Council’s Economic Recovery and Development Plan Strategy we have the local evidence base to help decisions to be made against the criteria set out in the consultation with regard to the economy.

We welcome the need for a proportionate level of supporting information on economic, environmental and social implications of a proposal at the planning application stage and advocating the use of Processing Agreements. However we feel that this should be supported by the preparation of a standardised validation checklist for planning applications at a national level which will help to ensure that the right information is submitted at the outset of the planning application process to facilitate the determination of planning applications in an effective and efficient manner.

Consultation Question 3

In relation to the Equalities Impact Assessment, please tell us about any potential impacts, either positive or negative, you think the proposals in this consultation document may have on any particular groups of people.

No Comment

Consultation Question 4

In relation to the Equalities Impact Assessment, please tell us about what potential there may be within these proposals to advance equality of opportunity between different groups and to foster good relations between different groups.

No Comment

Consultation Question 5

In relation to the Business and Regulatory Impact Assessment, please tell us about any potential impacts, positive or negative, you think the proposals in this consultation document may have on business.

No Comment

APPENDIX B –Draft SNH Core Areas of Wild Land 2013 Map Response Form

Q.1. What is your view on the Core Areas of Wild Land 2013 map?

The Highland Council's submission to the SPP and NPF3 consultation still applies subject to the following additional observations:

- We welcome that the additional information provided shows that major windfarm/hydro planning permissions since November 2010 have been taken account of to some extent. However this issue has only been partially addressed by excluding the permitted areas from the Core Areas of Wild Land (CAWL). The Highland Council still considers that these permissions need to be inputted to the Lack of built modern artefacts layer as this accounts for the visibility of these features from outwith and influences the wildness scores of areas outwith the development site itself.
- It is also noted that Comhairle nan Eilean Siar have noticed an error whereby a permitted wind energy development lies within one of the CAWLs. It is therefore suggested that the most up to date information on planning permissions needs to be inputted to the model prior to finalising the CAWLs.
- It is also noted that the current consultation does not mention the decision that was made to exclude plantation forestry from the Lack of built modern artefacts wildness layer. The Highland Council maintains previous comments on this issue seeking its inclusion within this layer. It is inappropriate that this issue is not highlighted in the current consultation as this was an important decision with significant ramifications not just in terms of significant areas of overlap with CAWLs but because visibility of them also affects the wildness qualities outwith the plantation areas.
- The current CAWLs are too extensive and include areas that are setting of or as SNH refer them "contiguous areas of lower scoring wildness" to the highest value wild areas. The defence of this approach given by SNH is that "Wildness is a quality that strengthens progressively as a person moves into an area. The areas of the highest quality are inherently dependent on an adjacent contiguous area of lower wildness." It is recognised that if further policy guidance was prepared it could recognise that the level of restriction/protection across the CAWL is not consistent. However this approach does not fit well with current planning policies which take account of both direct and indirect effects on a designation interest. To identify CAWLs in the same manner as other natural heritage designations means that they should only identify the areas of highest natural heritage value. To argue that contiguous areas are important to the experience of CAWLs is for example no less applicable to National Scenic Areas (NSAs) and yet NSAs only identify the areas of highest value within the designation itself and proposals nearby need to consider their impact on the designation. This practice of joining up the higher value wildness areas with large areas of lower quality wildness which include some small and fragmented areas of higher value wildness as a large CAWL is considered inappropriate.
- It is noted that Argyll and Bute Council have similar concerns to Highland Council in relation to the extent of the CAWLs and about the exclusion of plantation forestry from the Lack of built modern artefacts layer.

Q.2. Do you have specific comments on any of the areas of wild land identified?

Provided in the Highland Council's response to the SPP and NPF3 were examples that indicate the type of amendment suggested for the core wild areas. For avoidance of doubt it is considered that this type of change applies in generality to all the CAWLs not just those shown. However the Highland Council also has concerns about the methodology used in reaching this stage and if addressed as we believe they should this would also effect the CAWLs identified.

Q.3. Are there any other issues regarding the Core Areas of Wild Land 2013 map, or its preparation, that you would like to raise?

The Highland Council considers that the key issues raised in our SPP and NPF3 response have not been addressed by this consultation and that this consultation has in fact done little to address the key matters surrounding identification of CAWLs.

After having received detailed responses to SPP and NPF3 this consultation should have moved us forward. A much more valuable consultation would have considered:

- the responses made to SPP/NPF3 and consulted on a revised methodology and new CAWLs; and
- provided some additional policy interpretation on how the CAWLs are to be protected.

It is noted that SNH defend the extent of the CAWLs and it is accepted that there is a planning balance that is reached at the planning application stage when considering natural heritage interests against economic and social interests. However it is considered that the current CAWLs do not provide an appropriate starting point for this assessment due to:

- concerns about the methodology that have not been addressed; and
- concerns about where the planning balance has been struck when identifying CAWLs of the highest natural heritage value.

The Highland Council considers in the identification of these strategic CAWLs that it is critical that SNH balance the appropriate protection of the highest natural heritage against other Government objectives as sought through the SPP consultation on Sustainability and Planning. This balance must create a planning framework that is able to deliver the National targets for Renewable Energy contributions, and allow for sustainable economic growth.

In summary due to:

- the limitations of this consultation (ie lack of any changes to the CAWLs since the SPP/NPF3 consultation); and
- and the significance of the concerns that the Highland Council has already expressed in our response to the SPP and NPF3 on the CAWLs including their potential to impact on all development;

it is considered that the Highland Council should be involved in further discussions/workshops with Scottish Government and Scottish Natural Heritage prior to the publication of a finalised SPP and NPF3.

Respondent Information Form

Please complete the two forms below and return with your consultation response. Your contact details are held solely for the purpose of the consultation.

Name or Organisation	The Highland Council
Title	Miss
Forename	Katie
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Release of information contained in consultation responses

SNH will normally publish all consultation responses we receive, although personal data or other sensitive information will be redacted.

I am responding as an individual. No	I am responding on behalf of a group or organisation. Yes
Do you agree to your name being made available when we publish your consultation response? Yes	The name of your organisation will be published along with your consultation response.