

ORKNEY LOCAL DEVELOPMENT PLAN - PROPOSED PLAN

Representation 1 – Spatial Strategy

Change sought:

As the Housing Supply Target (HST) is lower than the Housing Needs and Demand Assessment (HNDA) estimate, the Plan should identify what factors the Council has taken into account to translate the HNDA estimate into the HST. Some of the factors that should be considered for the HST are listed in the HNDA Manager's Guide.

Why change sought?

It is not clear how the HST is informed by the key findings of the HNDA

The Plan should make clearer the following:

- The HNDA is the future estimate of additional housing units needed = 1,159 (page 6)
- The HST is the amount of housing that can will delivered/funded = 1,011 (page 7)
- The HLR is the HST plus generosity = 1,214 (page 7)

Orkney Islands Council Response

Paragraph ss.14 explains why the HST is lower than the HNDA figure (there is a presumption in favour of development in the Isles so any demand can automatically be met). However, for additional clarity the second sentence will be changed to include the text in bold below: 'The Housing Supply Targets for the Isles, **as defined in Table 1**, have not been...'

In addition, Table 1 will be reformatted to show a clear distinction between the Isles figure and the figures for the other Datazone areas.

Scottish Government Consideration

We are content with the Council's reponse and proposed amendments, which now provide further clarity. Provided this is done Representation 1 can be withdrawn.

Representation 2 – Spatial Strategy (Affordable Housing)

Change sought:

The Plan should set out the role that planning will have in addressing the affordable housing shortage identified in the plan, in line with the requirements of Scottish Planning Policy paragraph 128.

Why change sought?

The Plan does not appear to have an affordable housing policy, the only mention of affordable housing is in relation to the figures set out for housing supply targets.

Orkney Islands Council Response

Policy 4B on page 16 addresses Affordable Housing in the Plan. However, in order to provide additional clarity, the following text will replace the existing: 'All housing proposals within Orkney's settlements must demonstrate that they have considered and incorporated housing types and tenures which meet local housing requirements (Table 1) as outlined within relevant settlement statements, development briefs or masterplans.'

Scottish Government Consideration

We are content with the Council's response and proposed amendment. Provided this is done Representation 2 can be withdrawn.

Representation 3 – Specialist Housing Provision

Change sought:

The Plan does not refer to the need for specialist housing provision. If the Council has identified a need for specialist housing in Orkney then it should prepare a policy to support the delivery of appropriate housing and consider allocating specific sites as set out in Scottish Planning Policy.

Why change sought?

If there is an identified need for Gypsy/Traveller and Travelling Showpeople, local development plans should identify suitable sites for these communities, in accordance with SPP para, 133.

Orkney Islands Council Response

There is no identified need for Gypsy/Traveller or Travelling Showpeople within Orkney as per returns sent to the Government. The county only currently sees one travelling family visiting each year and these are managed on an informal basis through a joint Planning, Environmental Health, Education approach. To provide clarity on this fact, it is proposed to add the following text as paragraph 4.3: 'There is no identified need for specific sites to be identified in Orkney for Gypsy/Traveller or Travelling showpeople due to a lack of demand/presence by these communities.'

Scottish Government Consideration

We are content with the Council's response and proposed amendment. Provided this is done Representation 3 can be withdrawn.

Representation 4 - Policy 4

Change sought:

We would seek the following wording change for section E - Single Houses and housing clusters in the countryside.

Outwith the settlements, on the mainland and linked south Isles, developments of single houses will be supported where it involves one of the following:

- vii) The provision of a single dwelling house for a rural business where 24 hour supervision is an operational requirement (~~including agricultural workers or crofters~~) (avoiding occupancy restrictions where possible); or
- viii) The provision of a single dwelling house to allow for the retirement succession of a viable farm holding (avoiding occupancy restrictions where possible).

Why change sought?

SPP paragraph 83 states that in remote rural areas, where new development can often help sustain fragile communities, plans and decision making generally should not impose occupancy restrictions on housing.

Orkney Islands Council Response

The current 2014 Local Development Plan specifically states that conditions, and where appropriate, Section 75 agreements will be used to tie consented developments to farm holdings (we have not used occupancy restrictions for over 15 years). In removing this requirement from the text, we believe it is clear that these will not be used as a matter of course. It is intended to move to a more rigorous assessment process and a removal of conditions linking houses to the farms to which they relate and this will be explained fully within the appropriate SG.

We will remove the scored-out text relating to agricultural workers and crofters).

Scottish Government Consideration

We are content with the Council's reponse and proposed amendments. Provided this is done, Representation 4 can be withdrawn.

Representation 5 - Policy 5 (Waste)

Change sought:

We would seek the inclusion of the following phrase.

5D(ii) (page 18): 'Subject to appropriate reference to the waste hierarchy, the expansion of these facilities, or the incorporation of new methods to manage waste, such as energy from waste projects, will be supported'.

Why change sought:

Energy from waste technology has a role to play in Scotland's waste strategy, however, this needs to be in line with the waste hierarchy, in accordance with SPP para, 178.

Orkney Islands Council Response

This change will be made.

Scottish Government Consideration

We are content with the Council's response and proposed amendment. Provided this is done, Representation 5 can be withdrawn.

Representation 6 - Policy 7 (Energy)

Change sought:

D. Onshore Wind Energy Development Clause (vi) should be revised to make it clear that consent for wind energy is granted in perpetuity.

Why change sought?

Clause (vi) states that wind energy development will be granted for a maximum period (usually 25 years). This appears contrary to paragraph 170 of the SPP which states that areas identified for wind farms should be used in perpetuity. Unless there is a specific reason why a maximum period is stipulated we consider this clause should be revised. While we recognise that a wind farm may come to the end of its operational life and the site restored, the permanent suitability of a site for wind farm use (perpetuity) is important as it has a relationship to the potential repowering of a site and the expectation that a wind farm in use today will in principle be acceptable in the long term if reconfigured.

The Planning Authority should review our online advice 'some questions answered' for further information <http://www.gov.scot/Topics/Built-Environment/planning/Policy/Subject-Policies/low-carbon-place/Heat-Electricity/renewables-advice/Questions>

Orkney Islands Council Response

We disagree that this change should be made. SPP makes clear that time limiting consents is indeed appropriate in the case of wind energy developments (para 170, sentence 2). It is our interpretation and understanding that any assessment should be made on the basis that the development remains in perpetuity, and not for a limited time, but this in no way implies that the permission should not be time limited. This paragraph surely seeks to ensure that permission is not granted due to the fact that a proposal is temporary, when considering impacts on known constraints, and does not actually mean that proposals should be granted in perpetuity. It is our belief that to make this change would be contrary to SPP and further clarification on this point would be welcomed.

Scottish Government Consideration

We do not think the change referred to in our representation would be contrary to SPP. The emphasis in paragraph 170 of SPP is on perpetuity and it is important for policy to reflect this. In granting permission we accept, in accordance with paragraph 170 of the SPP, that permissions can be time limited but the intent behind SPP 170 is that site specific wind farm development is acceptable in perpetuity. This point is explained in our online advice 'some questions answered' referred to in our representation.

We recommend that clause (vi) be amended to state:

"Consents for wind energy developments should be approved for use in perpetuity. Individual consents may be granted for a maximum period (usually 25 years) from final commissioning ..."[the rest of policy wording remaining the same]

Note that we recommend the existing wording in clause (vi) be amended from *will* to *may* be granted... This aligns more closely with the wording of paragraph 170 of SPP.

Representation 7 - Policy 10

Change sought:

We would request that Policy 10 be amended to include specific reference to safeguarding the existing allotments in Orkney (in Kirkwall and Stromness), identify any further potential allotment sites (if there is demand) and to encourage opportunities for community growing spaces.

Why the change is required:

There are no specific references to either allotments or community growing spaces within this Proposed Plan, this should be include in accordance with SPP para, 227.

Orkney Islands Council Response

The Council's corporate Open Space Strategy provides a framework for protecting Community Growing facilities and allotments and this is further considered within the Council's 'Planning for Open Space' Planning Policy Advice and the related Open Space Audit. It is believed that if a need for new facilities is demonstrated, it can be supported through Policy 11 and to add clarity on this point, it is suggested that the following text be added at the end of 11.1: 'and community growing facilities.'

Existing allotments and community growing space is highlighted as Open Space in the Plan and Settlement Statements and the policy support for their retention is very strong and clear in Policy 10, B: Open space in Settlements.

Scottish Government Consideration

We are content with the Council's reponse and proposed amendment. Provided this is done, Representation 7 can be withdrawn.

Representation 8 - Policy 10

Change sought:

We would seek an additional paragraph - the following lines could be inserted, after paragraph 10.2:

“Temporary greening can be an appropriate way to create safe and attractive places until development comes on stream. The Council will support the use of temporary greening of land awaiting development, where appropriate. Consideration will be given to whether greening of a site could bring about a positive impact to the local environment and overall amenity of the area, without prejudicing the effectiveness and viability of the site, if it is allocated for development in the longer term.”

Why the change is required:

The Proposed Plan does not include text on temporary greening. Including the suggested text will improve alignment with SPP para, 229.

Orkney Islands Council Response

We will add the text as suggested.

Scottish Government Consideration

We are content with the Council's response and proposed amendment. Provided this is done, Representation 8 can be withdrawn

Representation 9 – Policy 10 / Policy 11

Change sought:

We would request that Policy 10 or 11 be amended to include specific reference to ‘Outdoor Sports Facilities’, and to safeguard these from development subject to the exceptions as expected by SPP.

Why the change is required:

The Proposed Plan does not use the term Outdoor Sports Facilities, which have a specific meaning and definition in Scottish Planning Policy (2014) and the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

Outdoor Sports Facilities are defined in the SPP’s Glossary. SPP sets out specifically in paragraph 226, under the section on Development Planning, that outdoor sports facilities should be safeguarded from development except in a series of defined circumstances. The Scottish Government accordingly expects local development plans to include policy provision to safeguard outdoor sports facilities, in line with SPP.

Orkney Islands Council Response

Although it is believed that this area is covered adequately by the title of Policy 11, the text will be modified to accommodate this suggestion.

Scottish Government Consideration

We are content with the Council’s response and proposed amendment. Provided this is done, Representation 9 can be withdrawn

Representation 10 - Policy 11 and Policy 14

Change sought:

Further detail should be provided within the Plan setting out the types of development that will be expected to make contributions and the locations of such development.

Why the change is required:

Para 139 of Circular 6/2013 sets out matters which should not be included in Supplementary Guidance, but that should be within the Plan. This includes: 'items for which financial and other contributions including affordable housing will be sought and the circumstances (locations / types of development) where they will be sought'.

Conversely, para 11.1 of Policy 11 states that:

iii. 'details of where contributions will be sought is set out in the relevant master plan or development brief and within planning policy advice: Developer contributions'.

In addition, para 14.2 of Policy 14 states that:

'Any such contributions will be highlighted within the relevant urban design framework, master plans or development brief'.

Orkney Islands Council Response

A list of potential items that may require contributions will be included in the Policy to add clarity. It is not possible to identify specifics (eg, where every bus stop or passing place will be required) at a Plan Level but clear guidance will be included within relevant guidance on this issue.

Scottish Government Consideration

We are content with the Council's reponse and proposed amendment. Provided this is done, Representation 10 can be withdrawn

Representation 11- Policy 12 (Coastal Development)

Change sought:

Paragraph 12.1 should be amended to acknowledge the statutory status of National Marine Plan under the Marine (Scotland) Act 2010 given the potential for some coastal development and decision making under the proposed development plan to impact on the marine area, in particular those areas covered by Policy(ies) 12.

Why the change is required:

Policy 12: Coastal Development - The reference to integrated terrestrial and marine planning frameworks in paragraph 12.1 is welcomed and the intention of adopting the Pentland Firth Orkney Waters Pilot Marine Spatial Plan as Planning Policy Advice clearly identifies a step towards alignment. For clarity it should be made clear that forthcoming Regional Marine Plans prepared in accordance with the Marine (Scotland) Act 2010 and adopted by Ministers will form part of the statutory marine planning regime and will therefore differ from Planning Policy Advice.

A statutory National Marine Plan was adopted and published by Scottish Ministers in 2015. The Plan applies from Mean High Water Springs and covers both Scottish inshore waters (out to 12 nautical miles) and offshore waters (12 to 200 nautical miles).

Relevant marine legislation (Marine (Scotland) Act 2010 and UK Marine and Coastal Access Act 2009) require that

- public authorities taking authorisation or enforcement decisions that affect or might affect the marine area must do so in accordance with the National Marine Plan and any subsequent regional marine plan once adopted, unless relevant considerations indicate otherwise. This includes decisions on terrestrial planning applications and enforcement action which affect the UK marine area.
- public authorities when making decisions which are capable of affecting the marine area which are not authorisation or enforcement decisions, must have regard to National and regional marine plans. This applies to the preparation and adoption of terrestrial development plans.

Orkney Islands Council Response

This change will be made

Scottish Government Consideration

We are content with the Council's response and proposed amendment. Provided this is done, Representation 11 can be withdrawn

Representation 12 – Policy 14

Change sought:

An exemplar walking and cycling friendly settlement should be included to the text of this policy, to demonstrate how active travel networks can be significantly improved.

Why the change is required:

Paragraph 5.14 of NPF3 states that:

‘As a key part of the low carbon agenda, we will encourage local authorities to develop at least one exemplar walking- and cycling-friendly settlement to demonstrate how active travel networks can be significantly improved in line with meeting our vision for increased cycling. These settlements, as well as wider core path networks, will act as key nodes on the national walking and cycling network’.

Orkney Islands Council Response

SPP states that local authorities will be ‘encouraged’ to develop an exemplar but does not implicitly state that this must be included within the Plan. We would suggest making reference to this within the Settlement Statements SG in relation to Kirkwall Settlement as that would be a more appropriate place to mention it.

Scottish Government Consideration

We are content with the Council’s reponse and proposed amendment. Provided this is done, Representation 12 can be withdrawn