

WOODLAND CROFTS: INFORMATION PAPER

KEY PLANNING ISSUES ARISING FROM PROPOSALS FOR WOODLAND CROFTS (PARTICULARLY IN RESPECT OF ANY HOUSING)

Introduction

The national framework for housing in the countryside is set out in **SPP 3 Land for Housing (2003)** and the recently prepared **SPP 15 Planning for Rural Development (2005)**. Further advice is set out in **Planning Advice Note 72 – Housing in the Countryside (2005)** and **Planning Advice Note 73 – Rural Diversification (2005)**. A further Planning Advice Note on planning and crofting is currently being prepared by the Scottish Executive.

The Council's policy on housing development in the open countryside is contained in **Structure Plan Policy H3**, which was approved by the Scottish Ministers in March 2001. Further guidance is set out within individual Local Plans which are prepared for all parts of the Highland Council area.

As set out in the national policy, the planning process exists not to see small settlements increase in size to the extent that they lose their identity, nor to suburbanise the countryside or to erode the high quality of its environment. Rather, it is to ensure that a framework is put in place to accommodate selective, modest growth. Most development should be foreseen, agreed and programmed to reflect local circumstances, and the overarching aim is to have a prosperous, rural economy, with a stable or increasing population that is more balanced in the terms of age-structure and where rural communities have access to good quality services.

Housing proposals on croft land

Council planning policy is generally supportive of the creation of new crofts and opportunities that these may bring to support rural communities experiencing decline. Where these are proposed out with existing settlements as identified within the relevant Local Plans, the Highland Structure Plan Housing in the Countryside policy (Policy H3) applies to development.

This policy states that:

“Housing development will generally be within existing and planned new settlements. In the hinterland of towns (which are areas of land identified within Local Plans and where there is pressure for sporadic housing development) new housing and conversions of non-traditional buildings in the open countryside will not be permitted, unless it can be demonstrated that it is required for the management of the land and related family purposes. Exceptions may also be made for social housing providers in meeting demonstrated local affordable housing needs that cannot be met within settlements.

Elsewhere, housing in the countryside of an appropriate location, scale, design and materials may be acceptable where it supports communities experiencing difficulty in maintaining population and services. In crofting townships, new housing will need to respect the existing pattern of development”.

As can be seen the development of housing on a new croft must be clearly supported by land management justification. As set out within the Council’s Housing in the Countryside Development Plan Policy Guideline (March 2006) (<http://www.highland.gov.uk/NR/rdonlyres/B9609360-E011-4EC3-9286-07DBD78285A5/0/dppghicmar2006.pdf>), a degree of flexibility will be required, for example, in such circumstances where it may not be possible to sustain full time employment and this will be taken into consideration in the tests. Any application for a house associated with crofting should be on a Registered Croft or associated common grazing and accompanied by the appropriate conformation from the Crofters Commission of the bone fides of the crofting application. Regard would also be had to the history of the previous housing development on the croft and the density of the development. Any new housing must support and respect the traditional settlement pattern, the better agricultural land of the croft and not compound sporadic suburban type development.

In areas out with the hinterland of towns (i.e. the more rural parts of the Highland) the policy affirms that housing in the countryside of an appropriate location, scale, design and materials may be acceptable where it supports communities experiencing difficulty maintaining population and services. In crofting townships, new housing will need to respect the existing pattern of development.

Other policies will apply and will require to be taken into account depending on the location and circumstances of proposals that come forward. It is also worth noting that the Council has prepared guidance entitled “designing for Sustainability in the Highlands”. This guidance sets out a number of areas where proposals can be significantly improved to reflect the need for more sustainable layout and design.

Relationship of new Woodland Crofts with the Local Development Plan process.

The new Planning etc (Scotland) Act 2006 sets out a number of key changes to the way planning is delivered in Scotland. Central to these changes is the role of the Development Plan. Through the Local Plan (which will become the Local development Plan) process, the Council has a statutory duty to identify sufficient land to meet the housing needs of an area, across the tenures, for at least five years at all times. National guidance requires that where possible this should be done by meeting housing requirements within or adjacent to existing settlements to make the best use of existing infrastructure and public services to maximise access to jobs and facilities, and to help conserve the natural heritage and rural amenity. It is however accepted that in some rural areas, particularly those experiencing difficulties in maintaining population and

services, some development out with existing settlements will be acceptable to support economic and social regeneration.

The land identified for development in Local Plans must be effective, which means free from constraints within the lifetime of the plan. As a result, the landowner must be able and willing to develop the site and water, sewage and roads infrastructure must be in place or able to be provided at reasonable cost.

The delivery of woodland crofts will be an important part of Plan preparation particularly where these are of more than very small scale. It may be appropriate for example, for locations to be taken forward through the formal process of plan preparation which involves close community consultation.

The Council is currently preparing new local plans for Skye and Lochalsh, Sutherland and Lochaber areas, and the issue of croft land is of critical importance, both in terms of identifying sites as well as in offering protection to existing croft land. It may be that opportunities for development of new crofts associated with other developments may be identified through this process. One such opportunity for example may exist in Lochcarron, where there are private and affordable housing aspirations, a leisure centre proposal and a community woodland possibility, all closely located and requiring joint action to achieve them.

It is possible that a development brief or master plan may be required as a precursor to or as part of a planning application for woodland crofts.

A Development Brief is a detailed document for an area allocated for development in a local plan. The brief provides information to possible developers on issues such as the preferred siting, design and layout of buildings, and the need for associated infrastructure and services. Examples of such documents are available on the Council's web-site.

Development Briefs can offer the benefit of ensuring that all interests are fully considered at the earliest possible stage and that all statutory agencies have had the opportunity to consider detailed site factors. The preparation of these also allows innovation in design to be fully considered at an early stage.

Use of Planning Conditions

The use of occupancy conditions on housing in the countryside has been used in the past. However this has been stopped by the Highland Council as a result of difficulties which were encountered with this approach, where people could not secure mortgages with certain providers.

The use of Section 75 agreements can be a possible way to ensure that the number of houses per croft is restricted.

Section 75 agreements "restrict or regulate" the use of land – that is to say the agreement is recorded/registered against the title of the land and therefore the

obligations contained in the agreement then run with the land and can be enforced against successors in title.

Enforcement of Section 75 agreements is usually by the planning authority as that is who the agreement is with. If the breach is on the part of the applicant, the planning authority will seek to enforce, informally at first then formally through the courts if that proves necessary. Sanctions are usually in the form of a court order requiring something to happen (specific implement) or an order to stop or partly stop something happening (interdict). Disputes about interpretation of the agreement are usually sent to arbitration.

The recent formation of new crofts in Sanna offers the best example of the approach used to ensure that the houses would be associated with the crofts in perpetuity. Section 75 agreement was used in this case and further information can be provided on how the agreement was framed in that case.

Malcolm McLeod / George Hamilton
May 2008

Contacts:

For further information on planning policy matters, please contact Malcolm MacLeod, Development Plans Manager on 01463 702506.