



SCOTTISH EXECUTIVE

Development Department
Planning

Victoria Quay
Edinburgh EH6 6QQ

Gary Templeton
Planning Officer
Development Services
Environmental Services Department
The Moray Council
Council Office
High Street
Elgin
IV30 1BX

Telephone: 0131-244-7091
Fax: 0131-244-7555
Email: kristen.anderson@scotland.gsi.gov.uk
<http://www.scotland.gov.uk>

30 March 2007

Dear Gary Templeton

TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 MORAY STRUCTURE PLAN

The Scottish Ministers have decided to approve the Moray Structure Plan with modifications. In reaching their decision they have considered all representations and objections made to them in accordance with the Town and Country Planning (Structure and Local Plans)(Scotland) Regulations 1983. In addition to the matters taken into account in the Structure Plan as submitted, the Scottish Ministers have considered such other matters as they thought relevant.

The Structure Plan is approved subject to a number of modifications which are set out in Annex 1 to this letter. At Annex 2 are comments on the objections where the Scottish Ministers have not accepted the substance of the objections and propose no modifications to the Alteration in respect of them.

Whilst the Scottish Ministers' approval of the plan, as modified, is founded primarily on consideration of the policies and proposals, it relates to the plan as a whole. It should be understood that the Scottish Ministers' approval of the plan does not convey approval of any matter therein for any other statutory purpose. In particular it does not commit the Scottish Ministers, or any Government Department, to the payment of grant on any particular project or to the amount or timing of any capital expenditure.

The Plan shall become operative on 2 April 2007.

The foregoing decision is final, subject to the right, conferred by Section 238 of the Town and Country Planning (Scotland) Act 1997, of any person aggrieved by the Scottish Ministers' decision to apply to the Court of Session within 6 weeks from the date of publication of the first notice of the approval of the Plan, whereby the Court may quash the decision if satisfied that it is not within the powers of the Act or that the applicant's interests have been substantially prejudiced by a failure to comply with any requirement of the Act.

I am sending a copy of this letter and annexes to all those who have made representations since the Structure Plan was submitted.

Yours sincerely

Kristen Anderson

Miss Kristen Anderson
Senior Planner



**ANNEX 1 MORAY STRUCTURE PLAN
MODIFICATIONS**

Modification	Reference	Deletion	Addition/Replacement	Reason
DEVELOPMENT & COMMUNITY				
1 Retail	Page 18 Retailing and Commercial Development	Delete – “National Planning Policy Guideline 8 (Revised) ‘Town Centres and Retailing’ set out the need to identify the capacity of existing town centres to accommodate additional retail development, to identify opportunities for new retail development outwith town centres and ensure that large scale development is co- ordinated with transport infrastructure, and to set out criteria for the assessment of retail development proposals outwith town centres.”	Replace second paragraph of page 18 with the following text:- “SPP8 states development plans should identify a network of town centres, commercial centres and out-of-town shopping centres and to set out policies to support and enhance town centres. The SPP advocates focusing development in town centres and the adoption of a sequential approach to site selection for all retail and commercial uses.”	To demonstrate that the plan is in line with the latest national policy guidance in SPP8.
2 Lossie Green	Page 19 Proposal 1	Delete reference to Lossie Green ‘The Moray Council (and partners) will carry out a study to establish if the redevelopment of the Lossie Green area, in conjunction with adjoining areas in Elgin Town Centre, for retail and associated commercial and civic uses would be feasible.’	The Moray Council (and partners) will carry out a study to consider potential areas within Elgin town centre and the feasibility of their development for retail and associated commercial and civic uses.	To remove a specific site reference which is inappropriate for a Structure Plan.
ENVIRONMENT & RESOURCES				
3 Natura 2000	Page 26, before last para insert		"Development likely to have a significant effect on the qualifying interests of a Natura	To ensure the Plan is compliant with Natura 2000, regarding

Modification	Reference	Deletion	Addition/Replacement	Reason
	new paragraph		2000 site will be subject to an appropriate assessment, to ascertain whether there will be adverse effects on the integrity of the site. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where (a) there are no alternative solutions; and (b) there are imperative reasons of overriding public interest. These can be of a social or economic nature except where the site has been designated for a European priority habitat or species. Consent can only be issued in such cases where the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers)."	appropriate assessment.
4a Waste Management	Page 27 last paragraph, first line		'The North East and Highland Area Waste Plan sets out...' with 'The North East and Highland Area Waste Plans set out...	To clarify that there are two separate Area Waste plans.
4b	Page 28 second para		Add after "identified in the Area Waste" the following text " <u>Plans and provide locational guidance for other waste management facilities</u> "	To ensure an appropriate context for non-municipal waste is provided in the Local Plan.
4c	Page 31 Policy 2 (h)		Policy 2 (h), after 'ensuring that new development is designed to facilitate' insert 'sustainable' i.e. "to facilitate sustainable waste management practices".	To bring the plan in line with the National Waste Plan.
5a SEPA name	Page 27, para 5		Change text to read "the Scottish <u>Environment Protection Agency</u> "	To refer to the correct full name of SEPA

Modification	Reference	Deletion	Addition/Replacement	Reason
5b	Page 29, first para		Change text to read “the Scottish Environment Protection Agency”	To refer to the correct full name of SEPA
6 Minerals	Page 30, para 5	Delete ‘within NPPG4 ‘Land for Mineral Working’.	Replace deleted text with “within SPP 4: Planning for Minerals.”	To refer to the relevant national planning guidance on Minerals, NPPG 4 has been replaced by SPP 4.
6	Page 30, para 6	Delete ‘National Planning Guidance states that planning authorities should make available a 10 year supply of aggregates with planning permission for the construction industry’	Replace first sentence of paragraph 6 on page 30 to “ <u>Scottish planning policy states that planning authorities should make available a minimum of a 10 year supply of construction aggregates</u> ”	To ensure that the plan accords with current Scottish Planning Policy 4.
7a SUDS	Environmental protection Page 28 para 4		P 28, para 4, after ‘sustainable urban drainage systems (SUDS)’ insert ‘ <u>in all new developments</u> ’	To ensure the plan accords with the Water Environment (Controlled Activities) (Scotland) Regulations 2005.
7b	Page 31; Policy 2 (i)		Policy 2 (i) add text to read ‘promoting sustainable urban drainage systems (SUDS) <u>in all new developments</u> ’	To ensure the plan accords with the Water Environment (Controlled Activities) (Scotland) Regulations 2005.
8a Flooding	Page 28 last para, after penultimate sentence		After ‘Scottish Planning Policy 7 requires that flood risk is taken properly into account in planning for new development.’ Insert ‘ <u>It also requires that built development should not take place on functional flood plains and new development should therefore be located outwith areas at risk of flooding.</u> ’	To ensure that full account is taken of flood risk.
8b	Page 31 Policy 2(j)		Insert after ‘ where possible’ of part (j) of policy 2 the following text: “ <u>and also restricting development within flood risk areas following the guidance set out in the</u>	To ensure that full account is taken of flood risk.

Modification	Reference	Deletion	Addition/Replacement	Reason
			<u>Risk Framework in SPP7: ‘Planning and Flooding’ and promoting flood risk management schemes to tackle flooding that threatens existing development.”</u>	
IMPLEMENTATION				
9 Transport Assessments	Page 32 Implementation Section First paragraph , last sentence	At end of last sentence delete “traffic and retail impact assessments”	Insert text after “through mechanisms such as flooding, environmental” the following text “ <u>retail and transport impact assessments taking account of the impact of additional residential development on the A96 trunk road.</u> ”	To provide for further information regarding transport assessments and referring to impact on the trunk road.
KEY DIAGRAM				
10 Legend	Legend	Delete references to ‘Recommendation 1’.	Replace all references in the Legend (7 occurrences) to ‘Recommendation 1’ with ‘Proposal 2’	For correct reference with the text.

ANNEX 2 MORAY STRUCTURE PLAN

REASONS FOR NOT MAKING MODIFICATIONS

We have considered all of the representations received on the Moray Structure Plan and the main points are addressed below.

Structure Plan Strategy

1. Barton Willmore suggested that consideration should be given to creating a hierarchy within the list of secondary centres and suggesting that the scale of allocations to Buckie and Keith should be decreased.

The Council has advised they wish to support investment and regeneration in these towns and to provide opportunities for development. We accept this view that there should not be any further division of the secondary centres.

2. A representation from Mr E Rattray suggested there was a need for more housing in small settlements and that the Structure Plan should not dictate that some of the smaller towns and villages have limited or no development potential.

The Structure Plan's strategic approach focuses new development on existing settlements. Focussing the majority of the development on the primary and secondary centres is considered to be the most sustainable approach. It is noted that the Structure Plan does not dictate the level of development within individual settlements in the third tier of the settlement hierarchy (smaller towns and villages). We accept the Council's view that the appropriate level of development within these areas is determined by the Local Plan, which will take into account a number of more detailed local considerations.

3. Halliday, Fraser, Munro (for Glenmore Properties Ltd.) have suggested in relation to the hierarchy of settlements, that more use should be made of the 75 smaller settlements, arguing that the aim should be to promote development that supports the rural economy and local services, promotes rural regeneration, embodies sustainable development.

The strategy is to focus development on the primary centre Elgin and the secondary centres. The finalised Structure Plan states (p10) that the role of the 75 designated rural communities within the settlement hierarchy is to promote limited growth to meet local needs and support local services unless there are significant constraining factors.

4. Halliday, Fraser, Munro (for Glenmore Properties Ltd.) suggested that the Structure Plan should support potential for increased use of ICT to support homeworking.

The Structure Plan section on Moray's background already recognises that it is "essential that...modern communication technology is embraced."

5. Halliday, Fraser, Munro (for Glenmore Properties Ltd.) have also suggested that in relation to Development Strategy aim vii) which refers to 'Promotion of well designed and located low impact development in rural areas' requires clarification of what is considered to be "low impact".

Detailed guidance on location, siting and design is provided in the Council's Housing in the Countryside design guidance.

6. The Council welcomed the fact that we did not propose in the draft modifications to alter their development strategy or housing allocations. Any alterations to the strategy would have implications for the emerging Moray Local Plan.

Housing Figures

7. Several of the housebuilders and Homes for Scotland argued that the housing land allocations are too low. They dispute the effectiveness of some of the sites (equivalent of 430 units) included in the 2005 Housing Land Audit and also consider that recent completion rates suggest that allocations should be higher.

The Council has built into the Structure Plan a significant degree of flexibility, allowing 50% over the projected household change. This equates to a flexibility of 1522 units. The Council considers that it has been positive and provided a quite considerable housing land supply to meet demand during the period of the Structure Plan. We believe that sufficient land has been allocated by the plan through the level of upward flexibility built into the figures to address the points made by the housebuilders and that providing additional housing land releases could be controversial and create delay for the Structure Plan and have implications for the Local Plan. Therefore, we do not propose making any modification to the plan in relation to the housing figures. No further objections or representations were received in relation to the draft modifications on this issue.

Specific Housing Allocations

1. Representations were received from Hopeman Community Association and Frances Knight of Findhorn in relation to developments in Hopeman and Findhorn respectively. These areas are within the third tier in the settlement hierarchy (smaller towns and villages of which 28 are identified). The Structure Plan does not direct specific housing allocations to the various smaller towns and villages rather they are included in the category of 'Remainder of Moray'. In particular Hopeman Community Association do not object to the Structure Plan but rather to development proposals by a private developer. Reference is made in Ms Knight's representation to the Local Plan and that a housing proposal should be withdrawn from it.

It is the role of the Local Plan to develop the specific allocations for the various smaller settlements, this allows more detailed consideration of the capacity of local areas to accept development, accordingly these representations would be more appropriately addressed through the Local Plan process rather than that of the Structure Plan.

Countryside Around Towns (CAT)

2. Halliday Fraser Munro (for Glenmore Properties Ltd) has made a number of points which relate to the Countryside Around Towns policy. They suggest that Policy 2 requires greater clarity in respect of CAT. They also suggest that sites with development potential should not be included in CAT areas and that the CAT policy should provide a means of allowing development where it can be proven to be sustainable in nature.

The detailed boundary of CAT area is not shown on the Structure Plan key diagram but will be identified in the Moray Local Plan. The CAT areas are to prevent development spawl around the primary and secondary centres into the countryside.

Business Land

3. Halliday Fraser Munro (for Glenmore Properties) have indicated that a site at Barmuckity has been identified as having some potential and the Council will be commissioning a feasibility study to examine that site. HFM support a new business park in

Elgin but note that there are other potential sites to the south of Elgin and that the Council should maintain an open mind on the location.

The Structure Plan states it is estimated that an additional 15ha over and above existing provision be designated to accommodate the required business land. It does not refer to a specific site at Barmuckity in relation to Elgin, but states that the provision of a high quality business in Elgin is seen to be a priority to help promote inward investment and business opportunities. The local plan should be used to designate specific sites.

4. Halliday Fraser Munro (for Glenmore Properties) have suggested the requirement for business land and industrial land in Lossiemouth may be underestimated, and that there are other suitable locations for a business park to the west of Lossiemouth.

It is noted that the allocations in the emerging Draft of land at Kinneddar is based on higher development rates than those in the recent past and that the business park allocation is considered to be generous.

5. Smiths Gore (for The Crown Estate, Fochabers and Glenlivet) have welcomed the removal of a single user designation at Dallachy airfield but suggest that more specific reference should be made in the Structure Plan to the potential of the site to accommodate small scale low intensity uses.

The Structure Plan states that there has been interest from smaller scale low intensity uses in relation to the site at Dallachy and it is therefore proposed to remove the single user stipulation from the designation in the Plan. We consider that this point adequately addresses the point made by Smiths Gore. Proposals for such uses would require to be considered against the relevant Local Plan policies.

By-passes

6. Homes for Scotland and Springfield Properties made representations that there was no political or financial support for bypasses for Elgin and Keith. There were also concerns that safeguarding lines for the bypass could constrain significant areas of potential housing land. Conversely support for the Elgin bypass was registered by Halliday Fraser Munro acting on behalf of Glenmore Properties.

It is noted that the Council strongly supports a potential bypass for Elgin and has advised the community also support a bypass. It is also noted that the Elgin STAG appraisal includes a potential bypass and that this is compatible with the existing development plan. Agree that whilst the Council continues to assess the feasibility of a bypass and potential routes, that land should continue to be safeguarded from other forms of development.

Minerals

7. Tarmac Ltd suggest that the Structure Plan's Key diagram should identify 'preferred areas' for mineral extraction.

SPP 4 states under the present two-tier system, structure plans set out the requirement for minerals, consider the need for safeguarding, define areas where international and nationally important designations are unlikely to be reconciled with mineral working and set priorities for development management. Local plans define those matters more precisely. A modification is proposed to state that "Moray Council will make provision for a minimum of a 10 year supply of construction aggregates", which is considered to address the point about the requirement for minerals. Whilst SPP4 notes that development plans should identify areas of search, the reference in the SPP is to 'areas of search' rather than 'preferred areas'. The SPP does not specify that these have to be included in Structure Plans, and the Finalised

Local Plan will provide clarity on preferred areas in accordance with the SPP. Modifications have been proposed in response to other points made by Tarmac.

Flooding

8. Urban Animation (for Altyre Estate) have suggested that the italic text that follows should be inserted into the text at page 29 to read: ‘promoting schemes to alleviate flooding in a sustainable and sensitive way using natural eco-systems and features *in preference to engineering and construction led solutions* where possible..’

We have already proposed modifications relating to flooding which have been endorsed by SEPA. Parts of Moray suffered extensive flood damage in 1997 and 2002, which caused significant damage to land and buildings, including surrounding farmland. In light of this it is not considered appropriate to rule out any potential solutions. The plan draws attention to the potential for sustainable and sensate flooding schemes.

9. There is also an objection from Smiths Gore (for Pitgaveny Estate) which suggests that Proposal 1 to carry out a study of the Lossie Green area is contrary to developing an appropriate response to flooding and suggest that public funds should not be dissipated on any further studies or exercises within the Lossie Flood plain until the Flood Alleviation Scheme has been constructed.

Modification 2 is to delete the reference to Lossie Green in Proposal 1 as it was not considered appropriate to have this type of site specific reference. However it is accepted that any feasibility study would require to look at the issue of flooding as a potential constraint to development.

Tourism

10. Halliday Fraser Munro suggest greater clarity is required on the tourism elements of the Structure Plan strategy.

The development strategy states that the aims of the development strategy will require iii) ‘securing and targeting resources to promote economic development, tourism and employment opportunities’. Policy 1 also states that the strategy will be supported by ‘b) the encouragement of tourism development opportunities’. Further policies with reference to tourism are included within the emerging Local Plan.

Air Quality

11. SEPA believe that air quality should be specifically included in the Structure Plan, to provide appropriate strategic policy guidance for the Local Plan.

It is considered that the general safeguarding terms of Policy 2 h) which ‘seeks to safeguard the area from pollution and contamination’ covers the issue of air quality, at an appropriate level for the Structure Plan. The emerging Moray Local Plan contains 2 policies which refer to air. Policy Imp2/ Development Impact Assessments includes a requirement that where appropriate applicants will be required to carry out air quality assessments and policy EP7/Pollution aims to ensure that new developments do not create pollution (including air pollution), which could adversely affect the environment or local amenity.

Rural areas

12. Halliday Fraser Munro made some representations in relation to rural areas. They suggested that where there are “leftover areas of agricultural land of little practical farming use” they should be considered positively for new development.

The Local Plan should provide the appropriate context for development proposals at this scale.

13. Halliday Fraser Munro referred to the role of dispersed rural communities in keeping the countryside alive and that such areas have potential to accept further limited development. *It is felt that generally this is a Local Plan issue. The settlement hierarchy in the Structure Plan already notes that in addition to the towns and villages there are 75 designated rural communities where only limited growth will be promoted to meet local needs and support local services, but it does include a reference unless there are significant constraining factors. However, the Structure Plan section on residential development refers to SPP3 'Planning for Housing' highlighting a reference to the role of development plans in maintaining the viability of rural communities through supportive policies for new housing in the countryside. The Structure Plan states "In much of the rural area, communities require opportunities for employment and housing if they are to survive ... A positive planning approach to sustain their viability is required."* It is considered that the text already in the Structure Plan about sustaining the viability of rural areas covers the point made by HFM.

Cairngorms Park Plan

22. Comments were received from Halliday Fraser Munro (on behalf of Glenmore Properties) concerning the shared responsibility for strategic planning across the Cairngorms National Park Plan and Moray Structure Plan, with particular reference to housing in smaller settlements and rural areas.

The Moray Structure Plan takes account of the shared planning arrangements with the Cairngorms National Park Authority. The Cairngorms Local Plan, which addresses housing provision, is currently being reviewed in the light of comments on the earlier consultative draft.

Site Specific Objections

23. It is considered that objections relating to specific sites, such as those by Hopeman Community Association, Frances Knight, Moravian Motors and Mr Grant would be more appropriately considered through the Local Plan process.