

LOCAL REVIEW BODY

15th December 2022

Application No: 22/00587/P

Land at the Heugh, North Berwick

Applicant's Supporting Documentation

Part 6

[Includes: TT Document List, docs TT1.03, TT2.02 and TT3.01 – TT3.05]

Directorate for the Built Environment
Jim Mackinnon, Director and Chief Planner



Heads of Planning

DELIVERING
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4 November 2011

Dear Sir/Madam

OCCUPANCY RESTRICTIONS AND RURAL HOUSING

I am writing to clarify the Scottish Government's views on the use of conditions or planning obligations to restrict the occupancy of new rural housing.

Occupancy restrictions are typically used in Scotland to limit the occupancy of new houses in the countryside either to people whose main employment is with a farming or other rural business that requires on-site residency, or to people with a local connection. Sometimes new houses are tied to particular land holdings, preventing them being sold separately. Such restrictions have been applied either through planning conditions or Section 75 planning obligations.

A number of issues have arisen with the use of occupancy restrictions, some of which have been exacerbated by the current economic situation. Some people have found it difficult to get a mortgage to buy a house with an occupancy restriction. Others have found it difficult to sell the house, or have the restriction lifted, when they are forced by necessity to move. While it may be possible to include provisions in the condition or obligation that attempt to address these issues, any use of occupancy restrictions introduces an additional level of complexity (and potentially expense) into the process of gaining consent for a new house. Occupancy restrictions can also be intrusive, resource-intensive and difficult to monitor and enforce.

Scottish Planning Policy promotes a positive approach to rural housing. It states that development plans should support more opportunities for small scale housing development in all rural areas, including housing which is linked to rural businesses. It does not promote the use of occupancy restrictions.

The Scottish Government believes that occupancy restrictions are rarely appropriate and so should generally be avoided.

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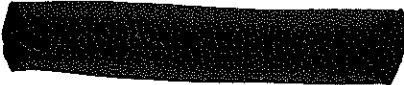


In determining an application for a new house in the countryside, it may be appropriate for the planning authority to consider the need for a house in that location, especially where there is the potential for adverse impacts. In these circumstances, it is reasonable for decision-makers to weigh the justification for the house against its impact, for example on road safety, landscape quality or natural heritage, and in such circumstances it may be appropriate for applicants to be asked to make a land management or other business case. Where the authority is satisfied that an adequate case has been made, it should not be necessary to use formal mechanisms to restrict occupancy.

The Scottish Government believes that a vibrant populated countryside is a desirable objective and that new housing to realise this aim should be well sited and designed, and should not have adverse environmental effects that cannot be readily mitigated. In areas, including green belts, where, due to commuter or other pressure, there is a danger of suburbanisation of the countryside or an unsustainable growth in long distance car-based commuting, there is a sound case for a more restrictive approach. In areas where new housing can help to support vibrant rural communities or sustain fragile rural areas, planning authorities should seek to support suitable investment in additional provision, focussing on the issues of location, siting, design and environmental impact rather than seeking to place restrictions on who occupies the housing.

Where sites are considered unsuitable for new housing, more acceptable locations will often exist elsewhere on the same landholding or nearby, and planning authorities can assist applicants by advising where these are.

Yours faithfully



JAMES G MACKINNON

Issue 25	Countryside and Coast	
Development plan reference:	Diverse Countryside and Coastal Areas: Development in the Countryside (Pgs 118-122)	Reporter: Jo-Anne Garrick
Body or person(s) submitting a representation raising the issue (including reference number):		
<p>Hew Balfour (0057) Historic Environment Scotland (0228) Scottish Natural Heritage (0280) Wemyss & March Estates (0315) Mr W A Dodd (0323) Scottish Power Energy Networks (0338) Cappoquin Properties Ltd. (0339) Karting Indoors Ltd.(0342) Fisherrow Waterfront Group (0344) Homes for Scotland (0353) David Campbell (0361) Near na Gaoithe Off-shore Wind Ltd (0386) Scottish Government/Transport Scotland (0389) Francis Ogilvy (0419)</p>		
Provision of the development plan to which the issue relates:	Policy DC1: Rural Diversification Policy DC2: Conversion of Rural Buildings to Housing Policy DC3: Replacement Dwellings in the Countryside Policy DC4: New Build Housing in the Countryside Policy DC5: Housing as Enabling Development Policy DC6: Development in the Coastal Area	
Planning authority's summary of the representation(s):		
<p>Policy DC1: Rural Diversification</p> <p><u>Wemyss & March Estates (0315/1)</u></p> <p>Respondent has redrafted a new Policy DC1 that seeks to include economic need as a justification for development in the countryside without any caveat on its scale and character; any proposal that diversifies an existing business without any caveat as to what that existing business may be, provided it creates permanent employment; any tourist accommodation proposal in the countryside as long as there is no adverse impact on surroundings and neighbouring uses; to permit the principle of new build housing development to cross fund an employment, tourism or leisure use and any other business use where it is of appropriate scale or character for its proposed location in the countryside provided it can be suitably serviced and accessed and there are no significant traffic or other environmental impacts; any leisure or tourism or infrastructure development that has a clear operational requirement for a countryside location if any potential detrimental impact can be outweighed by its social and economic benefits.</p> <p><u>Karting Indoors Ltd.(0342/4)</u></p> <p>Policy DC 1 para 5.5-5.7 should be amended and state: Rural diversification in the</p>		

countryside including changes of use or conversions of existing buildings will be supported in principle where it is for:

- a) agriculture, horticulture, forestry, infrastructure or countryside recreation; or
- b) other businesses that have an operational requirement for a countryside location, including tourism and leisure uses or:
- c) ***other non rural uses that have an operational requirement that cannot be met on a site within an existing urban area.*** Proposals must also satisfy the terms of Policy NH1 and other relevant plan policies including Policy DC6. Proposals for mineral extraction and renewable energy will be assessed against the other relevant policies of the Plan, character and designed in such a way that maintains or complements their layout and appearance.

Policy DC2: Conversion of Rural Buildings to Housing

Wemyss & March Estates (0315/2)

Respondent has redrafted a new Policy DC2 that makes no significant change to the policy but includes a reference to the change of use of garden ground.

David Campbell (0361/8)

Recast final sentence of policy DC2: "In all cases, no demolition should be undertaken before planning approval is granted. As part of planning permission an archaeological record may be required. HES guidance on the conversion of historic agricultural buildings should be followed and all original features such as doors, windows, roofing materials and ground treatment preserved where possible. For new work, the external finishes "

Policy DC3: Replacement Dwellings in the Countryside

Wemyss & March Estates (0315/3)

Respondent has redrafted a new Policy DC3 that adds new circumstances where a replacement house may be justified; to accommodate modern living where the carbon footprint is significantly lower than the original and the scale of the new house is broadly similar and original materials are reused as far as possible.

Policy DC4: New Build Housing in the Countryside

Scottish Natural Heritage (0280/17)

Policy DC6 sets out constraints and requirements in relation to the coast. Policy DC4 should therefore refer to that policy in caveat (iii) rather than emphasise one particular definition of countryside and coast.

Wemyss & March Estates (0315/4)

Respondent has redrafted a new Policy DC4 to include references to Section 75 legal agreements to secure the occupation of a new house in the countryside and to tie its occupation to the business which justified it in the first place. It also introduces a new section allowing one/two new build or converted dwellings per plan period where there are 5 existing units or where the site is well related to an existing group of houses or buildings capable of conversion and where the cumulative impact of the whole development and the

completed group of buildings does not adversely affect their character or that of their surroundings or area appropriate infill sites or is development on rural brownfield land or is a conversion or replacement of a redundant non domestic building.

Cappoquin Properties Ltd.(0339)

The representation seeks to amend Policy DC4 New Build Housing in the Countryside suggesting two stances which the LDP could adopt: Stance A – Remove the Affordable Requirement for Policy DC4 (iii) to allow market housing to be built in the East Lothian countryside, and Stance B – Accept and Continue Policy DC4 as per the Proposed LDP but provide further clarification as to how it should be applied in the future with specific reference to the identification of need as referred to in the policy. Suggests a small site at Liberty Hall near Gladsmuir would be suitable for residential development in the countryside. The site is effective and could be developed for affordable or mainstream housing.

Homes for Scotland (0353/10)

Policy DC4: New Build Housing in the Countryside is overly restrictive and does not include the necessary flexibility to allow small settlements to grow and change over time to add to the diverse mix of settlements in East Lothian. There is currently no mechanism to allow small settlement groups or clusters to grow incrementally over time to make use of existing infrastructure in place to serve these clusters.

Scottish Government/Transport for Scotland (0389/9)

The representation refers to and expands upon comments to an earlier draft of the proposed plan and note that no changes have been made in this regard.

The Scottish Government appreciates that paragraph 5.10 aims to set out the circumstances in which development outwith settlements may be appropriate so is partly in accordance with paragraph 81 of SPP. However, the second part of the paragraph sets out circumstances in which housing will be tied to businesses in every such circumstance. This would appear to require occupancy restrictions, so if this is not the case, this should be clearly explained. If this will require occupancy restrictions, it is contrary to SPP policy which states that occupancy restrictions should be avoided. Given that a policy such as this that requires them in every circumstance it is not considered that this can be considered ‘avoiding the use of occupancy restrictions’.

Policy DC5: Housing as Enabling Development

Historic Environment Scotland (0228/2)

The representation welcomes the policy support for the restoration of listed buildings or other designated features. Policy DC5 notes that enabling development will fund the restoration of an asset and Historic Environment Scotland recommends that a clear statement is made that it should be the only option to save an asset from loss or potential loss. Historic Environment Scotland welcomes the acknowledgement of the requirement to protect the setting of cultural heritage assets in this policy. The policy also states that enabling development must be on the same site as the main proposal. This may limit the possibilities of protecting or enhancing the setting of an asset, and Historic Environment Scotland would therefore recommend that this is altered or clarified.

(The reporter may wish to note that Historic Environment Scotland has additionally provided a number of notes, advice and comments on a variety of sites across all cluster areas in the LDP many of which are on the development briefs and the Environmental Report. The Council submits that these are not representations to the LDP and has not therefore formally recorded these or responded to them. Where relevant, these will be taken into consideration at the time of finalising development briefs or at the time of a relevant planning application).

Wemyss & March Estates (0315/5)

Respondent has submitted a redraft of Policy DC5 but there are no changes to this policy.

Mr W A Dodd (0323/4)

The practice of allowing housing as enabling development is an abuse of the planning system and should no longer be tolerated. The Council should grant aid deserving development, to ensure development occurs in the right places.

Policy DC6: Development in the Coastal Area

Scottish Natural Heritage (0280/18)

The term “*Largely Unspoiled Coast*” used in Policy DC6 does not appear elsewhere in the Proposed Plan or Technical Note 7. SNH recommend it is changed to “*Unspoiled Coast*” to ensure clarity and consistency throughout the Proposed Plan and supporting documents. The Natura caveat used in Policy DC6 represents good practice. However, it does not align with caveats used elsewhere in the Proposed Plan. As the full caveat is used in Policy NH1 we suggest that the shorter caveat used in other Policies would be sufficient in Policy DC6.

Wemyss & March Estates (0315/6)

Respondent has submitted a redraft of Policy DC6 but there are no changes to this policy.

Fisherrow Waterfront Group (0344/2)

To counteract the loss of green space and green corridor, facilities that draw people to Musselburgh such as the harbour and waterfront should be enhanced – but the LDP does not mention these areas at all. The LDP should support appropriate economic activity at the countryside and coast but mentions of coast are limited and lacking completely in the tourism section. The council should do more to celebrate its coastal assets, support its coastal communities and recognise their potential for employment generation. Fisherrow and Musselburgh together have untapped potential to become a recreational hub with a sustainable visitor and community centre.

Development in the Countryside Miscellaneous

Scottish Natural Heritage (0280/16)

Review extent of “constrained and developed coast” shown in diagram 5.

Wemyss & March Estates (0315/8)

Welcomes changes to policies but considers they still require further flexibility to ensure rural business and development opportunities are not stifled by an unnecessarily cautious policy approach. Not asking for tacit planning permission to develop across huge swathes of countryside but to permit appropriately scaled and designed development to maintain rural populations enable farms and businesses to diversify or establish in the countryside.

Scottish Power Energy Networks (0338/3)

General amendments to policies for development in the countryside to protect and not prejudice Scottish Power Energy Networks ability to enhance the high voltage electricity transmission network within East Lothian. To this end, amendments to Policy DC1 are suggested to introduce a read across and acknowledgement of the positive stance of Policy EGT1 including the suggested modifications. Amendments to policy DC4 to ensure that new housing in the countryside does not prejudice the delivery of development covered by Policy EGT1 (b) including the suggested modifications. Similar changes are suggested in respect of Policy DC6 in respect of development in coastal areas, and in respect of paragraph 5.7 as a pre-amble to policy DC1.

Neart na Gaoithe Off-shore Wind Ltd (0386/3)

Neart na Gaoithe Off-shore Wind Ltd seek general amendments to policies for development in the countryside to protect and not prejudice its ability to enhance the high voltage electricity transmission network within East Lothian. To this end, amendments to Policy DC1 are suggested to introduce a read across and acknowledgement of the positive stance of Policy EGT1 including the suggested modifications. Amendments to policy DC4 to ensure that new housing in the countryside does not prejudice the delivery of development covered by Policy EGT1 (b) including the suggested modifications. Similar changes are suggested in respect of Policy DC6 in respect of development in coastal areas, and in respect of paragraph 5.7 as a pre-amble to policy DC1.

Francis Ogilvy (0419/1)

The reference to the countryside and the part it can play in the wellbeing and economic development of the county is welcomed, though greater emphasis on the contribution appropriate development can play is to be encouraged. In particular, there remains a presumption against new build housing in most circumstances in Policies DC1-3 and DC5. Is this necessary when there is a desire to see variety of good architectural design. When housing is expected in only large groups individuality will be stifled and the benefit for local contractors will not be won. Opportunities for self build affordable housing may also be lost.

Development in the Countryside support**Policy DC4: New Build Housing in the Countryside**Hew Balfour (0057/2)

Supports Policy DC4 - New Build Housing in the Countryside.

Modifications sought by those submitting representations:

Policy DC1: Rural Diversification

Wemyss & March Estates (0315/1)

Amendments to Policy DC1 Rural Diversification (refer to full representation for text)

Karting Indoors Ltd.(0342/4)

Add a third criteria to DC1 - Rural diversification in the countryside including changes of use or conversions of existing buildings will be supported in principle where it for: - a) agriculture, horticulture, forestry, infrastructure or countryside recreation; or b) other businesses that have an operational requirement for a countryside location, including tourism and leisure uses or: c) other non rural uses that have an operational requirement that cannot be met on a site within an existing urban area.

Policy DC2: Conversion of Rural Buildings to Housing

Wemyss & March Estates (0315/2)

Amendments to Policy DC2 Conversion of Rural Buildings to Housing (refer to full representation for text)

David Campbell (0361/8)

Recast final sentence of policy DC2: "In all cases, no demolition should be undertaken before planning approval is granted. As part of planning permission an archaeological record may be required. HES guidance on the conversion of historic agricultural buildings should be followed and all original features such as doors, windows, roofing materials and ground treatment preserved where possible. For new work, the external finishes "

Policy DC3: Replacement Dwellings in the Countryside

Wemyss & March Estates (0315/3)

Amendments to Policy DC3 Replacement Dwellings in the Countryside (refer to full representation for text)

Policy DC4: New Build Housing in the Countryside

Scottish Natural Heritage (0280/17)

Policy DC4 should be amended to refer to Policy DC6 rather than NH1.

Wemyss & March Estates (0315/4)

Amendments to Policy DC4 New Build Housing in the Countryside (refer to full representation for text)

Cappoquin Properties Ltd. (0339)

We would therefore propose that the policy wording should be amended or a new policy be formed to read as follows: Additions to clusters will be acceptable where: A. The proposal is sympathetic to the character and landscape setting of the existing cluster. Cappoquin Ltd East Lothian LPD – Proposed Plan Representation Development at Liberty Hall Site for Housing B. The development represents the sensitive in-filling of any available gap sites consolidating existing dwellings within the cluster. C. The development has a clear relationship with the existing cluster by being physically connected with the cluster. D. The proposed design solution is in keeping with the character and built form of the existing cluster and otherwise complies with design guidance in the supplementary guidance.

E. The proposal does not expand the cluster by more than 50% of the number of houses within that group (rounded up to nearest single dwelling house) as at date of adoption of this policy (or supplementary guidance). Additions to clusters will not be acceptable where:

- The cluster is located within the greenbelt.
- The development results in the coalescence of settlements.
- The development extends/creates a ribbon of development.
- The development has an unacceptable impact on the character of the existing building group or its landscape setting and settlement.

NOTE: In applying LDP Policy: Rural Housing, (or supplementary guidance) ,a 'cluster' is defined as a building group consisting of 2 or more houses forming a clearly identifiable 'group', with strong visual cohesion and sense of place.

Homes for Scotland (0353/10)

Policy DC4: New Build Housing in the Countryside should include a category to allow for the redevelopment of vacant rural brownfield land. Furthermore it should allow for the expansion of existing settlement groups or clusters of homes of 4 or more houses.

Scottish Government (0389/9)

Page 120, paragraph 5.10: change 'Housing permitted in these circumstances will be tied to the business for which it is justified',

to: 'Housing permitted in these circumstances may in exceptional circumstances be tied to the business for which it is justified'.

Policy DC5: Housing as Enabling DevelopmentHistoric Environment Scotland (0228/2)

Paragraph 5.12 of the plan should be altered to clarify Policy DC5 and the location of enabling proposals.

Wemyss & March Estates (0315/5)

No modification sought

Mr W A Dodd (0323/4)

Suggested Replacement text to Policy DC5: "Due to advances in planning optimum

provision of housing land, the practice of permitting the erection of housing as enabling development, will no longer be supported.”

Policy DC6: Development in the Coastal Area

Scottish Natural Heritage (0280/18)

Policy DC6 should be amended to refer to “*Unspoiled Coast*” rather than “*Largely Unspoiled Coast*”.

Policy DC6 has a more comprehensive Natura caveat than other policies and it is unclear why this detail is required in this particular case. To align with other Policy caveats, SNH recommend it is amended to:

“Proposals must be accompanied by project specific information to inform a Habitats Regulations Appraisal and, if necessary, an Appropriate Assessment under the Habitats Regulations”.

Wemyss & March Estates (0315/6)

No Modification sought

Fisherrow Waterfront Group (0344/2)

LDP should support appropriate economic development on the coast, specifically mention waterfront enhancement and a recreational hub at Musselburgh/Fisherrow.

Development in the Countryside Miscellaneous

Scottish Natural Heritage (0280/16)

Spatial Strategy Diagram 5 should:

1. Separate out the different categories of ‘constrained’ and ‘developed’ coast to align with Policy DC6: Development in the Coastal Area;
2. Be updated to accurately reflect the extent of unspoiled coast.

Wemyss & March Estates (0315/8)

Modifications proposed in the form of redrafted policies as set out in the submission (0315)

Scottish Power Energy Networks (0338/3)

Replace second paragraph of policy DC1 as follows: Proposals must also satisfy the terms of policy NH1 and other relevant plan policies, including DC6 as well as taking account of Policy EGT4(b); add new criterion to Policy DC4 as follows: ‘the development does not prejudice the delivery of development covered by Policy EGT4(b).’; add new sentence after third bullet point of Policy DC6 as follows: ‘In all cases development will only be supported where it does not prejudice the delivery of development covered by Policy EGT4(b); at the end of paragraph 5.7 include: ‘Policies relating to development in the countryside or in

coastal areas ensure that nationally significant electricity transmission infrastructure developments will be facilitated and safeguarded against proposals which might prejudice their delivery.'

Neart na Gaoithe Off-shore Wind Ltd (0386/3)

Replace second paragraph of policy DC1 as follows: Proposals must also satisfy the terms of policy NH1 and other relevant plan policies, including DC6 as well as taking account of Policy EGT4(b); add new criterion to Policy DC4 as follows: 'the development does not prejudice the delivery of development covered by Policy EGT4(b).'; clarify in Policy DC4 whether 'and' or 'or' applies between the bullet points; add new sentence after third bullet point of Policy DC6 as follows: '(iv) In all cases development will only be supported where it does not prejudice the delivery of development covered by Policy EGT4(b); at the end of paragraph 5.7 include: 'Policies relating to development in the countryside or in coastal areas ensure that nationally significant electricity transmission infrastructure developments, such as on-shore infrastructure associated with the Neart na Gaoithe Offshore Wind Farm, will be safeguarded against proposals which might prejudice their delivery.'

Francis Ogilvy (0419/1)

No specific modification suggested, but implication is that a presumption against new build housing in the countryside should be removed from policies DC1 – 3 and DC5 which should be more permissive in this regard.

Development in the Countryside support

Hew Balfour (0057/2)

No modification sought

Summary of responses (including reasons) by planning authority:

Policy DC1: Rural Diversification

Wemyss & March Estates (0315/1)

The Council notes that the respondent has redrafted a new Policy DC1 that seeks to include economic need as a justification for development in the countryside, without any caveat on its scale and character; that seeks to permit any proposal that diversifies an existing business if it creates permanent employment, without any caveat as to what that existing business may be; that seeks to permit any tourist accommodation proposal in the countryside as long as there is no adverse impact on surroundings and neighbouring uses; that seeks to permit the principle of new build housing development to cross fund an employment, tourism or leisure use and any other business use where it is of appropriate scale or character for its proposed location in the countryside provided it can be suitably serviced and accessed and there are no significant traffic or other environmental impacts; and seeks to permit any leisure or tourism or infrastructure development that has a clear operational requirement for a countryside location if any potential detrimental impact can be outweighed by its social and economic benefits.

The Council submits that Policy DC1 of the LDP is supportive in principle of countryside

businesses but also has necessary and appropriate caveats which enable the planning authority to ensure that appropriate economic benefits can be derived and countryside businesses prosper without undue negative impacts on the countryside. The Council considers that to change the policy in the way suggested would open the countryside of East Lothian to almost any development proposal as most could be argued to be of some economic benefit. The Council submits that while this might be an appropriate response in a remote part of the Scottish countryside that is in need of regeneration, it is not appropriate in a pressured area of countryside in close proximity to the city of Edinburgh as noted in the Council's Issue 25 Development in the Countryside Position Statement (CD065). For reasons of sustainability new housing development should be directed towards existing settlements rather than countryside locations. The Council also rejects the principle suggested that new build housing development should be permitted to cross fund an employment, tourist, leisure or business proposal. The Council submits that Policy DC5 allows for enabling development only in exceptional situations.

However, the Council also notes that the representation effectively seeks to clarify the text in para 5.5 that states that new business use may also seek to establish in East Lothian's countryside by suggesting that the Policy DC1 be amended by inclusion of support for business in the policy wording subject to the caveat that it is of an appropriate scale and character. The Council notes that this would remove the need to demonstrate an operational requirement for a countryside location. If the Reporter considers that there should be further scope for business as well as other uses, whether there is an operational requirement for a countryside location or not, the Policy may be amended to support proposals that are of an appropriate scale and character for the rural character and appearance of their proposed location and there are no significant traffic or other environmental impacts. Similarly an addition could be made to the end of line 6 of the policy after '..DC6', to read 'and have no adverse impact on the amenity of neighbouring uses'. **The Council submits that no modification is necessary.**

Karting Indoors Ltd.(0342/4)

The Council submits that para 5.5 indicates support for new business use in the countryside but acknowledges that Policy DC1 seeks to restrict this to those that have an operational need for a countryside location only. The Council notes that this would remove the need to demonstrate an operational requirement for a countryside location. If the Reporter considers that there should be further scope for business as well as other uses, whether there is an operational requirement for a countryside location or not, the Policy may be amended to support proposals that are of an appropriate scale and character for the rural character and appearance of their proposed location and there are no significant traffic or other environmental impacts. Similarly an addition could be made to the end of line 6 of the policy after '..DC6', to read 'and have no adverse impact on the amenity of neighbouring uses'. The Council submits that this might clarify the text in para 5.5 as it relates to new business in the countryside with an appropriate caveat on its size and character to ensure that it is appropriate for its proposed countryside location. **The Council submits that no modification is necessary.**

Policy DC2: Conversion of Rural Buildings to Housing

Wemyss & March Estates (0315/2)

The Council notes the suggested changes but considers that the present wording in the Proposed LDP which incorporates these suggested changes is sufficient. The reference to

changes of use of garden ground is dealt with by the Proposed LDP in Policy OS2. **The Council submits that no modification is required.**

David Campbell (0361/8)

The Council submits that the comments made by this representation are not necessary to be included in the policy wording. Instead they would be more relevant to supplementary guidance. The LDP should be read as a whole. **The Council submits that no modification to the LDP is necessary.**

Policy DC3: Replacement Dwellings in the Countryside

Wemyss & March Estates (0315/3)

The Council notes the redrafted policy wording submitted in this representation. The Council supports those parts of the redrafted policy that are included in Policy DC3 but does not support the new suggested section (iii). The Council submits that the phrase 'modern living' is too vague; that the introduction of a carbon footprint argument in favour of new housing would be unnecessarily complicated and the use of phrases such as 'broadly similar' and 'as far as possible' lack the precision to enable the policy to be clear. The Council submits that the policy as worded in the Proposed LDP is clear and notes that it is based on the consultation in the MIR which introduced the change to the policy by including like for like replacement of a dwelling rendered uninhabitable by unforeseen circumstances. The Council also submits that in respect of sub section (ii) of the LDP policy this adequately deals with the replacement of existing dwellings that are incapable of habitation due to the construction of the building to avoid such a building remaining derelict in the countryside. The Council submits that to extend the policy further in the way that is suggested by this representation would result in existing buildings of character in the East Lothian countryside being replaced with larger properties that may no longer relate to other buildings in the locality to the overall detriment of the East Lothian countryside. **The Council submits that no modification of the LDP is necessary.**

Policy DC4: New Build Housing in the Countryside

Scottish Natural Heritage (0280/17)

The Council submits that the correct policy for Policy DC4 to be cross referenced to is Policy NH1: Protection of Internationally Designated Sites. Policy DC6 applies if a proposal is in one of the coastal areas to coastal areas. The plan needs to be read as a whole. **The Council submits that no modification of the LDP is necessary.**

Wemyss & March Estates (0315/4); Homes for Scotland (0353/10)

The Council notes that this representation redrafts the policy to include references to section 75 legal agreements to secure the occupation of a new house in the countryside and to tie its occupation to the business which justified it in the first place. The Council submits that such occupancy restrictions are no longer supported by SPP (2014) (CD013). The representation also suggests a new part b) to the policy that would permit new houses in the countryside in situations where there is a building group or in more rural areas where there would be tangible community, economic or environmental benefit. The Council submits that for the reasons noted in the Council's Issue 25 Development in the Countryside Position Statement (CD065), East Lothian is a pressured and growing area

within easy commuting distance of Edinburgh and for reasons of sustainability new houses should be directed towards existing settlements in line with paras 75, 76 and 81. The Council continues to actively support the restoration and conversion of buildings of architectural or historic character in the countryside, which as noted in the Monitoring Statement (CD040) para 189, has resulted in the successful conversion of many traditional, vernacular and other buildings in the countryside to the benefit of the overall appearance of the East Lothian countryside. There are many more vacant and underused traditional buildings existing all over the East Lothian countryside that the Council submits should be considered for conversion to new uses, including housing. The Council submits that the market for this conversion work would be undermined by the introduction of policy amendment as suggested by this amendment that would open the countryside to new build market housing. The Council notes that there was very little support from members of the public and community councils to opening the countryside up to new housing in the submissions received to the MIR, though most of the landowners, agents and developers that responded were keen to see more development in the countryside.

The Council also consulted at MIR stage on whether to be more supportive towards new build affordable housing in the countryside. The position statement explains the reasons behind this. The Council submits that it has responded positively and appropriately in Policy DC4 to permit new build affordable housing proposals in the countryside and together with Policy DC2 this promotes an appropriate level of housing for East Lothian's particular circumstances. This will permit small settlement groups or clusters to grow incrementally. The Council submits that its approach to new housing development in the countryside is in line with SPP (2014) (CD013) and is an appropriate policy response for its area. **The Council submits that no modification to the LDP is necessary.**

Cappoquin Properties Ltd. (0339)

As explained in LDP para 5.8, p52 Housing in the Countryside and in the Council's Issue 25 Development in the Countryside Position Statement (CD065), the East Lothian countryside and coast is not an area that requires regeneration, rather it is a pressured location within easy commuting distance of Edinburgh and larger East Lothian towns (CD026). The Council therefore considers that new housing should be located within existing towns and villages as identified on the Proposals Map. The remaining land between these settlements is countryside and is not suitable for new housing development except in limited circumstances. These include conversion of appropriate vernacular buildings in the countryside, in a manner which maintains the character of the East Lothian countryside. The Council has also considered the situation where some local workers or residents in the countryside are priced out of market housing in the countryside and sought to address this by allowing small scale affordable new build housing where there is an identified need in the local area as explained in para 5.10 and 5.11 on p 120 and 121. To open the countryside to speculative market housing could undermine the market for conversion of buildings of character in the East Lothian countryside, provide houses in unsustainable locations without access to public transport or services and do little to regenerate any rural economy. The proposed site at Liberty Hall is too small to merit allocation within the LDP. It should be dealt with by way of a planning application determined against plan policy and any other material considerations. To comply with the LDP it would have to be a small scale development affordable housing and the need for such a development would have to be established and the houses provided by a registered social landlord. The Council does not support its development for market housing. **The Council submits that no modification is required.**

Scottish Government (0389/9)

The Council submits that Policy DC4 does not explicitly refer to the need for occupancy restrictions either for single houses or for affordable housing, however it acknowledges that paragraph 5.10 does state that housing permitted in the circumstances of an operational requirement in conjunction with a business will be tied to the business for which it is justified. The Council considers that the removal of this would in itself undermine the policy.

The Council submits that no other modification is required.

Policy DC5: Housing as Enabling DevelopmentHistoric Environment Scotland (0228/2)

The Council welcomes the support from Historic Environment Scotland for the restoration of listed buildings and other designated features offered by Policy DC5. However, the Council submits that the LDP should be read as a whole and that allowing enabling proposals off site may not be acceptable in terms of other policies in the plan. The Council submits that the final sentence in Policy DC5 adequately addresses the point made by the representation that enabling development should be the only option to save an asset from loss/potential loss. The Council acknowledges that enabling development on the same site can have an effect on the setting of the asset but that this requires to be considered in light of the development proposal as a whole; if it is unacceptable in terms of causing such harm to the asset because of its proximity or other impact it will not be acceptable and an alternative will need to be found. The Council will clarify the operation of this policy in supplementary guidance to be prepared after the Examination. **The Council submits that no modification is required.**

Wemyss & March Estates (0315/5)

Noted. **The Council submits that no modification is required.**

Mr W A Dodd (0323/4)

The Council submits that Policy DC5 would only support housing within the countryside as enabling development in exceptional circumstances. These are listed in the policy and the Council submits that the policy allows for this where it would contribute to rural diversification or the retention of cultural heritage assets, subject to the provisions of the policy. This will help sustain and diversify the rural economy and communities and allow positive reuse and/or restoration and enhancement of the cultural heritage assets. The Council submits that this is an appropriate approach to follow. There is little prospect of funding to allow grant aiding of proposals, regardless of the consideration of any appropriateness or assessment of it. **The Council submits that no modification is required.**

Policy DC6: Development in the Coastal AreaScottish Natural Heritage (0280/18)

The Council is satisfied with the scope and wording of Policy DC6 as drafted in the Proposed Plan and is therefore not minded to modify it in response to this representation. Should the Reporter consider amendments are required for additional clarity this proposal could be considered. **The Council submits that no modification is required.**

Wemyss & March Estates (0315/6)

Noted. **The Council submits that no modification is required.**

Fisherrow Waterfront Group (0344/2)

The Council submits that the LDP protects open green space through Policy OS1 and in new development requires new green space to be provided see LDP paras 3.125 – 3.131. It also mitigates against the loss of green belt land by proposing a new green network (LDP para5.24-5.26 and Policy DC10) and by a new designation Countryside Around Towns (paras 5.20-5.22 and Policy DC8). Fisherrow harbour in Musselburgh is an operational harbour which is referred to in LDP para 3.24 and Policy EMP2: Operational Harbours. Within the specific policy boundary uses related to fishing or other industry connected with the harbour are preferred with other uses considered provided they do not prejudice the fishing or other industrial uses. The Council considers that this would not preclude harbour recreational or other employment development in principle. The Fisherrow Links are protected by Policy OS1: Protection of Open Space. The LDP Proposals Map defines the coast at Musselburgh as Developed Coast adjacent to the town and Constrained Coast beyond the low water mark. Coastal Development is dealt with by Policy DC6: Development in the Coastal Area which guides development to suitable locations of the coast, subject to appropriate assessment as to whether it has a significant effect on a Natura 2000 or Ramsar site and under the Habitats Regulations Appraisal. Not all areas of coast are therefore suitable for development and each development proposal will require to be assessed individually. Para 3.26 of the Tourism section identifies that a balance has to be struck between encouragement of tourism and the protection of for example, important landscapes and nature conservation interests. The Council considers that it has the right balance to this in the LDP. **The Council submits that no modification is required.**

Development in the Countryside MiscellaneousScottish Natural Heritage (0280/16)

The Council submits that the spatial strategic diagram 5 indicates a number of different natural heritage and countryside issues and is a diagram not a map. The details of the coastal area are clearly shown on Inset Map 4. **The Council submits that no modification is required.**

Wemyss & March Estates (0315/8)

The Council submits that the policies that it proposes for the countryside in the LDP reflect the character of the East Lothian countryside and have been in operation for a number of years to the benefit of the character and appearance of the East Lothian countryside, which the Council considers is a major asset in a tourist area. The Council notes that the MIR Monitoring Statement (CD040) provides information on how the policies worked since the East Lothian Local Plan 2008 was in operation and submits that it demonstrates that the policies of that plan continued to allow housing and non housing development throughout the rural area. The Council has considered and responded in an appropriate and measured way to the need for affordable housing in the countryside which should benefit some countryside workers who may at present commute out to the countryside for work because of the lack of affordable housing in the countryside. The Council submits that the right balance for East Lothian is to continue to direct most housing to existing settlements, many of which are rural villages, to continue to encourage the conversion of

vacant property in the countryside and to continue to support rural diversification of an appropriate scale and character for the countryside including tourist, countryside recreation and other business use. **The Council submits that no modification is required.**

Scottish Power Energy Networks (0338/3)

The Council submits that it is premature to safeguard routes for potential enhancements to the High Voltage Electricity Transmission Network for the reasons given in response to representation 0338/2 at Issue 22b. As such, the relevant modifications to policies that seek to control development within the countryside such that it does not undermine these routes are not supported either. The Council further submits that the LDP should be read and applied as a whole, and the manner in which this should be done is explained at para 1.8 of the plan – i.e. the decision maker will determine how much weight ought to be applied to the different policies of the plan in the circumstances of the case. The Council submits that it is therefore unnecessary to include specific cross reference to a modified Policy EGT4 in the terms of policies that seek to control development within the countryside. Where there are existing routes, and/or consented sites/routes for such enhancements, the existence of these will be a material consideration in the determination of any planning application/agricultural notification. The Council submits that part a) of policy DC1 supports the principle of ‘infrastructure’ provision within the countryside, subject to compliance with other relevant policies of the plan, so enhancement to the High Voltage Electricity Transmission Network would be supported in principle by Policy DC1. In circumstances where there is read across within Policy DC1, this is to highlight where there are other specific policy areas that overlap with policy DC1 designations, or where there is a need to consider international natural heritage designations, or development types that don’t benefit from national development status but are so significant that a signpost within Policy DC1 to their own specific policy areas is justified. Overall, the Council submits that NPF3s (CD011) definition of National Development 4 is sufficiently flexible to meet the intended purpose of that national development. **The Council submits that no modification is required.**

Neart na Gaoithe Off-shore Wind Ltd (0386/3)

The Council submits that it is premature to safeguard routes for potential enhancements to the High Voltage Electricity Transmission Network for the reasons given in response to representation 0386/2 at Issue 22b. As such, the relevant modifications to policies that seek to control development within the countryside such that it does not undermine these routes are not supported either. In terms of whether ‘and’ or ‘or’ applies between the criterion of Policy DC4, the Council submits that the policy is clear: there is an ‘or’ between criterion (i) and (ii); criterion (ii) uses the word ‘other’ to differentiate between proposals for single houses; and there is a full stop after criterion (ii), meaning that creation (iii) applies to all proposals. The Council further submits that the LDP should be read and applied as a whole, and the manner in which this should be done is explained at para 1.8 of the plan – i.e. the decision maker will determine how much weight ought to be applied to the different policies of the plan in the circumstances of the case. The Council submits that it is therefore unnecessary to include specific cross reference to a modified Policy EGT4 in the terms of policies that seek to control development within the countryside. Where there are existing routes, and/or consented sites/routes for such enhancements, the existence of these will be a material consideration in the determination of any planning application/agricultural notification. The Council submits that part a) of policy DC1 supports the principle of ‘infrastructure’ provision within the countryside, subject to compliance with other relevant policies of the plan, so enhancement to the High Voltage Electricity

Transmission Network would be supported in principle by Policy DC1. In circumstances where there is read across within Policy DC1, this is to highlight where there are other specific policy areas that overlap with policy DC1 designations, or where there is a need to consider international natural heritage designations, or development types that don't benefit from national development status but are so significant that a signpost within Policy DC1 to their own specific policy areas is justified. Overall, the Council submits that NPF3s (CD011) definition of National Development 4 is sufficiently flexible to meet the intended purpose of that national development. **The Council submits that no modification is required.**

Francis Ogilvy (0419/1)

The Council submits that the right balance for East Lothian is to continue to direct most housing to existing settlements, many of which are rural villages, to continue to encourage the conversion of vacant property in the countryside and to continue to support rural diversification of an appropriate scale and character for the countryside including tourist, countryside recreation and other business use. The Council is supportive of good architectural design in line with the policies in the Design section of the LDP (See also CD065; CD075; CD174). The Council does not preclude self build affordable housing. **The Council submits that no modification is required.**

Development in the Countryside support

Hew Balfour (0057/2)

Support noted.

Reporter's conclusions:

Preliminary

1. My examination of the plan is limited by regulations to addressing only the unresolved issues which have been raised in representations. The council has listed above a number of matters raised in representations which are in support of the provisions of the plan. Therefore, unless these relate to an issue which is unresolved, they will not be addressed in my conclusions.

Policy DC1: Rural Diversification

2. Wemyss & March Estates request that Policy DC1 is amended to provide greater opportunities for rural diversification which enhances rural economic development opportunities including: diversifying existing businesses outside settlements; supporting tourism accommodation; and supporting an element of new build housing as enabling development. The representation suggests a number of amendments to Policy DC1 to achieve this and to ensure development is an appropriate scale and design, and can be accessed.

3. Paragraph 75 of Scottish Planning Policy requires the planning system to promote a pattern of development that is appropriate to the character of the particular rural area and the challenges it faces. In addition, it encourages rural development that supports prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality.

4. The council's Position Statement: Development in the Countryside and Coast sets out the reasons the East Lothian countryside is considered to be an accessible and pressured rural area and not remote. This highlights that the whole of East Lothian is no more than an hour's drive, or an easy commuting distance from Edinburgh or a 30-minute drive from Musselburgh or Tranent. There is no information before me that suggests the contrary, given its geographical position and the information provided in the position statement. I therefore agree with the council that the East Lothian countryside is an accessible and pressured rural area.

5. Paragraph 76 of Scottish Planning Policy highlights that within the pressurised areas, which are easily accessible from Scotland's cities and main towns, where ongoing development pressures are likely to continue, it is important to protect against an unsustainable growth in car based community and the suburbanisation of the countryside. Paragraph 79 provides guidance on the spatial strategy for development plans to address rural issues, including that it should:

- reflect development pressures, environmental assets and economic needs of the area, as well as reflect the overarching aim of supporting diversification and growth of the rural economy;
- promote economic activity and diversification, including, where appropriate, sustainable development linked to tourism and leisure, forestry, farm and croft diversification and aquaculture, nature conservation and renewable energy developments, while ensuring that the distinctive character of the area, the service function of small towns and natural and cultural heritage are protected and enhanced; and
- make provision for housing in rural areas in accordance with the spatial strategy, taking account of the different development needs of local communities.

6. It is therefore appropriate for the plan to be tailored to local circumstances. Policy DC1 will support development which enhances the rural economy. The policy clearly sets out the types of development that will be supported in the rural area. Criterion 'a' refers to agriculture, horticulture, forestry, infrastructure and countryside recreation development. Criterion 'b' makes reference to businesses with a specific operational requirement, including tourism and leisure; it does not include an exhaustive list. With regard to the suggestion that the policy should be amended to include opportunities for enabling development, this is included in Policy DC5: Housing as Enabling Development and does not need to be repeated within this policy.

7. The other matters regarding scale, traffic or other environmental impacts are addressed in other policies within the plan, particularly Policy DP1: Landscape Character and Policy DP2: Design. No modifications are therefore necessary in response to the representation by Wemyss & March Estates.

8. Karting Indoors Ltd state that Policy DC1 should recognise that there are many instances where development in the countryside may be required due to an operational or specific locational requirement that cannot be met on a site within the urban area. An amendment to Policy DC1 is suggested to address this issue.

9. Criterion 'b' of Policy DC1 would allow for businesses that have an operational requirement for a countryside location. I therefore find that no modifications are necessary in response to this representation.

Policy DC2: Conversion of Rural Buildings to Housing

10. Wemyss & March Estates request that Policy DC2 should be amended. The majority of changes relate to the order of words and the structure of the policy. I do not consider the amended order of words will assist with the implementation of the policy. The representation also proposes an additional criterion to address the consideration of proposals to change the use of garden ground. However, no detail is provided to explain this. Policy OS2: Change of Use to Garden Ground provides the framework for the assessment of such proposals. I therefore recommend no modifications in response to this representation.

11. Mr David Campbell requests an amendment to Policy DC2 to require that no demolition of historic assets should take place until planning permission is granted and as well as highlighting that as part of any subsequent planning approval, that an archaeological record may be required. In addition, the representation requests that Policy DC2 makes specific reference to guidance produced by Historic Environment Scotland.

12. It is a criminal offence to demolish a listed building without listed building consent. The control of development in relation to listed buildings is set out in the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Planning authorities have a legal duty to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses. The Historic Environment Scotland Policy Statement (2016) interprets this duty as a presumption against demolition. This policy statement is referred to within paragraph 6.40 of the plan and Policy CH1: Listed Buildings provides additional guidance.

13. The demolition of an unlisted building within a conservation area will normally require Conservation Area Consent. An application for consent will need to include reasons for the demolition and detailed plans of existing and replacement buildings if any are being proposed; this is addressed within Policy CH3: Demolition of an Unlisted Building in a Conservation Area. In other cases, planning permission is not normally required to demolish a building. Policy CH4: Scheduled Monuments and Archaeological Sites refers to the requirement for archaeological recording, where necessary.

14. With regard to guidance produced by Historic Environment Scotland, this is a material consideration in the determination of planning applications and is referred to within the Cultural Heritage section of the plan. As a result, it is not necessary to specifically refer to it within Policy DC2.

15. No modifications are therefore recommended in response to the representation by Mr David Campbell.

Policy DC3: Replacement Dwellings in the Countryside

16. Wemyss & March Estates request that Policy DC3 should be amended to include a specific criterion regarding the renovation or replacement of homes. The suggested additional criterion covers matters such as: supporting modern living; carbon footprint; scale; and materials. I agree with the council that Policy DC3 provides flexibility to enable the replacement of dwellings in the countryside which are incapable of retention for habitation. I also agree that the suggested additional criterion could result in buildings which are important to the character of the local area being lost. No modifications are

therefore recommended in response to this representation.

Policy DC4: New Build Housing in the Countryside

17. Scottish Natural Heritage consider that the caveat within Policy DC4 that refers to the “constrained coast” is unnecessary. Scottish Natural Heritage request that policy DC4 should be amended to refer to Policy DC6 Development in the Coastal Area rather than emphasises one particular definition of countryside and coast.

18. It is clear from Policy DC6 that the plan will only support development in the constrained coast if it requires a coastal location and within the unspoiled coast, where there is an established and specific need. I do not consider a cross reference to be necessary, as the plan should be read as a whole.

19. Wemyss & March Estates request an amendment to Policy DC4 to include a reference to a legal agreement to tie any new house to the business. In addition, the representation requests amendment to provide support for the construction or conversion of new dwellings where they meet specific criteria.

20. Cappelquin Properties Ltd also objects to the requirement within Policy DC4 that new infill or cluster development is limited to affordable housing. The representation considers that this will create an artificial barrier to development. The representation proposes two alternative approaches.

21. The first approach is that the policy wording is amended to support additions to clusters, highlighting that this approach reflects Scottish Planning Policy as an important means of sustaining and reinforcing rural communities. The second approach is to continue the policy approach as set out within Policy DC4, with clarification provided on how housing need is to be assessed and how this would be translated through Supplementary Planning Guidance. As part of the representation, a site at Liberty Hall, to the west of Haddington, is suggested as an infill housing site. Cappelquin Properties Ltd are not seeking the allocation of the site in the plan, they seek the views of the council on the site and want the plan to provide a policy framework which would support development of the site.

22. Homes for Scotland also consider Policy DC4 to be overly restrictive in that it does not provide the necessary flexibility to allow small settlements to grow and change over time. It is requested that the policy is amended to allow for the redevelopment of vacant rural brownfield land and to allow the expansion of existing settlement groups or clusters of four or more houses.

23. In response to Wemyss & March Estates, I note that paragraph 81 of Scottish Planning Policy states that the planning system should avoid the use of occupancy restrictions on housing development in rural areas. It would not be appropriate therefore for the plan to include a requirement for a legal agreement.

24. With regard to the suggested additional criteria which would support further new build housing in the countryside, for the reasons set out in paragraphs 3 to 6 above I agree with the council that it is appropriate for the plan to be tailored to local circumstances. In addition, paragraph 81 of Scottish Planning Policy provides further guidance with regard to housing development in accessible or pressured rural areas, where there is a danger of unsustainable growth. This highlights that a more restrictive approach to new housing

development is appropriate.

25. The council's position statement identifies that there is a demand for affordable housing across the entire rural area of East Lothian. As a result of the need for affordable housing and the accessible and pressured nature of the area, the council consider the most appropriate strategy to support and sustain rural communities is to:

- propose a proportionate level of housing development in existing rural settlements;
- support the conversion of rural buildings to housing, where defined criteria are met (Policy DC2);
- support replacement houses in certain circumstances (Policy DC3); and
- permit small scale new build affordable houses in rural areas (Policy DC4).

26. Given the nature and local pressures of the area, I agree with the council that to allow open market housing in the countryside could undermine the market for the conversion of buildings of character, provide houses in unsustainable locations and restrict the provision of affordable housing. Therefore I find the approach set out in the plan to be appropriate. With regard to the matter of calculating affordable housing need, raised by Cappoquin Properties, this is clearly set out within the position statement.

27. No modifications are therefore recommended in response to the representations made by Wemyss & March Estates, Cappoquin Properties or Homes for Scotland.

28. The Scottish Government acknowledge that paragraph 5.10 of the plan aims to set out the circumstances in which development outwith settlements may be appropriate. However, the paragraph suggests that occupancy restrictions would be required. The representation identifies that this approach is contrary to paragraph 81 of Scottish Planning Policy, which states that occupancy restrictions should be avoided.

29. Whilst I note the view of the council that the removal of the reference to housing permitted in these circumstances to be tied to the business for which it is justified, Scottish Planning Policy is clear. I therefore agree with the Scottish Government that the reference within paragraph 5.10 of the plan does not accord with the provisions of Scottish Planning Policy and I recommend a modification to delete this reference.

Policy DC5: Housing as Enabling Development

30. Historic Environment Scotland consider that a clear statement should be made within the plan that enabling development should be the only option to save an asset from loss or potential loss. In addition, the representation states that Policy DC5 may limit the possibilities of protecting or enhancing the setting of an asset by requiring enabling development to be on the same site as the main proposal, as a result this should be amended or the approach clarified.

31. Paragraph 142 of Scottish Planning Policy states that, with reference to listed buildings, enabling development may be acceptable where it can be clearly shown to be the only means of preventing the loss of the asset and securing its long-term future. In addition, that any development should be the minimum necessary to achieve these aims and that the resultant development should be designed and sited carefully to preserve or enhance the character and setting of the historic asset.

32. The council submit that the final sentence of Policy DC5 adequately addresses the matter of enabling development being the only option to save an asset from loss or potential loss. Whilst I note that the final sentence of the policy does make reference to ensuring the enabling development is the minimum necessary, it does not fully reflect Scottish Planning Policy; an amendment is therefore recommended.

33. With regard to the proposed requirement that the location of any enabling development must be on the same site as and part of the main proposal, the council submit that allowing enabling development off site may not be acceptable in terms of other policies in the plan. Whilst I acknowledge this, as currently written, Policy DC5 specifically excludes development taking place off site. It is possible that applicants may own or have control of land outwith the site of the listed building and it may be more appropriate to locate the new build element off site to remove potential impacts on the setting of the listed building. This type of proposal should be considered on its merits, alongside other policies within the plan and not automatically excluded; an amendment is therefore recommended.

34. Mr Dodd considers enabling development is an abuse of the planning system with its impact being unsustainable development; it should therefore not be supported in the plan. The representation states that the council should provide grant funding to appropriate developments. Paragraph 28 of Scottish Planning Policy states that the planning system should enable development that balances the costs and benefits of a proposal over the longer term. Policy DC5 will only support housing in the countryside in exceptional circumstances, where the development would bring clear benefits, which outweigh the normal presumption against new build housing development in the countryside. No modifications are therefore recommended in response to this representation.

35. Wemyss & March Estates have submitted a redraft of Policy DC5. However this appears to be identical to Policy DC5 in the plan. Therefore, I find no amendments are necessary in response to this representation.

Policy DC6 Development in the Coastal Area

36. Scottish Natural Heritage consider that as the term 'largely unspoiled coast', used in Policy DC6 and its supporting text, does not appear elsewhere in the plan or Technical Note, it should be changed to 'unspoiled coast' to ensure clarity and consistency through the plan and supporting documents. The council submit that the wording is appropriate and no changes should be made.

37. Paragraph 89 of Scottish Planning Policy states that plans should identify largely unspoiled areas of the coast as generally unsuitable for development. Whilst the council's Technical Note 7: Planning for the Coast refers to Scottish Planning Policy, it consistently uses the term 'unspoiled coast' to describe where development will only be supported where there is an established need for the development and a specific need for that particular coastal location.

38. Paragraph 5.15 of the plan highlights that the three different types of coastal areas - developed, constrained and largely unspoilt are defined on Strategy Diagram 5. However, this diagram refers to 'unspoiled coast' which is consistent with the term used in the Technical Note. I also note that Inset Map 4 refers to 'largely unspoiled coast'. In order to ensure consistency, and to reflect the background to the policy set out in the Technical Note, I find that 'unspoiled coast' is the most appropriate terminology. Therefore I

recommend modifications to paragraph 5.15, Policy DC6 and Inset Map 4 accordingly.

39. Scottish Natural Heritage state that whilst the Natura caveat used in Policy DC6 represents good practice, as it does not align with caveats used elsewhere in the plan, it should be amended. They are also unclear why this level of detail is provided within the policy. Whilst I note that the wording in Policy DC6 does not reflect precisely that of other policies, particularly those for specific site proposals, as sections of the coastline within the plan area have significant international assets, it is appropriate that further detail is included. The level of detail does not conflict with that included within other policies of the plan and given the nature of the coast I consider it appropriate to retain it within the policy.

40. Fisherrow Waterfront Group identify that there is a need for the plan to support appropriate development that enables the countryside and coastal areas to support associated economic activities. The representation expresses concern that the plan makes only limited mention of coastal areas and their potential role in driving forward economic growth, and that Musselburgh and Fisherrow together have untapped potential to become a sustainable centre with a range of attractions for visitors and local residents.

41. The spatial context of the plan highlights the importance of the coast to the environment and economy of the area. The spatial strategy highlights the need for the plan to support appropriate development that enables the coastal areas to thrive and diversify, whilst protecting what makes the area special. Policy DC6 therefore provides a framework which seeks to ensure that development proposals in coastal locations are assessed against the qualities of the coastal area and other relevant policies. No modifications are therefore recommended in response to this representation.

42. Wemyss & March Estates have submitted a redraft of Policy DC6. However this appears to be identical to Policy DP6 in the plan. Therefore, I find no amendments are necessary in response to this representation.

Development in the Countryside Miscellaneous

Spatial Strategy Diagram 5: Countryside and Coast

43. Scottish Natural Heritage consider that the Spatial Strategy Diagram 5: Countryside and Coast should separate the different categories of constrained and developed coast to align with Policy DC6, and be updated to accurately reflect the extent of unspoiled coast. I agree with the council that the required detail is included on Inset Map 4. However this is not referred to within the supporting text, so it may not be clear that this detail is available. A modification to include reference to Inset Map 4 in paragraph 5.15 is therefore recommended to ensure clarity.

Electricity transmission developments in the countryside and coastal areas

44. Scottish Power Energy Networks and Nearth na Gaoithe Off-shore Wind Ltd request amendments to Policies DC1, DC4 and DC6, and paragraph 5.7 to safeguard against inappropriate development which may prejudice the delivery of major electricity transmission developments supported by the National Planning Framework's National Development 4 and other essential upgrading works.

45. The matter of safeguarded routes for potential enhancements to the high voltage electricity transmission networks is covered in Issue 22b. Within the plan, Policy DC1

supports the principle of infrastructure provision and Policy EGT4: Enhanced High Voltage Electricity Transmission Network supports enhancement of the network subject to identified criteria. Therefore, no modifications are recommended in response to these representations.

Diverse countryside and coast general

46. Wemyss & March Estates request that the plan is modified to ensure rural business and development opportunities are not stifled by an unnecessarily cautious policy approach. The representation states that the suite of ‘DC’ policies are too prescriptive and that they should support appropriately scaled and designed development that may maintain dwindling populations and enable farm and business diversification or encourage new businesses within rural areas.

47. The representation by Francis Ogilvy also expresses concern that the plan should give greater emphasis to the contribution that appropriate development can have, with Policies DC1, DC2, DC3 and DC5 having a presumption against new build development in most circumstances. The representation also highlights the opportunities for self-build.

48. The spatial context of the plan highlights the importance of the countryside to the environment and economy of the area. The spatial strategy highlights the need for the plan to support appropriate development that enables countryside areas to thrive and diversify, whilst protecting what makes the area special. As explained within paragraphs 3 to 6 above, in accordance with paragraph 76 of Scottish Planning Policy, it is appropriate for the plan to protect against unsustainable growth in car-based community and the suburbanisation of the countryside. The suite of countryside and coast policies seek to provide a positive policy framework which support the diversification of the rural economy and the ongoing sustainability of the countryside and coast, whilst resisting the significant pressure for less sustainable development that would promote car-based travel patterns, would suburbanise the countryside or would harm the character or appearance of the area. No modifications are therefore recommended in response to the representations by Wemyss & March Estates or Francis Ogilvy.

Reporter’s recommendations:

Modify the local development plan by:

1. In paragraph 5.10, deleting the final sentence.

2. In Policy DC5, immediately following the final sentence of criterion b, adding the following:

“Enabling development will only be acceptable where it can be clearly demonstrated to be the only means of preventing loss of the asset and securing its long-term future.”

3. In Policy DC5, adding a new sentence immediately following: “Any enabling development must be on the same site as and part of the main proposal.” as follows:

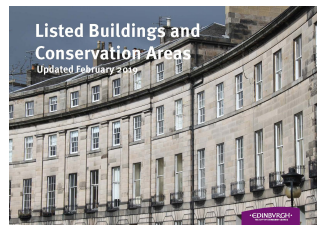
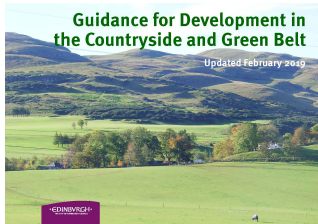
“Where the proposal will fund the restoration of a listed building, the priority is for enabling development to take place on the same site as the listed building. Any enabling development proposed off site must be clearly justified with strong evidence to demonstrate why the enabling development could not take place on the site”

4. In paragraph 5.15, deleting “largely” from the first sentence and adding the following text at the end of first sentence: “and on inset map 4”.
5. In Policy DC6, deleting “largely” from the third bullet point.
6. On the Proposals Map – Inset 4, amending the key by deleting the word “largely”.

Guidance for Development in the Countryside and Green Belt

Updated February 2019

Guidance for Development in the Countryside and Green Belt



Misc: Student Housing, Radio Telecommunications, Open Space Strategy etc.

This document and other non-statutory guidance can be viewed at: www.edinburgh.gov.uk/planningguidelines

This guidance was initially published in October 2017 and incorporates a minor update approved in February 2019.

Who is This Guidance For?

This non-statutory guidance is for anyone considering modifications or extension of existing buildings and/or promotion of new uses and buildings appropriate in the countryside and green belt areas identified in the Edinburgh Local Development Plan (LDP) Proposals Map.

New development can bring a number of benefits – assisting farm diversification, supporting the local economy and making beneficial use of an existing resource. However, the countryside and green belt also needs to be protected from inappropriate development which would detract from the rural character and landscape quality of the area.

Policy Context

This document further interprets LDP Policy Env 10 Development in the Green Belt and Countryside and will be used as a material consideration when determining planning applications.

Listed Buildings and Conservation Areas

If the building is listed or located within a Conservation Area, guidance on [Listed Buildings and Conservation Areas](#) must also be considered. Boxes throughout this guideline give specific information relating to Listed Buildings and Conservation Areas. You can check if your property is listed or located within a conservation area on the Council's website www.edinburgh.gov.uk/planning

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What Consents Might Be Required?

What does this chapter cover?

Several development consents may be required for a development to proceed. This chapter lists some examples of more common consents.

Planning Permission

Some new buildings, alterations or changes of use require planning permission. You can apply for planning permission at www.eplanning.scot.

Permitted Development

Many buildings, alterations and extensions can be carried out without the need to apply for planning permission – this is known as [Permitted Development](#) (PD). For example, a range of permitted development rights apply to land or buildings of agricultural use.

Listed Building Consent

Listed building consent is required for works affecting the character of listed buildings and also applies to the interior of the building and any buildings within the curtilage built before 1 July 1948. If your building is listed, specific guidance on [Listed Buildings and Conservation Areas](#) must also be considered along with this document.

Road Permit

You must get a permit from the Council if you want to carry out work in or to occupy a public street. [A road permit](#) will be required if forming a new access or driveway or if placing a skip or excavation in a public road. It will also be required for scaffolding or to occupy a portion of the road to place site huts, storage containers, cabins, materials or contractors plant, to put up a tower crane or to operate mobile cranes, hoists and cherry pickers from the public highway. For more information contact the Areas Roads Manager in your [Locality](#).

Building Warrant

Converted, new or altered buildings usually require a Building Warrant. There is more Building Standards information at www.edinburgh.gov.uk/buildingwarrants. For detailed information please go to the [Scottish Government website](#).



Biodiversity

Some species of animals and plants are protected by law. Certain activities, such as killing, injuring or capturing the species or disturbing it in its place of shelter, are unlawful. It is also an offence to damage or destroy a breeding site or resting place (or obstruct access to).

If the presence of a European Protected Species (such as a bat, otter or great crested newt) is suspected, a survey of the site must be taken. If it is identified that an activity is going to be carried out that would be unlawful, a licence may be required.

More information on European Protected Species, survey work and relevant licenses is available on the [Scottish Natural Heritage website](#).

Trees

If there are any trees on the site or within 12 meters of the boundary, they should be identified in the application. Please refer to the [Edinburgh Design Guidance](#).

All trees in a Conservation Area or with a Tree Preservation Order are protected by law, making it a criminal offence to lop, top, cut down, uproot wilfully, damage or destroy a tree unless carried out with the consent of the council.

General Principles

What does this chapter cover?

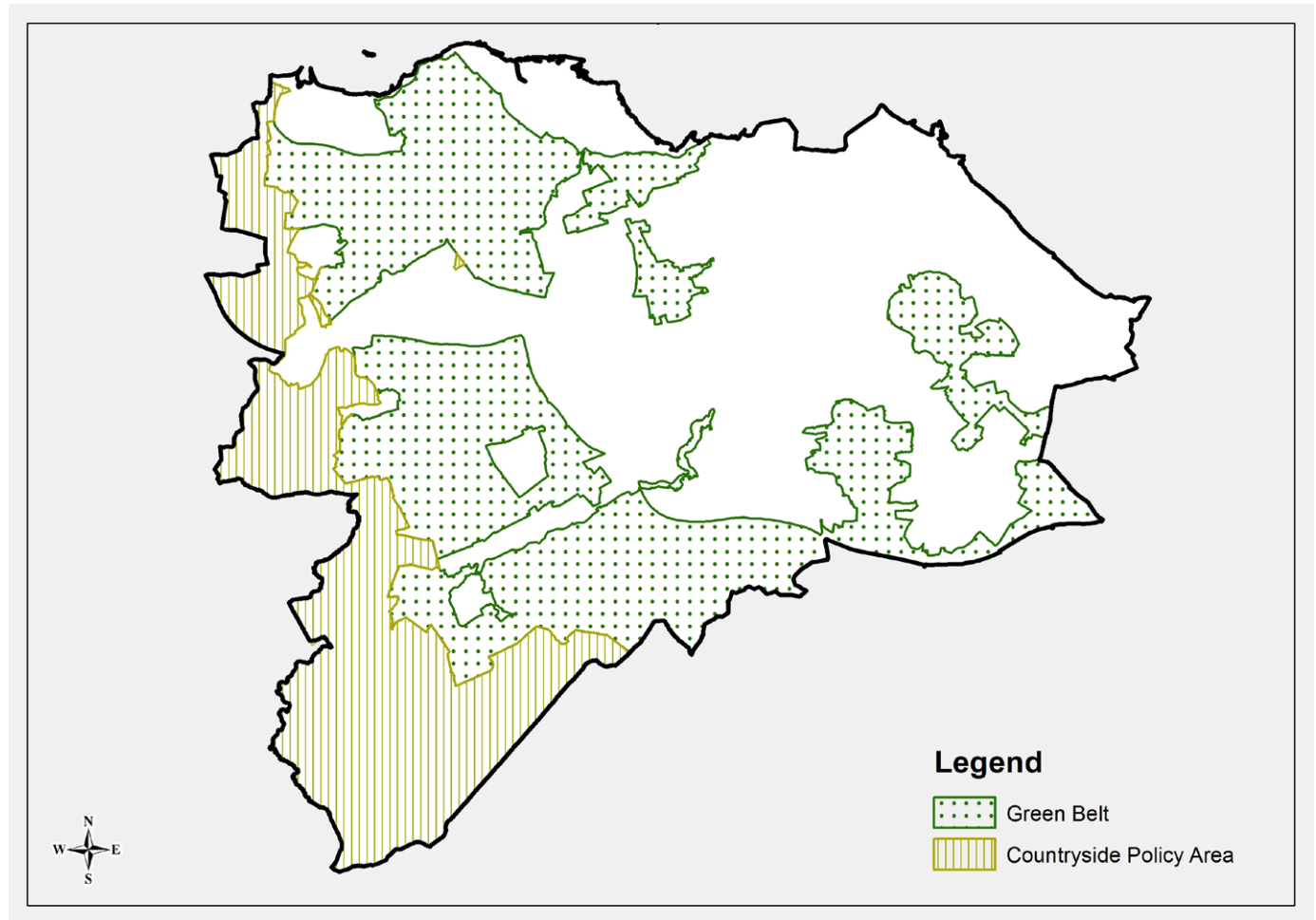
This chapter explains the general principles of acceptable development in the countryside and green belt.

Policy Env 10 of the LDP sets out the circumstances in which development will be permitted in the countryside and green belt. These include where necessary for the purpose of agriculture including farm diversification, horticulture, woodland and forestry and countryside recreation. Acceptance of the principle of a use or development does not mean that planning permission will always be granted.

Proposals also have to be assessed in terms of other relevant policies to ensure that the impact on the rural character of the countryside or green belt is acceptable. In particular, careful consideration will be given to the intensity of use and the scale, siting and design of any built elements of proposals.

This guidance does not make provision for new build housing in the countryside or green belt areas, other than the very limited circumstances identified in the section on 'Justification for New Build Dwellings'

The key test for all proposals in the countryside and green belt will be to ensure that the development does not detract from the landscape quality and/or rural character of the area.



The map identifies the areas of countryside and green belt in Edinburgh

Definitions and Clarifications

What does this chapter cover?

This chapter defines and clarifies appropriate countryside and green belt uses.

An application for a change of use between any of the uses in this chapter will be assessed on a case by case basis.

Agriculture

Agricultural Buildings

For the breeding and keeping of livestock, storage of crops or machinery (excluding for the storage of goods where this is unconnected with any form of agricultural activity).

Farm Diversification

Proposals that are clearly associated with the particular features and characteristics of the farm and help to support rather than replace, farming activities on the rest of the farm. For example, visitor accommodation, craft workshops, 'pick-your-own' and associated retail, farm parks, farm shops.

Horticulture

Development related to fruit growing, seed growing, market gardens and nursery gardens, together with ancillary retailing of the produce.

Woodland and Forestry

Includes sawmills, timber processing or timber recycling facilities where these require a location close to the wood being used.

Countryside Recreation

Uses where the proposal requires the land resource and is compatible with an agricultural or natural setting such as horse riding facilities, golf courses and golf driving ranges, touring caravan and campsites.

Other Appropriate Uses

The keeping of horses for equestrian purpose is not included in the definition of agriculture (section 277 of the Town & Country Planning (Scotland) Act 1997 (as amended)) but is, in principle, a use appropriate to rural areas. Provided it can be demonstrated that a countryside location is essential, cattery and kennel uses may also be acceptable.



Appropriate countryside recreation includes horse riding facilities

Justification for New Build Dwellings

What does this chapter cover?

This chapter sets out the circumstances where new build dwellings are acceptable.



Proposals for new build dwellings in the countryside and green belt which are associated with existing or proposed countryside uses will be permitted provided the following criteria are met:

a) a functional need for the dwelling is established;

Applicants will be asked to submit a supporting statement which states why the additional dwelling is required and how important it is to the operation of the farm or holding and why existing buildings mentioned in d) cannot fulfil the functional need of the enterprise concerned. The statement should also define the extent of the farm unit i.e. what it constitutes in terms of land and associated facilities in order to address issues such as severance.

b) the need relates to one or more full-time worker(s), or one who is employed primarily in agriculture, and does not relate to a part-time requirement;

c) the unit and the rural activity/business are financially sound, and have a clear prospect of remaining so;

Applicants will also be required to submit a business plan which must demonstrate that the business already yields (or can do so) sufficient income to support at least one full-time job. The size of dwelling proposed should relate to the functional need of the business.

d) the functional need could not be reasonably fulfilled by an existing building which is suitable and available for occupation by the workers concerned, either on the holding or nearby (this could be an existing dwelling or involve the conversion of a building currently in an alternative use);

e) the design, scale and layout of the building accords with Local Development Plan and Edinburgh Design Guidance.

New houses in the countryside

New houses not associated with countryside use will not be acceptable unless there are exceptional planning reasons for approving them. These reasons include the reuse of brownfield land and gap sites within existing clusters of dwellings.

Replacement Buildings

What does this chapter cover?

This section provides policy guidance on proposals for replacement buildings in the green belt and countryside.

Policy Env 10 provides guidance in relation to proposals for the replacement of an existing building in the same use. Subject to appropriate controls, such proposals can bring benefits, particularly in terms of visual impact on the character of the surrounding area.

Replacing a Low Quality Building

Proposals to replace an existing building which is of low quality in terms of design and structural condition with a new building will be permitted where the following criteria are met:

- i) the existing building is substantially intact (the external walls of the existing building should be intact to at least wallhead height) and has a lawful use under the Town and Country Planning Acts i.e. the use must not have been abandoned or changed from another without planning permission;
- ii) the existing building(s) is/are not listed, of architectural or historic merit, or are not a temporary structure;
- iii) the new building is within the curtilage of the existing building and preferably on the same site (unless re-siting within the curtilage offers substantial environmental improvements e.g. road safety);
- iv) the existing building is of a domestic scale (a building similar to the size of a standard dwelling house) and the new building is of a similar or

smaller size and will not detract from the open, rural character of the green belt or countryside;

v) the proposal does not (either individually or cumulatively) increase activity to a level that would detract from the rural character of the green belt or countryside in terms of traffic or amenity;

vi) the existing building is of poor quality design and structural condition and beyond reasonable repair; and

vii) the proposal is designed to a high quality which accords with the relevant LDP policies and guidance.

Demolition and Rebuilding

Demolition or rebuilding of the existing structure will not be permitted where this would materially alter its established character or its architectural or historical qualities.

A structural engineer's report should be submitted as part of the planning application to demonstrate which parts of the building are capable of conversion. Where some demolition/rebuild is proposed, a detailed schedule of down-taking is required.

Other Development

What does this chapter cover?

This chapter sets out the circumstances where other development in the countryside or green belt is acceptable.

Ancillary Development Related to an Existing Use

LDP Policy Env 10 allows ancillary buildings and development related to existing uses in the countryside and green belt, provided the proposal is appropriate in type in terms of the existing use, is of an appropriate scale, is of a high quality design and is acceptable in terms of traffic impact.

Ancillary development is defined as a building or use which is linked to and dependent upon the main use of the site/building but is of secondary importance.

Ancillary development in the green belt or countryside will be acceptable provided the proposal is appropriate in type, scale and design to the existing building and not detrimental to the rural character or landscape quality of the surrounding area.

With regards to intensification of use, the proposal should not (either individually or cumulatively) lead to an increase in a level of activity that would detract from the rural character of the countryside or green belt in terms of traffic or amenity.

Examples of ancillary development include silos, sheds, outbuildings and car parking associated with countryside recreation uses and enclosures.

Where existing use is residential the creation of an additional residential unit does not constitute intensification of use.

Steadings

In relation to steading buildings, new development may be permitted where:

- a) it reinstates a part of the original steading group altered by later development alien to its character and appearance; or
- b) it forms a logical addition to the form and layout of the steading and would complete its overall composition; or
- c) it is justified by physical and/or historic evidence which clearly demonstrates that it was an integral part of the original steading; or
- d) it provides environmental benefits such as a more sustainable, energy efficient design.

Expansion of Existing Garden Ground

Proposals for garden extensions beyond settlement boundaries are only likely to be supported in exceptional cases, where the new residential curtilage would be contained between the existing gardens of neighbouring properties. Proposed garden extensions which would detract from the character of the green belt or countryside will not be supported.

Energy Development

In order to protect the landscape setting of the city and rural character and landscape quality it is unlikely that free standing wind turbines will be acceptable in the green belt.

Proposals for micro-generation will be assessed under Policy RS1 Sustainable Energy of the Local Development Plan.

General Design

What does this chapter cover?

This section provides guidance on design principles that are acceptable in the countryside and green belt.

New Development in the Countryside and Green Belt

Proposals should accord with the design policies in the LDP and relevant guidance. Proposals will not be permitted where it would detract from the landscape quality and/or rural character of an area. Applications for development in the countryside and green belt will need to be accompanied by a design statement to demonstrate compliance with relevant policies and supplementary guidance (unless the proposal is of a minor nature).

Further information

Further guidance on design matters can be found in the Council's planning guidelines www.edinburgh.gov.uk/planningguidelines.

Development in the countryside and green belt should respect the rural character of the area. In order to protect its setting, existing landscape features should be protected and the impact of obtrusive 'suburban clutter' associated with the development such as roads, lamp posts, pavements, car parks, and boundary features should be minimised. For example, the use of hedging and traditional hard landscaping materials is encouraged. For applications involving the alteration of a listed building, Historic Environment Scotland will normally be consulted for comments.

In relation to conversions, existing openings in primary elevations should be used wherever practicable, particularly where these are features of architectural interest. New openings should only be installed where absolutely necessary and these must respect the character of the building.

The design and form, choice of materials and positioning of proposals must be compatible with the rural character of the area and respect the landscape quality. Proposals should consult the Edinburgh Design Guidance.



Dwellinghouses in the countryside and greenbelt can be sympathetic to an existing rural character through use of materials and design.



HAPPY TO TRANSLATE

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You can get this document on tape, in Braille, large print and various computer formats if you ask us. Please contact ITS on 0131 242 8181 and quote reference number 12-0930. ITS can also give information on community language translations.

Policy 8: Houses in the Countryside

Council Plan 2017 links: Increasing opportunity and reducing poverty & inequality | Promoting a sustainable society.

Outcome: A rural environment and economy which has prosperous and sustainable communities and businesses whilst protecting and enhancing environmental quality.

Policy 8: Houses in the Countryside

Development of houses in the countryside will only be supported where:

- 1. It is essential to support an existing rural business**
- 2. It is for a site within an established and clearly defined cluster of five houses or more**
- 3. It is for a new housing cluster that involves imaginative and sensitive re-use of previously used land and buildings, achieving significant visual and environmental benefits**
- 4. It is for the demolition and subsequent replacement of an existing house provided the following all apply:**
 - a) the existing house is not listed or of architectural merit;**
 - b) the existing house is not temporary and has a lawful use; or**
 - c) the new house replaces one which is structurally unsound and the replacement is a better quality design, similar in size and scale as the existing building, and within the curtilage of the existing building.**
- 5. It is for the rehabilitation and/or conversion of a complete or substantially complete existing building**
- 6. It is for small-scale affordable housing adjacent to a settlement boundary and is required to address a shortfall in local provision, all consistent with Policy 2 (Homes)**
- 7. A shortfall in the 5 year effective housing land supply is shown to exist and the proposal meets the terms of Policy 2 (Homes)**
- 8. It is a site for Gypsy/Travellers or Travelling Showpeople and complies with Policy 2 (Homes) or**
- 9. It is for an eco-demonstration project proposal that meets the strict requirements of size, scale, and operation set out in Figure 8.1 below**

In all cases, development must be:

- of a scale and nature compatible with surrounding uses;**

Policies

- **well-located in respect of available infrastructure and contribute to the need for any improved infrastructure; and**
- **located and designed to protect the overall landscape and environmental quality of the area.**

Applying Policy 8: Houses in the Countryside

1. Unplanned sporadic or ad-hoc development in the countryside could result in the gradual erosion of the rural landscape character and qualities. This policy will be used to manage the demand for new housing in the countryside having regard to the way in which it can bring social, environmental, and economic benefits.

Development that supports existing business

2. The fact that a business is established in a rural area is not enough to justify building a house in the countryside or Green Belt. Proposals for housing must justify the need to have residential accommodation and a continuous presence at the site. They will also need to demonstrate that there is no potential for using existing accommodation in the area or the renovation of an existing property. There should also be no evidence of houses or plots having previously been sold from the farm or business holding to private buyers.

3. To justify a housing proposal, a site selection report will require to be submitted, illustrating how the site has been chosen and the stages undertaken to arrive at the chosen location. For housing associated with an existing business the house should be sited so that it fulfills the purpose its intended for and be located close to existing buildings. Planning permission will not be granted if the house is:

- in an isolated position;
- on a prominent site; or
- sited at a distance from existing building groups.

4. If the related business is new, the formation of temporary accommodation, such as a residential caravan, for a trial period of at least two years may be allowed. After that, consideration will be given to the granting of planning permission for a permanent house depending upon the financial viability of the business.

5. If planning permission is applied for a house based on its relationship to agriculture, forestry, or another type of rural business, supporting information will need to be submitted to allow the proposal to be assessed. For agriculture and forestry, this information will need to include:

- where the farm or business boundaries are;
- the number of existing buildings;
- whether buildings are used or occupied or not;
- the number of workers, where they live and if they are full or part time;
- the type of work the house is needed for and why; and
- any other information the applicant feels is necessary to justify the proposal.

Siting New Houses in the Countryside

6. The Council identifies the majority of the opportunities for housing development in the Local Development Plan within existing towns and villages. However, outwith the towns and villages, existing small groups of houses or 'housing clusters' can offer the opportunity for small-scale housing proposals; these are, generally, single houses.

7. Specific housing groups that would make up a cluster are not identified in the Local Development Plan; however, a housing cluster should be made up of a clearly defined grouping of 5 or more houses (up to a maximum of 24). The buildings will be located in very close proximity to one another and outwith the settlement boundaries identified in this Plan. These buildings should be complete and capable of being occupied, if they are not already. The cluster should be contained by a well-established boundary, such as roads, trees or other landscaping features, and should be visually connected through the form or the pattern of development.

8. For housing proposed in a cluster to be acceptable, it must address the following requirements:

- It will require to be located within a clearly defined gap within the cluster and should incorporate other built development on at least two sides, forming a continuous, interconnected grouping. Housing proposed clearly outwith or on the edge of the group will not be permitted.
- The new houses should not result in ribbon development (that is, building houses alongside a transport route) or coalescence (joining up) of the group with a nearby settlement/another housing cluster.

9. Examples of the type of circumstances which would constitute appropriate development within clusters are shown in Figure 8.2. These are for illustrative purposes only and each case will be considered on its merits.

10. Extensions to an existing property will only be allowed if the extension is of a scale and design that would not have a negative impact on the original house or its setting including visually dominating the original property.

Demolition/replacement of a house in the countryside

11. Proposals to demolish and replace an existing house will need to be accompanied by a satisfactory structural engineer's report and a full financial justification illustrating that:

- the building is in lawful use as a house;
- the house is not in a sound structural condition; and
- the extra cost of converting or renovating the house is more than the cost of demolishing and replacing it. Costings submitted should be comparable in terms of external building floor space areas.

12. The replacement house must be within the curtilage of the original house, reflect the scale and character of the original house, and the original house must be demolished before building the new one.

13. In exceptional cases planning permission may be granted to demolish a house if the siting and design of the replacement would be exemplary and would significantly enhance the quality of the surrounding environment and the landscape. The Council will expect a report/statement to be provided explaining the reasoning for demolishing the existing building(s) and the reasoning behind the new proposal, in terms of design and siting.

Policies

14. *Making Fife's Places Supplementary Guidance* will be produced to provide context on how Fife Council will assess the design quality of a proposal. The Council will prepare additional guidance in the early part of the Plan period to explain on how the design quality of a proposal will be assessed.

Re-use of previously used Land and Buildings (Brownfield sites)

15. Planning permission may be granted to develop new housing clusters on smaller sites that are no longer required for their original purpose and which incorporate rundown or derelict buildings and where conversion to a residential use would bring about a significant environmental and visual improvement. The applicant will be required to adequately demonstrate that the site is no longer required for its original purpose. The proposed site must be capable of accommodating a housing 'cluster' of at least 5 houses. However, planning permission will only be granted where the redevelopment scheme would greatly benefit the site and the surrounding area in terms of its appearance, subject to the design, siting, and the environmental improvements proposed.

16. If an existing building becomes unstable or has to be demolished further during the project then a new planning application may be required to be made.

Renovation of existing buildings

17. Preserving traditional buildings that are important to the character of the countryside is a crucial part of the Council's approach to conservation. This is particularly true if buildings are significant because:

- of their architecture or history;
- they are listed buildings; or
- they are at risk of falling into disrepair because they are not being used.

18. To justify planning permission, the existing building must have some architectural merits that justify its preservation and the proposal being put forward must respect its original character and design. Key issues that will be taken into account when determining the suitability of a renovation or restoration of a derelict building are:

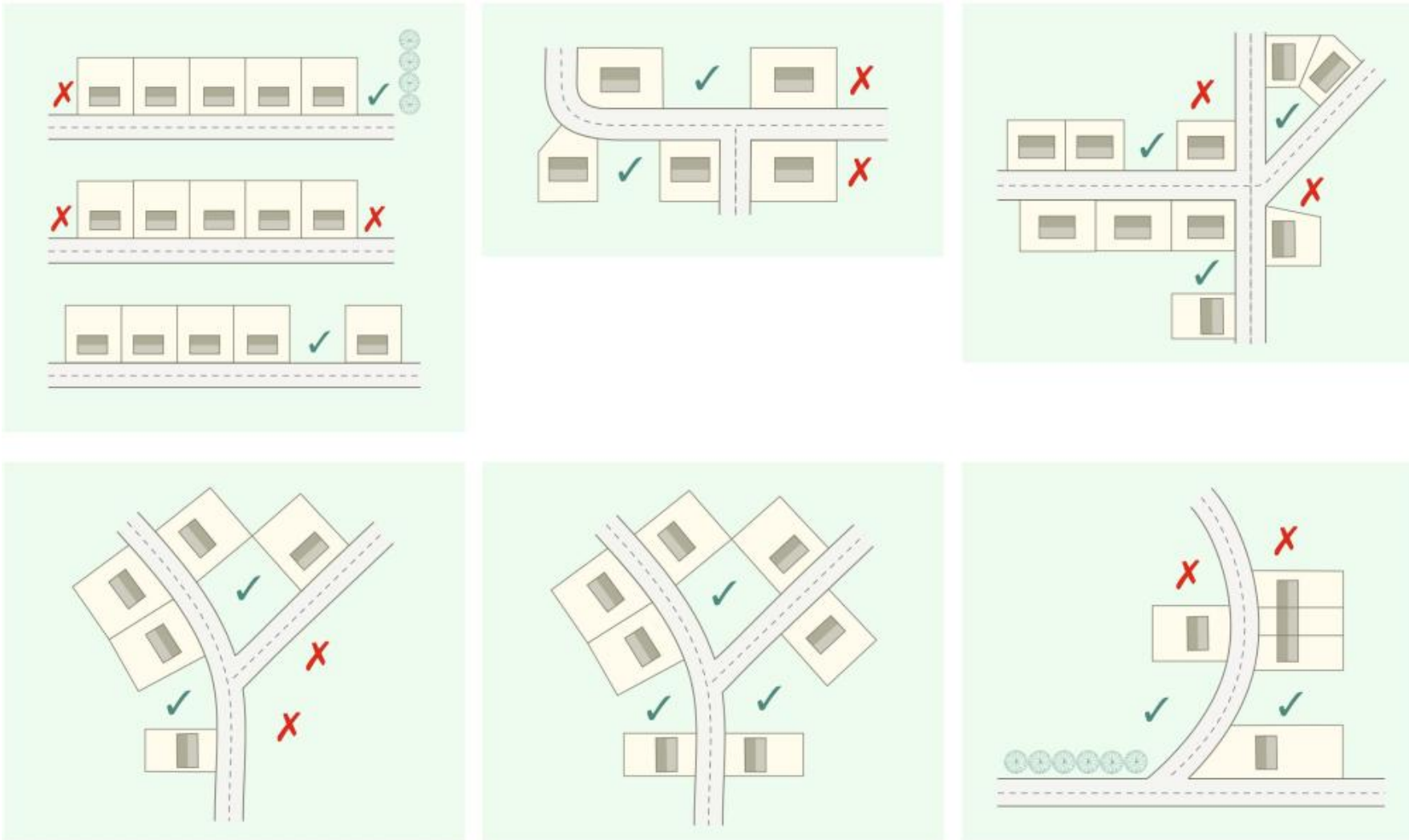
- The existing building structure must have full height outside walls, complete to wall head level. The roof's foundations must also be sound and largely intact.
- The existing building must be built from traditional, durable materials such as stone, rather than more modern materials such as brick, timber, metal, plastic, concrete, glass, and iron.
- It must be worthy of preservation.
- Its continued agricultural use. It must be of no use for agriculture or for any other rural economic activity.
- It must be designed in such a way that would not significantly alter its original character or architectural/historical qualities.
- The building must be physically and structurally capable of being converted without having to significantly demolish, rebuild or extend. The Council will require the applicant to submit a qualified structural engineer's report to demonstrate this can be achieved. The structural engineer's report should illustrate the current state of the building, the elements to be retained, repaired or replaced, and any shoring up necessary and how the conversion of the building will be achieved.

19. Supplementary Guidance on *Making Fife's Places* will provide guidance on how Fife Council will assess the architectural/historic merits of existing buildings and incorporating new development with traditional buildings.

Figure 8.1 – Requirements of eco-home proposals

- Not exceed 20 dwelling units.
- Follow the zero waste, zero energy model, making no demands on water, sewerage, power, and waste collection infrastructure.
- Produce energy from renewable sources on-site and demonstrates a strategy for energy conservation.
- Provide an on-site water supply and sewage disposal.
- Include a strategy for the minimisation of waste on site.
- Demonstrate low impact and resource efficient building design and construction which is fully reversible, permitting the land to be restored to its former condition after the project ceases.
- Include a sustainable travel plan with a car sharing club removing the need for individual car ownership or individual car parking.
- Include the ecological management and enhancement of the site by using sustainable techniques to provide for the residents economic livelihood and food production.
- Feature a research and/or educational aspect.
- Be managed by a trust, co-operative, housing association, or a similar entity in which the residents have an interest.
- Be accompanied by a management and business plan to show how the proposal would meet the foregoing criteria and illustrate the positive benefits of the scheme. Community engagement must be undertaken as part of the development management process.

Figure 8.2 - Examples of suitable housing proposals as part of cluster



Promoting Economic Growth 4

4.9 Rural Development

Development in the Countryside

4.9.1 Midlothian's countryside is an area of natural beauty valued by many people as providing opportunities for outdoor recreation. However, Midlothian's close proximity and ease of access to Edinburgh means that development is commuter-based and the whole of the county falls into the category of a pressurised area for housing development in terms of Scottish Planning Policy.

4.9.2 It is important that the Plan provides a balance between development and protecting the essential characteristics of the countryside. In providing for such development, the Plan seeks to minimise adverse effects on the character of the countryside whilst maximising the benefits to its communities and the Midlothian economy. In general, promoters of new development must evidence the need for a countryside location. In terms of applications for new housing, the applicant is expected to demonstrate the long-term need for the dwelling by submitting an independent report on the viability of an associated business and its operational requirements. Supplementary Guidance will detail exceptions to the policy, such as the opportunities to provide new housing in identified housing groups, and to convert redundant non-residential buildings to dwellings.

Policy RD 1

Development in the Countryside

Development in the countryside will only be permitted if:

- A. it is required for the furtherance of agriculture (including farm-related diversification), horticulture, forestry, countryside recreation or tourism; or
- B. it accords with policies RD2, MIN1, NRG1 or NRG2; or
- C. it accords with the Council's Supplementary Guidance on *Development in the Countryside and Green Belt*.

All such development will need to be:

- a. of a scale and character appropriate to the rural area and well integrated into the rural landscape; and
- b. capable of being serviced with an adequate and appropriate access; and
- c. capable of being provided with drainage and a public water supply at reasonable cost, or an acceptable private water supply. Development must protect and where appropriate improve the water environment, avoiding unacceptable and unnecessary surface and foul water discharges to watercourses; and
- d. accessible by public transport and services (where appropriate), either within 1,600 metres (1 mile) of a settlement or a bus route with a frequency of at least 1 bus per hour.

Housing

Normally, housing will only be permissible where it is required for the furtherance of an established countryside activity (see criterion A above). The applicant will be required to show the need for the new dwelling is permanent; cannot be met within an existing settlement; and that the occupier will be employed full-time in the associated countryside activity.

Proposals to replace an existing dwelling may be permissible where it can be demonstrated that it is incapable of renovation or improvement; that the proposal relates to a complete dwelling (i.e. not the plot of a previous, now demolished house); and provided that the replacement is of a similar scale.

The following circumstances are exceptions to the above requirement to demonstrate that the housing is for the furtherance of a countryside activity. The details of these exceptions will be set out in the relevant Supplementary Guidance:

- housing groups (allowing 1 new dwelling during the plan period where there are 5 existing units);
- conversions of redundant farm buildings or other non-residential buildings;

4 Promoting Economic Growth

- redevelopment of redundant farm buildings or other non-residential buildings; or
- enabling development where it can be clearly shown to be the only means of preventing the loss of a heritage asset and securing its long-term future.

In all circumstances, proposals for new dwellings in the countryside must demonstrate a 'Very Good' or better BREEAM (Buildings Research Establishment Environmental Assessment Methodology) rating or equivalent standard for any successor development.

Business in the countryside

Development opportunities that will enhance rural economic development opportunities will be permitted provided that they accord with criteria a - d above. Proposals will not be permissible if they are of a primarily retail nature or harm the amenity of nearby residents through unacceptable levels of noise, light or traffic.

4.9.3 In order to provide for a range of rural housing opportunities, the Midlothian Local Plan 2008 allowed for the development of low density rural housing at four sites in the Leadburn and Springfield area. This provision continues to be supported in this Plan. The aim of this policy is to ensure that there are benefits to the area through environmental improvements while allowing some housing where it would not otherwise be permissible. The choice of location for this policy provision was based on its accessibility via a regular public transport service, the poor quality agricultural land in the area and the opportunities for environmental enhancement through tree planting and biodiversity features. In addition, the area is not subject to statutory natural heritage designations. To ensure development is of an appropriate scale and that the landscape benefits can be realised, the policy includes controls over housing numbers, design, location and management.

Policy RD 2

Low Density Rural Housing

New low density housing linked to landscape enhancement is supported at four sites (Springfield, Wellington, Netherton and Leadburn). Under this policy no more than two units will be permitted at each site, including any units developed under the previous Local Plan policy HOUS5 before the adoption of this Plan.

A high proportion of each site is required to be given over to the retention and creation of areas of nature conservation interest and landscape enhancement, through the planting of native woodlands or the formation of other features such as ponds. The Council encourages the provision of public access, particularly in situations where a connection with core paths or the green network can be made.

The suitability of low density rural housing proposals in the identified areas will be assessed against the following criteria:

- proposals should demonstrate that the landscape and biodiversity value of the site is enhanced by the development;
- the design and layout of the development should be appropriate to the rural setting; and
- proposals should demonstrate that they can be served by safe access arrangements, and a public sewerage and water supply (or acceptable private arrangements if public provision is not available).

The establishment of small-scale rural business in association with the low density housing is supported in principle, subject to the proposals satisfying policy RD1 Development in the Countryside.

Supplementary Guidance on *Low Density Rural Housing* provides advice on site layout and design, the formation of features of landscape and biodiversity interest, public access, the nature of associated business uses, and other implementation and longer-term management matters. Conditions for the use of private water and sewerage arrangements are specified in the Guidance. The Guidance also provides further advice on alternative options at the Wellington site (see below).

HOUSING DEVELOPMENT (HD)

POLICY HD2

HOUSING IN THE COUNTRYSIDE

- 1.1 The Council aims to encourage a sustainable pattern of development focused on defined settlements in accordance with the need to support existing services and facilities and to promote sustainable travel patterns. For the exceptions to this general approach the Housing in the Countryside policy aims to encourage housing development in appropriate locations in the countryside. The policy sets the basis for the consideration of small scale appropriate additions to existing identifiable building groups, or within dispersed building groups located within the Southern Housing Market Area. It should be noted that in the context of building groups, that it may be the case that some buildings groups are considered to be complete and are therefore unable to accommodate further development. The policy also aims to allow appropriate conversions, restoration, and replacement in the countryside. However, the policy restricts isolated new housing in the countryside unless it can be satisfactorily substantiated by an economic justification. In doing this the policy will protect the environment from inappropriate and sporadic new housing development whilst still being able to support rural communities and businesses.
- 1.2 Any proposal for new housing in the countryside as affordable housing will only be supported if it addresses an identified housing need, as listed in Policy HD1, or in a local housing needs survey, or in a Registered Social Landlord's delivery programme. Further information on this can be found in the Supplementary Planning Guidance on Affordable Housing.
- 1.3 The provisions regarding dispersed building groups within the policy have been formulated in response to concerns over rural sustainability in the Southern Housing Market area. Detailed evidence on the relationship of the proposed new housing to the dispersed building group should accompany planning applications seeking approval under this provision. However, within the Southern Housing Market Area there are currently anchor points identified at Ettrick and Yarrow Feus. Whilst these anchor points are located within the Southern Housing Market Area, they take the form of a community hub or social centre that draws people together, therefore in terms of policy these anchor points will be treated as a building group under Policy HD2(A).
- 1.4 For housing proposals that come forward that sit within the area covered by the Countryside Around Towns (CAT) policy, Policy EP6 will apply. Where the new proposal relates to an existing building group and the proposal is acceptable under Policy HD2, and it can be demonstrated that the high quality environment will be maintained, the proposal could be permissible. In addition, where a proposal is in relation to the replacement of an existing dwelling within the CAT then it may be acceptable if it meets the criteria of Policy HD2 (E).
- 1.5 The Council will review its policy guidance on housing in the countryside by producing revised Supplementary Guidance.

POLICY HD2: HOUSING IN THE COUNTRYSIDE

The Council wishes to promote appropriate rural housing development:

- a) in village locations in preference to the open countryside where permission will only be granted in special circumstances on appropriate sites,
- b) associated with existing building groups where this does not adversely affect their character or that of the surrounding area, and
- c) in dispersed communities in the Southern Borders housing market area.

These general principles in addition to the requirement for suitable roads access will be the starting point for the consideration of applications for housing in the countryside, which will be supplemented by Supplementary Planning Guidance / Supplementary Guidance on New Housing in the Borders Countryside and on Placemaking and Design.

(A) BUILDING GROUPS

Housing of up to a total of 2 additional dwellings or a 30% increase of the building group, whichever is the greater, associated with existing building groups may be approved provided that:

- a) the Council is satisfied that the site is well related to an existing group of at least three houses or building(s) currently in residential use or capable of conversion to residential use. Where conversion is required to establish a cohesive group of at least three houses, no additional housing will be approved until such conversion has been implemented,
- b) the cumulative impact of new development on the character of the building group, and on the landscape and amenity of the surrounding area will be taken into account when determining new applications. Additional development within a building group will be refused if, in conjunction with other developments in the area, it will cause unacceptable adverse impacts,
- c) any consents for new build granted under this part of this policy should not exceed two housing dwellings or a 30% increase in addition to the group during the Plan period. No further development above this threshold will be permitted.

In addition, where a proposal for new development is to be supported, the proposal should be appropriate in scale, siting, design, access, and materials, and should be sympathetic to the character of the group.

The calculations on building group size are based on the existing number of housing units within the group as at the start of the Local Development Plan period. This will include those units under construction or nearing completion at that point.

(B) DISPERSED BUILDINGS GROUPS

In the Southern Housing Market area there are few building groups comprising 3 houses or more, and a more dispersed pattern is the norm. In this area a lower threshold may be appropriate, particularly where this would result in tangible community, economic or environmental benefits. In these cases the existence of a sense of place will be the primary consideration.

Housing of up to 2 additional dwellings associated with dispersed building groups that meet the above criteria may be approved provided that:

- a) the Council is satisfied that the site lies within a recognised dispersed community in the Southern Borders housing market area,
- b) any consents for new build granted under this part of this policy should not exceed two housing dwellings in addition to the group during the Plan period. No further development above this threshold will be permitted,

- c) the design of housing will be subject to the same considerations as other types of housing in the countryside proposals.

(C) CONVERSIONS OF BUILDINGS TO A HOUSE

Development that is a change of use of a building to a house may be acceptable provided that:

- a) the Council is satisfied that the building has architectural or historic merit, is capable of conversion and is physically suited for residential use,
- b) the building stands substantially intact (normally at least to wallhead height) and the existing structure requires no significant demolition. A structural survey will be required where in the opinion of the Council it appears that the building may not be capable of conversion, and
- c) the conversion and any proposed extension or alteration is in keeping with the scale and architectural character of the existing building.

(D) RESTORATION OF HOUSES

The restoration of a house may also be acceptable provided that the walls of the former residential property stand substantially intact (normally at least to wallhead height). In addition:

- a) the siting and design reflects and respects the historical building pattern and the character of the landscape setting,
- b) any proposed extension or alteration should be in keeping with the scale, form and architectural character of the existing or original building, and
- c) significant alterations to the original character will only be considered where it can be demonstrated that these provide environmental benefits such as a positive contribution to the landscape and/or a more sustainable and energy efficient design.

(E) REPLACEMENT DWELLINGS

The proposed replacement of an existing house may be acceptable provided that:

- a) the siting and design of the new building reflects and respects the historical building pattern and the character of the landscape setting,
- b) the proposal is in keeping with the existing/original building in terms of its scale, extent, form and architectural character,
- c) significant alterations to the original character of the house will only be considered where it can be demonstrated that these provide environmental benefits such as a positive contribution to the landscape and /or a more sustainable and energy efficient design.

(F) ECONOMIC REQUIREMENT

Housing with a location essential for business needs may be acceptable if the Council is satisfied that:

- a) the housing development is a direct operational requirement of an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and it is for a worker predominantly employed in the enterprise and the presence of that worker on-site is essential to the efficient operation of the enterprise. Such development could include businesses that would cause disturbance or loss of amenity if located within an existing settlement, or
- b) it is for use of a person last employed in an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and also employed on the unit that is the subject of the application, and the development will release another house for continued use by an agricultural, horticultural, forestry or other enterprise which is itself appropriate to the countryside, and

- c) the housing development would help support a business that results in a clear social or environmental benefit to the area, including the retention or provision of employment or the provision of affordable or local needs housing, and
- d) no appropriate site exists within a building group, and
- e) there is no suitable existing house or other building capable of conversion for the required residential use.

In **ALL** instances in considering proposals relative to each of the policy sections above, there shall be compliance with the Council's Supplementary Planning Guidance where it meets the terms of this policy and development must not negatively impact on landscape and existing communities. The cumulative effect of applications under this policy will be taken into account when determining impact.

KEY POLICIES TO WHICH THIS POLICY SHOULD BE CROSS REFERENCED:

Policy PMD2 Quality Standards
 Policy ED10 Protection of Agricultural Land and Carbon Rich Soils
 Policy HD1 Affordable and Special Needs Housing
 Policy EP6 Countryside Around Towns
 Many of the Plan's environmental policies will be relevant particularly EP4 National Scenic Areas and EP5 Special Landscape Areas.

THE FOLLOWING SUPPLEMENTARY PLANNING GUIDANCE MAY BE RELEVANT TO THIS POLICY:

Affordable Housing
 Biodiversity
 Countryside Around Towns
 Green Space
 Landscape and Development
 Local Landscape Designations
 New Housing in the Borders Countryside
 Placemaking and Design
 Use of Timber in Sustainable Construction

THE FOLLOWING PROPOSED SUPPLEMENTARY GUIDANCE MAY BE RELEVANT TO THIS POLICY:

Affordable Housing
 Biodiversity
 Countryside Around Towns
 Greenspace
 Landscape and Development
 New Housing in the Borders Countryside
 Placemaking and Design
 Use of Timber in Sustainable Construction

POLICY ENV 2***Housing Development in the Countryside***

Housing development in the countryside will only be permitted where:

- a. the proposal provides for the restoration of a brownfield site where there is no realistic prospect of it being returned to agriculture or woodland use and the site has no significant natural heritage value in its current condition; or
- b. the proposal is for the replacement of an existing house in the countryside which is of a poor design or in a poor structural condition; or
- c. the proposal is for infill development within the curtilage of an existing building group or infilling of gaps between existing houses of a single plot width; or
- d. the proposal involves the conversion or rehabilitation of existing rural buildings which the council deems worthy of retention because of their architectural or historic merit; or
- e. the proposal is supported by the council's lowland crofting policy.

Where a proposal by virtue of its design, location and landscape setting makes an exceptional contribution to the appearance of countryside an exception to policy may be justified.

Proposals should make the best use of resources, integrate with services and facilities and demonstrate the highest standards in design and environmental quality to protect and enhance the established landscape character.

The detailed requirements of Supplementary Guidance on *New Development in the Countryside* and *Lowland Crofting* will apply.

POLICY ENV 3***Other Development in the Countryside***

Development in the countryside will only be permitted where the following guiding principles are taken into account: or

- a. the development is justified for agriculture, horticulture, forestry, countryside recreation or tourism or other rural business use; or
- b. the proposal provides for the restoration of a brownfield site where there is no realistic prospect of it being returned to agriculture or woodland use and the site has no significant natural heritage value in its current condition; or
- c. the proposal is for the replacement of a building in the countryside which is of a poor design or in a poor structural condition; or
- d. the proposal is for infill development within the curtilage of an existing building group or infilling of gaps between existing buildings in the countryside; or
- e. the proposal involves the conversion or rehabilitation of existing rural buildings which the council deems worthy of retention because of their architectural or historic merit.

Where a proposal by virtue of its design, location and landscape setting makes an exceptional contribution to the appearance of countryside an exception to policy may be justified.

Proposals should make the best use of resources, integrate with services and facilities and demonstrate the highest standards in design and environmental quality to protect and enhance the established landscape character.

