

Issue (ref and heading):	Issue 020: Policy 4 Homes - Environmental and Infrastructure Constraints	
Development plan reference:	Policy 4 Part D and supporting text, pages 24 to 29	Reporter: [For DPEA Use Only]
Body or person(s) submitting a representation raising the issue (including reference number):		
Seeking a change Gladman Developments Ltd (846254) Montagu Evans LLP for Wallace Land Investment Management (343111) Montgomery Forgan Associates for Champion Homes Ltd & Dundas Estates & Development Co Ltd (910305) Ryden for Bon Accord Land Ltd/Stewart Milne Homes (843701)		Supporting as written Aberdeen City and Shire SDPA (442583) Colliers International for Scottish Enterprise (835481) NHS Tayside (908896) Scottish Water (762198)
Provision of the development plan to which the issue relates:		
This part of Policy 4 gives Local Development Plans only, the flexibility to transfer some of the housing land requirement for one market area into one or more neighbouring housing market areas within the same Council area. This can only take place in response to fully justified instances of serious environmental or infrastructure constraints. The scale of transfer is limited to 10% of the housing land requirement for the origin housing market area or 15% for Highland Perthshire Housing Market Area only.		
Planning Authority's summary of the representation(s):		
<h2>Summary of Representations Seeking a change</h2> <p><u>PRINCIPLE</u></p> <p>Montagu Evans LLP for Wallace Land Investment Management (343111) PLAN2015_249 acknowledges the need for flexibilities to be built into the plan but considers that shifting housing land requirements to neighbouring housing market areas has the potential to 'frustrate' the way in which development constraints are addressed. They consider this could be detrimental and that it is 'unsustainable' to have 'a greater focus on shifting housing numbers'.</p> <p>Montgomery Forgan Associates for Champion Homes Ltd & Dundas Estates & Development Co Ltd (910305) PLAN2015_474 suggests two things:</p> <ul style="list-style-type: none"> • Firstly that identified need and demand for new homes should be met within the same housing market area; and, • Secondly that the '10% threshold' should be increased to make up for any envisaged shortfall in the housing supply target, particularly for a strategic development area which includes residential development. They suggest this should occur by 'reassessing the spatial strategy' and the assumptions behind it; what circumstances have changed; and, the availability of what they describe as 'alternative unconstrained sites'. <p>They consider this issue to be pertinent for the Cupar and North West Fife Housing Market Area. This is because of what they describe as 'the uncertainties over Cupar North' which they suggest has 'failed to deliver'. They consider that this is 'unlikely to progress', or do so 'at the rate envisaged'. They consider that it would be more effective and sustainable to allow Cupar to 'grow organically around the town, which in turn will assist in the stabilisation and revitalisation of the town centre'. Cupar North Strategic Development Area is considered in more detail in the Schedule 4 Summary of Unresolved Issues 011 Cupar North Strategic Development Area.</p>		

They also question whether neighbouring Housing Market Areas would indeed be the right locations for providing up to 10% of the housing land requirement when there are serious cases of constraints.

SCALE

Ryden for Bon Accord Land Ltd/Stewart Milne Homes (843701) PLAN2015_313 and **Gladman Developments Ltd (846254) PLAN2015_375** each seek an increase to 25% in the level of flexibility to respond to serious cases of environmental or infrastructure constraint.

Ryden for Bon Accord Land Ltd/Stewart Milne Homes (843701) PLAN2015_313 consider that this would ensure 'maximum flexibility' in meeting the housing land requirement.

Gladman Developments Ltd (846254) PLAN2015_375 seek this in order to maintain a 5 year land supply. They consider that this would be a 'market driven' response and would ensure that enough effective housing sites are available to maintain a 5 year effective land supply at all times.

Summary of Supporting Representations

SCALE

Aberdeen City and Shire SDPA (442583) PLAN2015_563 supports the position of 10% flexibility to respond to environmental and infrastructure constraints. They had raised concerns at Main Issues Report stage with proposals to potentially increase this to as much as 25%.

SUPPORT FOR BASIS AND APPROACH OF POLICY 4

Colliers International for Scottish Enterprise (835481) PLAN2015_370 supports all of Policy 4 (Doc80) as the basis for the identification of housing land as consistent with Scottish Planning Policy (2014) paragraphs 110, 123 and 125 (Doc84). They also support the role of the Strategic Development Areas (Policy 3 – Doc80) in contributing to an effective housing land supply.

NHS Tayside (908896) PLAN2015_325 consider that the ability to be 'flexible' and 'respond to changes in terms of Housing Need and Demand Assessment' is important and recognises that 'population projections are not always reliable'.

Scottish Water (762198) PLAN2015_269 supports this policy and reinforces its duty as an infrastructure provider to support the delivery of this.

Modifications sought by those submitting representations:

PRINCIPLE

Montagu Evans LLP for Wallace Land Investment Management (343111) PLAN2015_249 proposes that constraints in Housing Market Areas should be identified by TAYplan, and an action plan developed to deal with the issues.

Montgomery Forgan Associates for Campion Homes Ltd & Dundas Estates & Development Co Ltd (910305) PLAN2015_474 proposes more clarity to explain that the 10% of the housing land requirement should be met on alternative sites within the same Housing Market Area, providing that these sites deliver a sustainable pattern of growth and meet the requirements of other policies within TAYplan. Only if there are no identified alternative sites within the same Housing Market Area should neighbouring Housing Market Areas be considered.

SCALE

Ryden for Bon Accord Land Ltd/Stewart Milne Homes (843701) PLAN2015_313 propose to change the wording of Policy 4D to say: 'have the flexibility, in serious cases of appropriately evidenced environmental or infrastructure capacity constraints, to provide for up to 25% of housing land requirement for one market area to be shared between one or more neighbouring housing market areas within the same authority, whilst taking account of meeting needs in that housing market area'.

Gladman Developments Ltd (846254) PLAN2015_375 propose that Policy 4D should be changed to say: 'Local Development Plans shall have the flexibility, in cases of appropriately evidenced environmental or infrastructure capacity constraints or where necessary to maintain a 5-year housing land supply, for up to 25% of the housing land requirement for one market area to be shared between one or more neighbouring housing market areas within the same authority, whilst taking account of meeting needs in that housing market area'.

Summary of responses (including reasons) by Planning Authority:

Context

Proposed Plan (2015) Policy 4D (Doc80) is a continuation of the current approach set out in approved TAYplan (2012) Policy 5A (Doc16).

Initial discussions took place with Councils prior to the Main Issues Report about whether 10% (as currently written in approved TAYplan (2012) Policy 5A – Doc16) was sufficient and whether there was any justification for higher levels. TAYplan was aware that issues faced in Highland Perthshire in particular had the potential to justify an increase. It was decided to ask a more open question to 'flush out' any evidence or lack of it for a general increase or for specific areas.

Therefore TAYplan's preferred option in the Main Issues Report (2014) Issue 5 Option 1 on page 32 and Question 7 (Doc56) was to increase the proportion. However, there was no specific decision about what the best alternative proportion to 10% would be. It was decided that whatever this may be 25% represented the maximum extent. Beyond this it was considered to risk meeting identified need and demand for new homes in respective housing market areas. Therefore the preferred option was to increase the level above 10% to possibly as high as 25%.

Following Main Issues Report stage there was some support for increasing levels to 25%; including from some of the respondents above. However, more respondents, including Homes for Scotland (785148), some developers and land owners, as well as others, were concerned that such an increase would risk delivering the identified need and demand for new homes where it originated. These respondents generally accepted the principle but considered 10% to be an appropriate level. Some also questioned what the justification for an increase might be. This is set out in the Schedule of Responses to the Main Issues Report (Feb 2015) Pages 73 to 80 (Doc83).

TAYplan considered these matters in the TAYplan Housing Analysis Paper (2015) pages 55 and 58 to 61 (Doc100). The only justification for any increase was in Highland Perthshire Housing Market Area. This area experiences significant environmental and infrastructure constraints. The justification for this approach is set out in the TAYplan Housing Analysis Paper (2015) pages 58 to 61 (Doc100). No further evidence was provided at Main Issues stage or at other points to justify increases elsewhere or at TAYplan level.

There have been some changes to the text between the approved TAYplan (2012) Policy 5 (Doc16) and the Proposed TAYplan (2015) Policy 4D (Doc80). There has been an increase from 10% to 15% in the proportion of housing land requirement that

can be shifted for Highland Perthshire Housing Market Area. This change was made in response to the concentration of large environmental designations, the steep topography, limited transport infrastructure and access limitations and flood risk that collectively present infrastructure and environmental constraints affecting a significant part of Highland Perthshire. This limits the capacity of the planning authority to provide land for new homes in places which also fulfil many other aspects of national, strategic and local planning policy. These matters are discussed further in the TAYplan Housing Analysis Paper (2015) pages 58 to 61 (Doc100).

No change has been made to the proportions for the other housing market areas within the TAYplan area. The only other changes are that Policy 4D now begins with the words 'have the flexibility' to tie this in with the new policy layout. The final part of the sentence now includes the word 'whilst' ahead of the original words 'taking account of meeting...'. These word changes were added to provide clarity and context. They do not change the meaning of the policy.

A change has also been made to use the term 'housing land requirement' in place of the term 'housing provision' to properly reflect Scottish Planning Policy (2014) paragraphs 110 to 118 (Doc84). Scottish Planning Policy (2014) was published in the final week of the Main Issues Report (2014) (Doc56) consultation. This has been fully considered in preparing Policy 4D and the Proposed Plan (2015) (Doc80) as a whole.

Authority's' Responses To Proposed Changes

PRINCIPLE

Montagu Evans LLP for Wallace Land Investment Management (343111) PLAN2015_249

The approach for shifting housing land requirement is a continuation of the current approach in the approved TAYplan (2012) Policy 5 (Doc16) and this has not changed. The only amendment to the approach was to the scale of transfer allowed in Highland Perthshire (see context above).

TAYplan recognises that there are some risks posed to housing market areas if too much of the housing land requirement is transferred. This was one of the reasons for limiting the preferred option at Main Issues stage to up to 25%. It was also one of the key reasons why many opposed an increase at Main Issues stage.

As described in the context above TAYplan was persuaded that there was no substantial evidence to increase the 10% level except in Highland Perthshire Housing Market Area. However, even here consideration of the practicalities persuaded TAYplan that 15% was sufficiently high. These practicalities are described in the TAYplan Housing Analysis Paper (2015) pages 55 and 58 to 61 (Doc100).

TAYplan agrees that Action Programmes are helpful in identifying factors that can bring sites forward, including some factors that may influence their effectiveness. The current TAYplan Action Programme (Updated March 2014) (Doc3) already does this for Strategic Development Areas identified in approved TAYplan (2012) Policy 4 (Doc16). The Proposed Action Programme (2015) (Doc76) also continues this for the same Strategic Development Areas now identified in Proposed Plan (2015) Policy 3 (Doc80). It is not possible for the TAYplan Action Programme to do this for smaller sites as these will need to be identified through Local Development Plans. Therefore Local Development Plan Action Programmes are best placed to do this along with more detailed master plans, development briefs and other tools available to planning authorities. TAYplan is satisfied that the current approach reflects these proposed changes and therefore does not propose to make any changes in response to this.

Montgomery Forgan Associates for Campion Homes Ltd & Dundas Estates & Development Co Ltd (910305) PLAN2015_474

The respondent is correct that Councils would be expected to consider a variety of possibilities to accommodate homes/housing land requirement in their respective housing market areas prior to justifying a transfer elsewhere. Policy 1, Policy 4 and other policies in the Proposed Plan (2015) (Doc80) already set out the appropriate considerations for doing this. Policy 4D specifically requires justification for any transfer of housing land requirement in the face of serious environmental and infrastructure constraints.

Decisions about which sites to identify to meet the housing land requirement are a matter for each Council in their respective Local Development Plan. Any justification for transfer would be weakened by failing to consider alternative locations within the same housing market area which are also capable of supporting delivery of the policy framework in the Proposed Plan – including potentially accommodating development in other settlements within the same housing market area. Given what is sought by the respondent and described above this would be preferable to deliver the vision. Therefore TAYplan is satisfied that the proposed changes describe what already happens. The Proposed Plan (2015) should be read as a whole and TAYplan does not therefore consider there to be any need for additional policy explanation of this.

TAYplan does not agree that the 10% level should be increased if a Strategic Development Area does not progress at the envisaged rate. Councils prepare annual housing land audits to ensure that there is a 5 year supply of effective housing land at all times. This will support the delivery of Policy 4A/Map 4 and Policy 4B (Doc80). There will also be a new housing need and demand assessment every 5 years to inform the review of the Strategic Development Plan. This will provide a fresh understanding of the scale of need and demand for new homes at a more up to date point in time. It will be for the respective Main Issues Report to explore the options relating to this.

It is not clear how the proposed change would bring about an increase in effective land supplies any more than not making the proposed change and instead identifying alternative effective land within the same housing market area in locations which support Policies 1 and 4 (Doc80) in particular. TAYplan considers that Policy 4A/Map 4 and 4B (Doc80) along with the approach in Scottish Planning Policy (2014) paragraphs 117 and 118 (Doc84) and annual housing land audits already provide the appropriate mechanisms and flexibilities.

Any reappraisal of the spatial strategy will happen as a response to evidence identified as part of the next Strategic Development Plan review and not through the review of Local Development Plans. Policy 4D, other parts of Policy 4, Policy 1 and others (Doc80) provide sufficient scope and clarity for Local Development Plans to identify land and overcome issues. The implementation of the spatial strategy and the approaches it sets out remain appropriate to deliver the vision and the outcomes which underpin it. No evidence has been presented by the respondent that justifies a change to the spatial strategy – see Schedule 4 Summaries of Unresolved Issues for 002 Policy 1A - Settlements, 003 Policy 1A – Policy Principles, 004 Policy 1B - Sequential Approach and 005 Policy 1C Settlement Boundaries.

TAYplan agrees that the Cupar North Strategic Development Area has not yet delivered new homes. This is very similar to many strategic development areas and indeed other smaller sites across the TAYplan area. Every site has its own complexities but the recent economic down turn has resulted in similar impacts across many parts of the UK. TAYplan is not therefore convinced that Cupar North is unique or experiencing issues that differ from those being experienced in other locations. A planning application for Cupar North is anticipated during 2016.

However, the respondent has provided no evidence or justification to support their views regarding Cupar North Strategic Development Area. Cupar North and other Strategic Development Areas are considered in more detail in the Summaries of Unresolved Issues for Issues 010 Strategic Development Areas and 011 Cupar North Strategic Development Area.

The respondent has not provided any justification for their proposed changes and TAYplan is not persuaded that these would either result in the outcomes sought or that they would be better placed to deliver the vision. There is some risk that effectively exporting the housing component of Strategic Development Areas to neighbouring housing market areas may result in the opposite and compromise delivery of many other elements of the plan. Again the respondent provides no examination of these practicalities or justification to respond to these risks. TAYplan is therefore satisfied that Policy 4D remains appropriate to respond to issues of environmental and infrastructure constraint and that Policies 4A/Map 4 and 4B are appropriate in conjunction with Policy 1 (Doc80) and other parts of the Plan for Councils to identify effective sites and overcome the risks considered by the respondent.

TAYplan is therefore not persuaded that any changes are needed to Policy 4D.

SCALE

Ryden for Bon Accord Land Ltd/Stewart Milne Homes (843701) PLAN2015_313 Gladman Developments Ltd (846254) PLAN2015_375

TAYplan understands the motivation for seeking an increase to 25%. TAYplan had considered this at Main Issues Report stage in 2014 (see the context section).

There is, however, no automatic guarantee that the outcomes sought by the respondents would be achieved as a result of their proposed changes or indeed that such outcomes could not be achieved using the approach and scale that is already set out in Policy 4D.

The respondents have provided no evidence to support their wish for an increase. There is also no detailed examination of the practical implications for specific housing market areas such as that presented in the TAYplan Housing Analysis Paper (2015) pages 55 and 58 to 61 (Doc100). For example whether such a scale of transfer to another housing market area(s) would have adverse implications for meeting need and demand of the original housing market area and also whether the scale of imported development could lead to the equivalent issues of environmental or infrastructure constraint in the recipient housing market area(s).

TAYplan is therefore not persuaded that any robust or compelling evidence has been provided to justify any change to the proportion of housing land requirement that can be shifted.

Ryden for Bon Accord Land Ltd/Stewart Milne Homes (843701) PLAN2015_313

TAYplan does not agree that 25% would provide 'maximum flexibility'. The maximum flexibility would be provided by transferring 100% of the housing land requirement. However, neither of these (100% or 25%) are considered justifiable as a result of the points made above and, in particular, the risk to meeting identified need and demand for each housing market area and delivering the vision and outcomes of the Plan.

TAYplan is therefore not persuaded that any robust or compelling evidence has been provided to justify any change to the proportion of housing land requirement that can be shifted.

Gladman Developments Ltd (846254) PLAN2015_375

The respondent's proposed changes appear to merge the role of Policy 4D with the purpose of providing a housing land requirement as set out in Policy 4A/Map 4 (Doc80).

The addition of the suggested criterion relating to 5 year land supply would transform what Policy 4D is there to achieve. Policy 4D is not written to enable the transfer of housing land requirement to deal with issues of 5 year effective land supply.

Land supply is considered in Policy 4A/Map 4, which sets out the housing land requirement. Policy 4B (Doc80) sets out the requirements regarding the effectiveness of land consistent with Scottish Planning Policy (2014) paragraphs 117 and 118 (Doc100). The housing land requirement provides the flexibility to ensure that there is a generous land supply (or implicitly generous land supply in the case of Perth & Kinross). The local authority must provide for this within their respective market areas as stated in Policy 4A/Map 4 (Doc80).

The factors that determine effectiveness may include some that are 'market driven' but these are not the only factors. This reflects the approach of Scottish Planning Policy (2014) paragraphs 110 to 119 (Doc84). Policies 1 and 4 (Doc80) both set out the appropriate mechanisms and priorities for Local Development Plan in identifying a 5 year supply of housing land that is effective or capable of becoming effective. This will be monitored annually by Councils in their housing land audits.

The only circumstances that can be envisaged to support a transfer of housing land requirement are those already described by Policy 4D. The proposed inclusion of 5 year land supply in Policy 4D presents practical and operational issues for Local Development Plans and their examinations. These will already focus on the justification for site allocations and effectiveness of land to meet the housing land requirement. This will not be assisted by opening this further so that Councils find themselves needing to justify why they have not transferred housing land requirement to neighbouring housing market areas on the basis of an effectiveness argument which they do not support and is yet to be proven. This will be exacerbated when combined with the proposed increase from 10% to 25% also sought by the same respondent.

Such an approach also presents significant risk to meeting the identified need and demand for new homes in each housing market area. This was one of the fundamental points considered at Main Issues Report (2014) stage when TAYplan was considering options for change and the views of respondents. The proposed changes also present significant risk for delivering the vision and outcomes because the respondent has not considered any of the practical considerations explored in the TAYplan Housing Analysis Paper (2015) pages 55 and 58 to 61 (Doc100). Again these would be exacerbated by the respondents proposed increase to 25%.

The respondent has provided no robust or compelling evidence to justify how their proposed changes would better deliver the vision and the outcomes which underpin it. Neither have they explained why the outcome they seek cannot adequately be achieved by Policy 4A/ Map 4 for housing land requirement, Policy 4B (Doc80) and the use of annual housing land audits described above.

Policy 4D is not about providing a 'market driven' response or about resolving issues of 5 year land supply. Instead it is recognition that environmental and infrastructure constraints exist and can, in some instances, inhibit the delivery of Policy 1 - to focus the majority of new homes in principle settlements - and also other policies in the Proposed Plan. Councils need to justify their decision to transfer housing land requirement to one or more of the neighbouring market areas within their authority. Such justification will inevitably be considered at Local Development Plan

examinations and would need to be on the basis of the environmental or infrastructure constraints that are present.

Thus far Kinross Housing Market Area is the only instance where this has occurred. Here Perth & Kinross Council transferred 10% of the housing land requirement to neighbouring Greater Perth Housing Market Area in response to the environmental constraints associated with Loch Leven. There is some prospect that this approach may need to be applied to Highland Perthshire Housing Market Area in future to respond to the issues identified in the TAYplan Housing Analysis Paper (2015) pages 55 and 58 to 61 (Doc100). However, this will be a matter for Councils through their respective Local Development Plans.

TAYplan is therefore not persuaded that there is any evidence to support the proposed changes. TAYplan is also concerned that the apparent blurring of the operational circumstances for using Policy 4D would result in significant and potentially inconsistent decisions at examination. This could be avoided by not taking forward the proposed changes.

Authority's Responses To Supporting Representations

SCALE

Aberdeen City and Shire SDPA (442583) PLAN2015_563

TAYplan welcomes the support for Policy 4D as written.

SUPPORT FOR BASIS AND APPROACH OF POLICY 4

Colliers International for Scottish Enterprise (835481) PLAN2015_370

TAYplan welcomes this support and agrees that the principles and approach set out contribute to the delivery of Scottish Planning Policy (2014) paragraphs 110, 123 and 125 (Doc84).

NHS Tayside (908896) PLAN2015_325

TAYplan welcomes the support and notes that successive population and household projections can vary in their conclusions. TAYplan agrees that the current approach provides flexibility to respond to these issues in a way which delivers the vision.

Scottish Water (762198) PLAN2015_269

TAYplan welcomes this support.

CONCLUSION

TAYplan is not persuaded that any robust or compelling evidence has been provided that justifies the proposed changes or which refutes the evidence considered during and after the Main Issues Report (2014) consultation set out in the TAYplan Housing Analysis Paper (2015) pages 55 to 61 (Doc100).

TAYplan remains satisfied that the Policy 4D (Doc80) continues to appropriately respond to environmental and infrastructure constraints in favour delivering the sustainable pattern of development needed to deliver the vision and Scottish Planning Policy (2014) paragraphs 40 and 76 to 83 (Doc84).

No key government agency or Scottish Government themselves have sought changes or raised any issues relating to this or the interpretation or implementation of Scottish Planning Policy (2014) (Doc84). TAYplan considers this to mean that these organisations are satisfied and perceive there to be no issue relating to Scottish Planning Policy (2014) or other national policy.

TAYplan therefore considers that all of the issues raised do not warrant any change to the Proposed Strategic Development Plan (May 2015) and propose that the elements dealt with in this Schedule 4 Summary of Unresolved Issues remain as written and unchanged.

Reporter's conclusions:

DPEA use only

Reporter's recommendations:

DPEA use only