



## **REPORT TO SHETLAND ISLANDS COUNCIL**

### **SHETLAND LOCAL DEVELOPMENT PLAN EXAMINATION**

Reporters: Mr David N Gordon BSc(Hons) MSc MRTPI  
Mr Ronald W Jackson LLB

Date of Report: 13 June 2014



## **CONTENTS**

## **Page No**

Examination of Conformity with Participation Statement	1
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## **Issue**

## **Page No**

A1	Areas of Best Fit	4
A2	Areas of Best Fit	8
AL1	Good Agricultural	10
AP1	Delivery of Sites	16
C1	Status of Marine Spatial Plan	18
C2	CST1 – Coastal Development	20
ED1	Commercial and Business Developments	23
ED3	Settlement, detrimental impact to Lerwick Town Centre	26
ED4	Sites with Development Potential	28
GP1	General Requirements for All Developments	31
GP2	Use of Low and Zero Carbon Generating Technologies (LZCGT)	33
GP3	Biodiversity Geodiversity	35
GP5	All Development Layout and Design	37
GP6	Sustainable Development	39
GP8	General Policy 3 Wording	42
GP9	View Point at Staney Hill	43
GP10	General Policy 2 Grammar	45
H1	HNDA and Land Supply	47
H2	Housing Policy	57
M1	Minerals	59
M2	Minerals	63
NH1	Natural Heritage	66
NH4	Soils	69
NH5	Geodiversity	71
NH6	Policy NH7 – Water Environment Comments	73
NH7	Local Natural Designations	75
NH8	Policy NH7 – Water Environment	77
RE1	Policy RE1 - Renewable Energy	79
RE2	Spatial Framework for Windfarms	81

RE3	Impacts on Recreational sites by renewable energy developments	83
RE4	Policy gaps on renewable energy in Local Development Plan	86
SD1	Deliverability of Sites	88
T1	Policy Trans1 – Integrated Transport	91
T3	Policy wording TRANS1 – Integrated Transport	93
WD2	Policy WD2 - Wastewater	94
WD3	Policy WD3 - SUDS	95
S1	Site NI001 – Boundary change	97
S2	Site NM001 – Boundary change	98
S3	Removal of Site NM011	101
S4	Inclusion of archaeology on site-assessment sheet Site NM013	103
S5	Removal of Site NM015	105
S6	Access, water and sewerage supply - Site CL003	107
S8	Objections to previous planning permission road access and sewerage provision – Site CL005	110
S9	Boundary change – Site WM001	112
S12	Boundary Change – WM005	114
S13	Site with Development Potential WM006	117
S14	Removal of Site WM010	119
S15	Removal of WM011	121
S16	Removal of Site WM012	123
S19	Oxlee, objection - LK008	127
S20	Removal of site LK009	130
S21	Removal of Site – LK010	133
S24	Preservation of Site for Educational Use – LK015	136
S25	Amendment to site notes - Site LK021 Dales Voe	138
S26	Boundary Change Site SM008	141
S27	Removal of Site SM010	143
S28	Removal of Site SM015	148
S30	Removal of Site SM017	151
S31	Boundary change – Site SM022	153
S32	Removal of Site SM025	156
S35	Inclusion of Utnabrake Site (Site No. 046b)	159
S36	Inclusion of 19a Setter Ness	164
S37	Flood risk related comments on Potential development sites	167

S38	Amendments and Comments relating to Potential Development Sites text	175
S39	Duplication of Sites LK017 and LK009	178
S40	Removal of Site NM010	180

## **Shetland Local Development Plan**

### **Examination of Conformity with the Participation Statement**

#### **Introduction**

1. Section 19(4) of the Town and Country Planning (Scotland) Act 1997 (as amended) requires the person who has been appointed by the Scottish Ministers to examine the plan: 'firstly to examine ... the extent to which the planning authority's actions with regard to consultation and the involvement of the public at large as respects the proposed plan have conformed with (or have been beyond the requirements of) the participation statement of the authority which was current when the proposed plan was published under section 18(1)(a).'

#### **The participation statement**

2. The participation statement of Shetland Islands Council which was current when the proposed Shetland Local Development Plan was published is contained in the updated version of the council's Development Plan Scheme, dated October 2010 (CD24).

3. It identifies the key agencies and other parties which the council intended to consult. The latter include occupiers of neighbouring sites identified for development and anyone making representations at any point in the process. The forms of consultation/participation were stated to be:

- Media – local (radio/newspapers)
- Written correspondence to existing database of consultees and anyone who has made representations at any point in the process
- SIC website for information/comment
- Planning Newsletter
- Posters/postcards/leaflets
- In shops, halls, sports centres, notice boards.

#### **The council's statement of conformity with the participation statement**

4. The statement of conformity submitted by the council states that consultation on the Shetland Proposed Plan Report was held from October 2012 to December 2012. The statement also includes the following table of information:

How	When
Local media: Shetland Times	Statutory advert 19 October 2012 Notification of extension to consultation 30 November 2012
	Proposed plan left in all Shetland leisure centres, Lerwick library and mobile library vans
Written correspondence with existing database of consultees, statutory consultees and key agencies	19 October 2012
SIC website for information/comment	From 19 October 2012
Notify occupiers and neighbours	17 October 2012

5. Not all of the forms of consultation/participation listed in the participation statement appeared to be reflected in the statement of conformity. The potential discrepancies related to:

- Media – ‘radio’ is mentioned in the participation statement, but not in the statement of conformity.
- ‘Planning Newspaper’ is mentioned in the participation statement, but not in the statement of conformity.
- The participation statement refers to ‘postcards/postcards/leaflets in shops, halls, sports centres, notice boards’, whereas the statement of conformity states ‘proposed plan left in all Shetland leisure centres, Lerwick library and mobile library vans’.

6. The council was therefore asked to explain in more detail what it had done. It responded by letter dated 22 January 2014, as follows:

- Media – radio. Information and discussion was relayed via Shetland Independent Broadcasting Company (SIBC) and BBC Radio Shetland during the proposed plan consultation/participation period. However the dates and times were not recorded, and therefore not included in the statement of conformity.
- Planning Newspaper. This was not produced for the proposed plan; however updates were placed on the council’s website.
- Posters [etc.] Posters, postcards and leaflets were left in shops, halls and sports centres, and on notice boards. The council’s Corporate Communications Unit published a press release on 12 October 2012 in conjunction with the proposed plan being made available in all Shetland leisure centres, Lerwick library and mobile library vans. This was deemed to be more effective in terms of public engagement and cost than the posters etc. left in shops, halls, sports centres and on notice boards.

**The reporter's conclusions**

7. I have reviewed the information submitted by the council. I find that its actions with regard to consultation and the involvement of the public at large as respects the proposed plan have been generally in conformity with its participation statement.

8. I am also satisfied that to the extent that these actions did not conform with the intentions set out in the participation statement, they do not represent substantive shortcomings, nor such as would require me to recommend to the Scottish Ministers that they should require the council to undertake further steps with regard to either consultation or public involvement as respects the proposed plan.

9. I therefore conclude that it is not necessary for me to submit a report to the Scottish Ministers under section 19A(1)(b) of the Act. I will therefore proceed with the examination of the local development plan.

*David N Gordon*

Reporter

27 January 2014



<b>Issue A1</b>	<b>Areas of Best Fit</b>	
<b>Development plan reference:</b>	Areas of Best Fit – page 15 paragraph 5 & page 16. Policy H2 – Page 39	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Dennis Leask (009) Jonathan Wills (053) Tingwall, Whiteness and Weisdale CC (026)		
<b>Provision of the development plan to which the issue relates:</b>	Area of Best Fit designations	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Dennis Leask (009)</u></p> <ul style="list-style-type: none"> <li>• Site 19a was not considered suitable because it was not within the area of best fit (Lerwick). Sites LK010 (Seafield) and LK016 (observatory) are outwith areas of best fit.</li> <li>• The representee (009) is of the opinion that site 19a, whilst not within the AOBF meets all the criteria specified by the Council in the call for development sites.</li> </ul> <p><u>Tingwall, Whiteness and Weisdale community Council (026)</u></p> <ul style="list-style-type: none"> <li>• The map based system is supposed to delineate AOBF; it will not be fit for purpose if the overriding criterion is the visual impact. Agricultural importance must be part of the AoBF; this should not be confused with a farmer/crofter wishing to sell off land for financial gain but a considered opinion of the Crofting Commission acting on behalf of the crofting community now and future generations.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Site 19a to be included in the LDP as a site for development potential.</li> <li>• Agricultural land should be a consideration when designating AOBF</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<p>Site 19a covered a substantial area covering 44ha and was outwith the Lerwick Area of Best Fit and would therefore be contrary to the policy H2 Areas of Best Fit which states;</p> <p>This plan identifies 8 areas of Best Fit throughout Shetland in order to promote</p>		

sustainable locations for residential or residentially compatible Development in every locality.

The 8 Areas of Best Fit identified on proposals map are:

Baltasound  
 Mid Yell  
 Symbister  
 Brae  
 Aith  
 Scalloway  
 Lerwick  
 Sandwick

Major Developments (developments in excess of 50 units or 2 hectares - as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, Reg 2 (1) and as included in the Schedule) should only occur within Areas of Best Fit unless the applicant can provide evidence of demand in an alternative area or that no land is available for development within the best fit area.

Areas of Best Fit (AoBF) have been identified to provide a focus for growth within and adjacent to the largest community in each of the seven localities in Shetland. In the North Isles, Areas of Best Fit have been identified at both Baltasound and Mid Yell; this means there are eight Areas of Best Fit.

Within Areas of Best Fit amenities such as schools, shops, employment and essential infrastructure are readily available through a range of transport options.

All areas identified as Areas of Best Fit;

- Can connect to the main sewer
- Are within 800 m (walking distance) of two of the following; convenience store/ post office (only one in any count), GP surgery, primary school, public hall, play park
- No part of any of the Shetland Mainland AoBF is more than 400 metres from a public bus service (either feeder buses or primary routes)
- No part of any AoBF is below the 5m contour or shown on the SEPA flood maps.
- Low likelihood of having significant impacts on biodiversity including European or locally designated nature conservation sites.

Site 19a is not within 800m of two of the following; convenience store/ post office (only one in any count), GP surgery, primary school, public hall, play park. The settlement of Gulberwick adjacent to Site 19a has no school, GP surgery or convenience store/ post office all of which are situated in the AoBF Lerwick.

Given that policy H3 All housing development states that; 'New residential development should take place in Allocated Sites, Sites with Development Potential, Areas of Best Fit, on Brownfield Land or on Undeveloped Land within existing

settlements in that order of desirability.’ The size and location of site 19a would not be the ‘best use of existing investment and infrastructure.’

The exclusion/inclusion of site 19a are also covered in issues;

**AP1 – Action Programme**

**ED3 – Sites with Development Potential**

**ED4 – Sites with Development Potential**

**H1 – Effective Land Supply**

**M1 - Minerals**

**S36- Sites with Development Potential**

**S39 – Duplication of Sites**

- Site LK010 and LK016 are not classified as major developments, as defined by the anticipated number of units or the area of the sites.
- Agricultural land issues are covered under issue AL1. The evidence outlined within Representation AL1 shows that the Planning Authority is of the opinion that there is not an adequate justification to provide a policy on agricultural land within the LDP and as such we do not feel that agricultural land fits within the framework of criterion for Areas of Best Fit outlined above.

**Reporter’s conclusions:**

1. Issue A1 is one of several dealing with the non-inclusion of Site 19a, Setter Ness, Gulberwick as a Site with Development Potential. My main conclusions relating to this matter are set out in issue S36.

2. The proposed plan’s spatial strategy is based on the islands’ dispersed settlement pattern. In 2004 the council defined seven “localities” (North Isles, West Mainland etc.) as a basis for service planning at a local community level. These localities have continued into the proposed plan. Within all but one of the localities, one Area of Best Fit has been identified to provide a focus for growth. In the case of North Isles, two Areas of Best Fit have been identified (one in Unst and one in Yell).

2. Each of the eight Areas of Best Fit is defined on the maps in the plan. I understand that each one meets all the defined criteria relating to sewerage, proximity to amenities and buses, low flood risk and low likelihood of impacts on biodiversity. Agricultural importance, which I discuss in issue AL1, is not a defined criterion. Nor is visual impact.

3. Site 19a, Setter Ness lies at the south end of Gulberwick, to the south-west of Lerwick, in the South Mainland locality. Lerwick is the Area of Best Fit for the Lerwick & Bressay locality, and Sandwick is the Area of Best Fit for the South Mainland locality.

4. Creating another Area of Best Fit in this area, at Gulberwick, would be contrary to the plan’s approach to the designation of such areas. The circumstances in South Mainland are not similar to those in North Isles, which includes two large islands each with a focal community. Furthermore, Gulberwick lacks some of the amenities

associated with Areas of Best Fit. In particular, it has no school and no convenience store/post office.

5. Site 19a is a large site. Even if it was reduced in size, as indicated in the plan in appendix C of Mr Leask's representation, it would still be a large site. Sites with Development Potential of a similar size generally lie within or adjacent to Areas of Best Fit. Sites LK010 Seafield and LK016 Observatory are much smaller than Site 19a, and they lie very close to the Lerwick Area of Best Fit. Site 19a lies more than 2.5 kilometres from the Lerwick Area of Best Fit, and about 13 kilometres from the Sandwick Area of Best Fit. Designating Site 19a as a Site with Development Potential would be contrary to the plan's approach to the designation of such sites.

6. I conclude that, whatever its merits, the inclusion of this site in the plan would be contrary to the plan's spatial strategy.

**Reporter's recommendations:**

No modifications.

<b>Issue A2</b>	<b>Areas of Best Fit</b>	
<b>Development plan reference:</b>	Areas of Best Fit – page 15 paragraph 5, policy H2 – Page 39	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Sandness and Walls Community Council (013)		
<b>Provision of the development plan to which the issue relates:</b>	Areas of Best Fit	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Sandness and Walls Community Council (013)</u></p> <ul style="list-style-type: none"> <li>• Dismayed to see that Walls has not been identified as an AOBF.</li> <li>• List of facilities within Walls.</li> <li>• The CC feels that Walls qualifies on the criteria stated in the LDP and request that Walls be included in the AOBF.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
Inclusion of Walls as an Area of best fit		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• Areas of Best Fit (AoBF) have been identified to provide a focus for growth within and adjacent to the largest community in each locality and the large islands in Shetland. The Development Plans team found that both Walls and Aith were similar in the number of households and both were well serviced in terms of facilities. Aith demonstrated more potential for future growth based on the higher number of recent developments and hosting a Junior high school.</li> <li>• Aith's proximity to the supporting settlement of Bixter and its additional services confirmed Aith's place within the hierarchy.</li> </ul>		
<b>Reporter's conclusions:</b>		
<p>1. The proposed plan's spatial strategy is based on the islands' dispersed settlement pattern. In 2004 the council defined seven "localities", including West Mainland, as a basis for service planning at a local community level. These localities have continued into the proposed plan. Within all but one of the localities, one Area of Best Fit has been identified to provide a focus for growth. The exception is North Isles, where two</p>		

Areas of Best Fit have been identified (one in Unst and one in Yell). It seems reasonable to have one Area of Best Fit in each of these large islands. I can see no similar case for identifying two Areas of Best Fit in West Mainland.

2. There are two potential candidates for Area of Best Fit in West Mainland – Aith and Walls. The council states that they have a similar number of households, and that both are well serviced in terms of facilities. My inspections of the settlements confirmed the latter point.

3. The council’s decision to select Aith as the West Mainland’s Area of Best Fit appears to have been based on three factors – the junior high school, the greater number of recent developments, and the proximity of Bixter and its facilities. In the light of these factors, I think the council’s choice was reasonable.

**Reporter’s recommendations:**

No modifications.

<b>Issue AL1</b>	Good Agricultural Land	
<b>Development plan reference:</b>	Deletion of existing local plan policy	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p>Caroline Adamson (015)  Dunrossness Community Council (022)  Tingwall, Whiteness and Weisdale Community Council (026)  Margaret Halcrow (034)  Stuart Hill (036)  M Bell (040)  M Bell (005)  Colin Hunter (052)  Fladdabister &amp; Ocroquoy Settlement Design Statement Group (057)  Andrew and Rachel Kemp (059)  Lorraine Halcrow (063)  Allen J Sinclair (062)  Douglas Halcrow (064)  Rosalind Burgess (066)</p>		
<b>Provision of the development plan to which the issue relates:</b>	Deletion of the Good Agricultural Land Policy.	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Caroline Adamson (015)</u></p> <ul style="list-style-type: none"> <li>Caroline Adamson objects to SM017 Hestingott, Dunrossness being included in the Plan as the site is 'first class arable land' and this type of land should not be considered as a proposed site for housing.</li> </ul> <p><u>Dunrossness Community Council (022)</u></p> <ul style="list-style-type: none"> <li>Dunrossness Community Council is concerned about the lack of a policy to protect good agricultural land, therefore the Council should 'retain within the new Shetland Local Plan the following statement from the current Local Plan (2004) (CD25): <i>Development that would permanently sterilised the best agricultural land assessed as falling within the Macaulay Land Institute's Classes 4.2 and 5.1 will be refused except in housing Zone 1.</i></li> </ul> <p><u>Tingwall, Whiteness and Weisdale Community Council (026)</u></p> <ul style="list-style-type: none"> <li>Tingwall, Whiteness and Weisdale Community Council objects to site CL005 Veensgarth due to the site being good agricultural land. The Community Council</li> </ul>		

believes that the arable land should be protected for future generations. The Community Council believes that the Council should produce Supplementary Guidance on Agriculture. Furthermore Agricultural importance must be part of the AoBF; this should not be confused with a farmer/crofter wishing to sell off land for financial gain but a considered opinion of the Crofting Commission acting on behalf of the crofting community now and future generations.

Margaret Halcrow (034)

- Margaret Halcrow is concerned about development on good agricultural land.

Stuart Hill (036)

- Stuart Hill states that no building should be on agricultural or grazing land.

M Bell (040)

- M Bell states that SM017 should not be built upon as it used as arable land.

Colin Hunter (052)

- NM015 is good agricultural land.

Fladdabister & Ocracquoy Settlement Design Statement Group (057)

- Douglas Halcrow (Fladdabister & Ocracquoy Settlement Design Statement Group) (CD22) **are** concerned that the Shetland Local Development Plan does not provide any protection for good agricultural land. Allowing development on good agricultural land would lead to the decline of crofting.

Andrew and Rachel Kemp (059)

- Andrew and Rachel Kemp objects to SM017 Hestingott, Dunrossness being included in the Plan as the site has been used as arable land since the 1960's.

Allen J Sinclair (062)

- Allen J Sinclair states that it is crucial to have sustainable communities. The area is a farming/crafting area and I feel this needs to be maintained for future generations to ensure a vibrant agricultural industry and secure the character of the area and Shetland. I disagree with good crofting land being disposed for major housing development. Comments made regarding SM010 site.

Lorraine Halcrow (063)

- Lorraine Halcrow states that good agricultural land should be protected.



Douglas Halcrow (064)

- Douglas Halcrow states that the Plan offers very little protection to Shetland rural environment. The Plan needs to support Crofters better. Housing should not be allowed on Shetlands good agricultural land as this is an essential part of crofting.

Rosalind Burgess (066)

- Rosalind Burgess states that it is crucial to have sustainable communities. The area is a farming/crafting area and I feel this needs to be maintained for future generations to ensure a vibrant agricultural industry and secure the character of the area and Shetland. I disagree with good crofting land being disposed for major housing development. Comments made regarding SM010 site.

**Modifications sought by those submitting representations:**

The inclusion of a policy to protect agricultural land and for agricultural land to be protected in Areas of Best Fit.

**Summary of responses (including reasons) by planning authority:**1.1 National Policy

- Scottish Planning Policy (SPP) seeks to protect prime quality agricultural land. Prime Agricultural Land is classified by the Macaulay Land Research Institute as Classes 1 to 3.1. The quality of the best agricultural land in Shetland is 4.2 and 5.1 and falls well below the standard which must be granted protection by planning policy.

Main Issues Consultation for the new Shetland Local Development Plan

- The Development Plan Monitoring Statement revisited the current Local Plan Policy stating that:

“The quality of the agricultural land in Shetland falls well outside that which is protected at a national level. It may be beneficial to discuss with agencies and the Shetland public, whether or not the protection of best agricultural land is a decision for the Council or the local farmer/crofter.”

Therefore the extensive Main Issues Consultation in 2010 asked the question:

“How can we develop planning policy to protect Shetland’s crofting and farming way of life whilst utilising the most appropriate land for housing and employment development?”

The responses we received did not provide a clear consensus that “good agricultural land” within Shetland should be protected.

Rural Development

In terms of rural development, the main objectives of the Shetland Local Development Plan are;

- To support sustainable economic growth in rural areas.
- To promote economic activity and diversification, including development linked to tourism and farm diversification, whilst ensuring that the distinctiveness of rural areas, the service function of small towns and the natural and cultural heritage are protected and enhanced.
- To allocate a generous supply of land to meet housing requirements, including for affordable housing, applies equally to rural and urban areas.

Agricultural Use in Shetland

- The overall picture of land use in Shetland since 1981 is represented in Table 1 below (comparative figures for 2006 are included to represent more recent trends).

	1981	2006	2010	% change 1981/2010	% change 2006/2010
Number of holdings	2,240	1,972	1,903	-15.0	-3.5
F/T & P/T employees	204	282	211	3.4	-25.2
<b><u>Crops (ha)</u></b>					
Grass	7,338	24,288	26,759	264.7	10.2
Barley & Oats	511	56	100	-80.4	78.6
Turnips & Swedes	103	37	15	-85.4	-59.5
Kale & Cabbage	34	12	7	-79.4	-41.7
Potatoes	232	39	23	-90.1	-41.0
<b><u>Livestock</u></b>					
Beef cows & heifers	1,896	2,210	2,131	12.4	-3.6
Dairy cows & heifers	593	533	522	-12.0	-2.1
Total sheep	297,558	315,554	281,644	-5.3	-10.7
Total poultry	8,672	4,594	4,977	-42.6	8.3
Milk production (ltrs)	2,069,550	2,237,765	2,210,255	6.8	-1.2
Sheep slaughtered	9,592	14,105	n/a		
Cattle slaughtered	278	103	n/a		
Sheep exported	60,542	81,409	86,695	43.2	6.5
Cattle exported	2,066	2,158	2,341	13.3	8.5

Table 1 - Comparative statistics for Shetland agriculture 1986-2010  
(source: *Shetland in Statistics*)

Referring to Table 1, it is possible to be exact about agricultural

production outputs between 1981 and 2010. The amount of crops grown by hectare in Shetland (excluding grass) has fallen on average by 83.4% over the period. Grass meanwhile has increased by 264.7% - there is a clear correlation here between national subsidies (the now defunct Sheep Annual Premium (SAP)) and the area of grass grown, as the financial incentive to keep as many sheep as possible encouraged individuals to turn as much land into grazing as possible. This was at the expense of other crops. Despite SAP no longer existing, there has been no appetite demonstrated by the agricultural sector to return to the growing of crops apart from grass.

It seems clear that the Council's policy of protecting areas of better agricultural land from development has not had any meaningful impact on protecting the agricultural landscape that existed in the 1980's, the time when the policy was introduced.

Given the lack of protection in the national policy, the need to promote rural diversification and development, (including the provision of affordable housing), and the lack of justification in economic development terms, there is no apparent planning merits for a protectionist policy for Shetland's agricultural land.

#### **Reporter's conclusions:**

1. Scottish Planning Policy (SPP), published in 2010, is a statement of the Scottish Government's policy on nationally important land use planning issues. It affords protection to prime (grades 1, 2 and 3.1) agricultural land, but not to poorer quality land. The best quality agricultural land in Shetland, grades 4.2 and 5.1, is not protected by national planning policy.
2. Policy LP NE14 of the 2004 Shetland Local Plan aimed to protect the best agricultural land in Shetland. The merits or otherwise of continuing this policy were set out in the Main Issues Report. The council states that the consultation process resulted in no clear consensus, and the previous approach was dropped. Policy NH5 Soils in the proposed plan does, however, seek to protect soils resources in appropriate circumstances.
3. There have been major changes in agriculture in Shetland in recent decades. Between 1981 and 2010 the area under grass more than tripled, while the area used for growing crops (except grass) declined by more than 80%. These statistics tend to support the council's view that the policy of protecting areas of better agricultural land from development has had little impact on preserving the islands' traditional agricultural landscape.
4. The need to provide land for housing, including affordable housing, in sustainable locations, and the economic arguments in favour of rural diversification, reduce further the case for a blanket protection of Shetland's better agricultural land.
5. I appreciate that good agricultural land is a valuable resource for crofting and farming communities, as well as for the world's human population. Once it is

developed, it is generally lost, if not for ever, then at least for the foreseeable future. However, the council appears to have given careful thought to this matter, and I am not inclined to recommend a different approach.

**Reporter's recommendations:**

No modifications.

<b>Issue AP1</b>	Deliverability of sites	
<b>Development plan reference:</b>	Action programme	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Dennis Leask (009) Jonathan Wills (053)		
<b>Provision of the development plan to which the issue relates:</b>	Action Programme	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Dennis Leask (009)</u></p> <ul style="list-style-type: none"> <li>I would suggest that the 'Sites with Development Potential' put forward in the LDP for the Lerwick area fall well short of what could reasonable be considered as a 'generous supply' and are likely to give expensive options for housing and limit tenure provision.</li> </ul> <p>Pending style and terrain, the total area allocated would appear to provide for around 437-875 units. Please see Appendix A which details the housing capacity of each of the allocated sites in Lerwick. This table has been based on my best estimates using adjacent housing densities i.e. Staney Hill and Quoys; and an assumption, based on my experience, that housing association plots are approximately half that for private housing.</p> <p>Perhaps of greater concern is the council's 'Action Programme' for the above sites, which would appear to indicate that all but two of the proposed sites are unlikely to be actioned within the first 10 years of the Local Development Plan. Please see Appendix B</p> <p><u>Jonathan Wills (053)</u></p> <ul style="list-style-type: none"> <li>Representation 053 submitted by Jonathan Wills is in support of representation 009 and adds no further information or comment.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>None</li> </ul>		

**Summary of responses (including reasons) by planning authority:**

- With regard to the availability of sites for development we asked the submitter to indicate an indicative timescale for development:
  - short (1-5 years)
  - medium (5-10 yrs)
  - long (10yrs +)
- These timescales are recorded in the Action Programme and reflect the fact that the Local Development Plan is a strategic document with a long term vision for 20 years.

**Reporter's conclusions:**

See my conclusions on issue H1 HNDA and Land Supply.

**Reporter's recommendations:**

No modifications.

<b>Issue C1</b>	Status of the Marine Spatial Plan	
<b>Development plan reference:</b>	Status of the Marine Spatial Plan	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish and Southern Energy (072)		
<b>Provision of the development plan to which the issue relates:</b>	Policy CST1	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Scottish and Southern Energy</u></p> <ul style="list-style-type: none"> <li>MIR referenced the Shetland Marine Plan (CD16); SSE felt it was unclear whether this referred to the Sectoral or Regional Marine Plans required to be prepared under the Marine Scotland Act. Clarification was requested at the LDP stage. SSE state that this has not been clarified within the LDP and it is important to do so in order to avoid and potential policy conflict emerging between marine plans with statutory and non statutory recognition.</li> <li>Should the Marine Spatial Plan not be either a regional or sectoral plan then any regional or sectoral plan produced would take precedence over the MSP and the policy should recognise this.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>Clarification within the LDP as to the status of the Shetland Marine Spatial Plan (regional or sectoral). Policy to reflect the correct status of the MSP and its hierarchy in relation to any regional or sectoral plan produced.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>The Shetland Marine Spatial Plan is effectively a precursor to the Pending Regional Marine Plans. Therefore, it is not deemed necessary to add in a specific policy reflecting the correct status of the MSP.</li> </ul>		
<b>Reporter's conclusions:</b>		
<p>Policy CST1 states that the Shetland Marine Spatial Plan will form supplementary guidance to the local development plan. The council's summary of the representation in this case refers to the Shetland Marine Plan (CD16). The council's summary of response refers to the Shetland Marine Spatial Plan. Document CD16 is headed <i>the</i></p>		

*Shetland Islands Marine Spatial Plan.* I am satisfied that Policy CST1 is clear that the Shetland Islands Marine Spatial Plan has the status of Supplementary Guidance. The Marine Spatial Plan itself also makes that clear. Any such guidance will form part of the development plan, and have that status for decision making in line with section 25 of the Planning Act. I consider, however, that the inconsistency in nomenclature in relation to the Marine Spatial Plan may give rise to confusion. Policy CST1 should therefore be amended accordingly.

**Reporter's recommendations:**

I recommend that the following modification be made:

Add the word "Islands" between the words "Shetland" and "Marine" where they occur in the last paragraph of Policy CST1.



<b>Issue C2</b>	<b>CST1 – Coastal Development</b>	
<b>Development plan reference:</b>	CST1 – Page 36	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Southern Energy (072)		
<b>Provision of the development plan to which the issue relates:</b>	CST1	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Scottish Southern Energy (072)</u></p> <ul style="list-style-type: none"> <li>• The policy seeks to apply to the area of the marine environment that extends out to 12 nautical miles from the shore, referring to this as MHWS. However T &amp; CP system only extends to MLW of ordinary spring tides, which does not extend to 12 nautical miles of shore. Recommendation to amend the policy to be clear that it refers only to developments up to MLWS.</li> <li>• 4 bullet pointed criteria should be amended to reflect the fact that the T &amp; CP system does not extend into the marine environment on the basis referred to in the above paragraph.</li> <li>• Notes that Marine Fish Farming is the exception.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Amend policy to refer only to developments up to MLWS</li> <li>• Amend the policy to reflect the fact that T &amp; CP System does not extend out to 12 nautical miles.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• The policy states the following <i>proposals for developments and infrastructure in the coastal zone (Mean High Water Springs out to 12 Nautical Miles)</i> it does not refer to this whole area as MHWS.</li> <li>• The T &amp; CP system only extends beyond MLWS for aquaculture developments the SIC has a legal duty under the <i>Zetland County Council Act 1974' Act (CD31)</i> for the coastal area for MHWS to 12nm for ALL Marine Developments. This is clearly stated in the justification to policy CST1 '...Whilst Local Authority planning control in the coastal area from MLWS to the limit of the</li> </ul>		

*territorial waters extends to aquaculture only, the Council must take account of all activities around Shetland's coast. This requirement is further augmented by the duty of development control and safe navigation in respect of marine development placed upon the Council by the Zetland County Council Act 1974'*

**Reporter's conclusions:**

1. It is not in dispute that the provisions of the Town and Country Planning (Scotland) Act 1997 and related legislation apply only as far as the mean low water mark of ordinary spring tides (apart from aquaculture developments). It follows therefore that, subject to the foregoing proviso, a local development plan made under the provisions of the 1997 Act can only apply to the area up to low water mark.
2. The Zetland County Council Act 1974 defines the coastal area as the area of the territorial waters of the United Kingdom adjacent to the Shetland Islands (with certain specific exceptions). Section 5 of the 1974 Act imposes a duty on the council to take all such action as they consider necessary or desirable for, or in connection, with the conservancy of, and the control of development in, the coastal area. The council therefore has additional statutory powers over developments within territorial waters.
3. Although the justification for Policy CST1 seeks to differentiate between the council's planning powers and the duty imposed upon the council by the 1974 Act, for the reasons set out in paragraph 1 above, I consider that it would be *ultra vires* to seek to include in a local development plan policy any powers and duties which derive only from the 1974 Act. I can readily understand, however, why the council would wish to draw attention to the somewhat unique position that it holds in terms of the powers available to it under the 1974 Act. In my opinion this would best be done by appending an advisory note to the justification for Policy CST1.
4. Marine fish farming is the only type of development below mean low water mark that is subject to planning control. This means that planning applications for marine fish farming require to be determined in accordance with the development plan unless material considerations indicate otherwise. When marine plans prepared under the Marine (Scotland) Act 2010 are approved, marine fish farming applications will also have to be determined according to the appropriate marine plans unless relevant considerations indicate otherwise. This could mean that aquaculture would be subject to stricter controls than other marine activities not subject to both regulatory regimes.
5. Regulation 10 of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008 requires the planning authority to have regard to any adopted national or regional marine plan relating to areas adjoining the plan area and it is clearly desirable that development plan policies, including Supplementary Guidance, and policies in marine plans are consistent with each other. I have already found in Issue C1 that the Shetland Islands Marine Spatial Plan has the status of Supplementary Guidance. However, in the absence of any statutory provisions or Scottish Government policy or guidance on how the two regimes should otherwise interact, it would be inappropriate for the plan to fetter the planning authority's discretion by stating how any policy conflicts should be resolved, or giving precedence to policies in marine plans.

**Reporter's recommendations:**

I recommend the following modifications be made:

1. Delete the words "(Mean High Water Springs out to 12 nautical miles)" in lines one and two of Policy CST1 and substitute the words "(Mean Low Water Mark of Ordinary Spring Tides)".
2. Add the words "will require to have regard to the foregoing criteria and" between the words "developments" and "will" in the second paragraph of Policy CST1.
3. Delete the third paragraph of Policy CST1.
4. Delete the first two sentences of the justification for Policy CST1 and the words "Consequently any" and substitute the word "Any".
5. Following the amended justification for Policy CST1 add an Advisory Note as follows:

"Whilst local authority planning control in the coastal area from Mean Low Water Springs to the limit of territorial waters extends to aquaculture only, the council must take account of all activities around Shetland's coast. The council has a duty of development control and safe navigation in respect of marine development placed upon it by the Zetland County Council Act 1974. Under these powers the council intends that the criteria set out in the first paragraph of Policy CST1 will apply to developments and infrastructure below low water mark out to 12 nautical miles. For all other new marine developments or variations to existing marine infrastructure, proposals will be assessed against the Council's Works Licence Policy that details the policy framework for determination of applications."

<b>Issue ED1</b>	Commercial and Business Developments	
<b>Development plan reference:</b>	Policy ED2 - page 44	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Sport Scotland (081)		
<b>Provision of the development plan to which the issue relates:</b>	Economic Development Policy	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>ED2 Commercial and Business Developments</u></p> <ul style="list-style-type: none"> <li>• It is not clear if this policy allows for business development in the countryside. The policy refers to contributing to the viability of existing settlements and the justification talks of maintaining settlements. The justification does refer to strengthening the rural economy but it is not clear if this extends to promoting development in the countryside outwith settlements.</li> <li>• sportscotland supports the positive approach to economic development set out in paragraph 45 of the SPP (CD34) and the advice to take a flexible approach that recognises the diverse needs and locational requirements of different sectors. Sport and recreation development in the countryside can make a positive economic contribution and can have some specific locational requirements; often linked to the natural resources they are dependent on.</li> <li>• Outdoor centres, equestrian facilities, mountain bike centres, canoe changing facilities or a slipway can all, for example, have particular countryside and natural heritage locational needs. These should be recognised and catered for in the local development plan.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Local Development Plan should recognise that particular business developments have locational needs and may need to be sited in the open countryside as opposed to existing settlements.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		

- The Planning Authority notes the comments made by Sport Scotland. It is understood that particular types of business development may have locational needs out with existing settlements. However, Policy ED2 within the LDP provides the strategic framework for economic development policy and more detailed policy can be found in Supplementary Guidance – Business and Industry (CD5). The following Policy can be found in the draft Supplementary Guidance document:

### **SGED3 Business and Industry Proposals in the Open Countryside**

Proposals for the development of new, or extensions to existing business and industrial development in the open countryside will only be permitted where:

- the applicant can demonstrate that the proposed development cannot be located within a defined industrial area, a site with industrial development potential or an existing settlement;
- the possibility of re-using suitable existing redundant buildings and brownfield sites has been considered and proven to the satisfaction of the Planning Authority to be impracticable;
- the criteria for development outlined in SGED2 can be fully met;
- if appropriate, restoration proposals which enhance biodiversity are agreed at the application stage;

Depending on the scale and type of development proposed, where appropriate, agreements, including those under Section 75 of the Town and Country Planning (Scotland) Act 1997 and a financial bond may be entered into for the purpose of restricting, regulating or facilitating the development or use of land on and off-site. 12

Generally, any infrastructure requirements e.g. roads, sewerage, water, etc., would have to be provided at the developer's own expense.

The granting of planning permission for exploration or appraisal proposals will be without prejudice to any subsequent application to develop at that location.

### **Justification**

The favoured locations for business and industrial developments are:

- Defined industrial areas
- Sites with development potential for business and industry
- Existing rural settlements, particularly those identified as Areas of Best Fit in Policy H2.

This approach is consistent with the Council's core objective of promoting sustainable economic growth throughout Shetland.

However, it is recognised that on occasions particular industries may have a locational need to be sited out with the favoured locations for business and industrial developments.

Therefore, developments in the open countryside will only be supported where the applicant can clearly demonstrate that there is a locational need and that opportunities for the re-use of redundant buildings and brownfield sites are

assessed in a supporting statement to the planning application.

Therefore, the Planning Authority are of the opinion that it is not necessary to amend the LDP policy to reflect locational need for business developments.

**Reporter's conclusions:**

The council acknowledges that particular types of business development may have locational needs outwith existing settlements. Policy ED2 specifically supports proposals for commercial and business developments that promote rural diversification and tourism related ventures. The justification for the policy makes clear that rural enterprises will be encouraged and the council's draft Supplementary Guidance (CD5) provides detailed policy guidance in relation to the location of business proposals in the open countryside. In view of the foregoing, I agree with the council that there is no need to amend Policy ED2 as requested.

**Reporter's recommendations:**

No modifications.

<b>Issue ED3</b>	Setterness, detrimental impact to Lerwick Town Centre	
<b>Development plan reference:</b>	Sites with Development Potential policy ED3 – Lerwick Town Centre – page 44	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Dennis Leask (009) Jonathan Wills (053)		
<b>Provision of the development plan to which the issue relates:</b>	Sites with Development Potential	
<b>Planning authority’s summary of the representation(s):</b>		
<p><u>Commercial Development – Services (009)</u></p> <ul style="list-style-type: none"> <li>• Planning Officers raised that the proposed services may be detrimental to town centre businesses. Firstly, I do not believe that this is relevant when considering the Call for Development Sites. Secondly, I believe the services proposed are entirely compatible with local community services with some reliance on the wider community and tourism to ensure financial viability.</li> </ul> <p><u>Jonathan Wills (053)</u></p> <ul style="list-style-type: none"> <li>• Representation 053 submitted by Jonathan Wills is in support of representation 009 and adds no further information or comment.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
Site 19a to be included in the Local Development Plan		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• The Planning Authority notes the representation.</li> <li>• The Proposed Local Development Plan contains Policy ED3 to promote and enhance Lerwick Town centre in line with the guidance within Scottish Planning Policy.</li> <li>• Scottish Planning Policy (CD34) Paragraph 55 states <i>‘Investment to maintain and improve commercial centres should be supported where the centres are part of the network and where such investment will not undermine town centres.’</i></li> <li>• In the case of Site 19a the proposed facilities within the development and its close proximity to Lerwick would undermine the established town centre of Lerwick.</li> </ul>		

- It should be noted that the information pertaining to the commercial activities proposed was not formally submitted as part of the Call for Sites process. This information was put forward following the close of the Call for Sites process and as such did not form the basis of the decision making process with regard to Site 19a.

#### **Reporter's conclusions:**

1. Issue ED3 is one of several dealing with the non-inclusion of Site 19a, Setter Ness, Gulberwick as a Site with Development Potential. My main conclusions relating to this matter are set out in issue S36.
2. Policy ED3 states that the council supports the ongoing regeneration and development of Lerwick town centre, to ensure its vibrancy, vitality and sustainability. The council intends producing Supplementary Guidance on this matter. The council's support for Lerwick town centre accords with Scottish Planning Policy (SPP) (paragraphs 57-61, Improving Town Centres).
3. SPP (paragraphs 62-65) advocates a sequential approach to selecting locations for retail and commercial leisure uses. Town centres are the preferred locations, while out of centre locations should only be considered in certain circumstances.
4. Any proposal for a commercial development at Site 19a, Setter Ness would need to be assessed on its merits, and in the light of the above policies. Relevant considerations would include the appropriateness of the scale of the proposed development, and whether it would have a significant adverse effect on the vitality and viability of Lerwick town centre.
5. None of the above matters override my conclusions in issue S36.

#### **Reporter's recommendations:**

No modifications.



<b>Issue ED4</b>	<b>Sites with Development Potential</b>	
<b>Development plan reference:</b>	Sites with Development Potential	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Dennis Leask (009) Jonathan Wills (053)		
<b>Provision of the development plan to which the issue relates:</b>	Sites with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Dennis Leask (009)</u></p> <ul style="list-style-type: none"> <li>To inform the community about the proposals, public consultation has been carried out, including a well-attended public meeting, chaired by a Lerwick South ward councillor, at which representatives of the Community Council and Gulberwick Together were present. The meeting discussed in detail the results of a questionnaire circulated to all households. Replies were independently collated by the chairman of the 'Gulberwick Together' Group. The questionnaire enjoyed a 25% return and found that the development proposals at Setter Ness achieved, on average, across all questions asked: <ul style="list-style-type: none"> <li>50% in favour, with</li> <li>34% against, and</li> <li>16% with no particular preference</li> <li>(When considering question on housing and core services only, the percentages varied by only 1%)</li> </ul> </li> <li>I was advised by the council's Community Work Officer that this was an exceptional return rate. Considering that these exercises tend to motivate objectors more than supporters, I would suggest this indicates a healthy support for the proposals.</li> <li>There was clear majority support for the provision of local services such as the restaurant, cafe, bar, and farm shop. Clearly providing such services is in keeping with the council's policy of developing sustainable communities.</li> <li>The Village Square concept will also provide a much needed social space for the Gulberwick community.</li> <li>Commercial Benefits</li> <li>The initial proposed services will provide around 25 jobs within the community.</li> </ul>		

- The farm shop will provide an excellent platform for the development of Shetland's market gardening industry.
- The Hotel profile has been developed to meet a gap in the tourist market, which was highlighted by promote Shetland as being poorly provided for throughout Shetland.

**Modifications sought by those submitting representations:**

Site 19a to be included in the Local Development Plan

**Summary of responses (including reasons) by planning authority:**

- In order to assess the suitability of Sites with Development Potential for inclusion within the Plan all sites were subject to systematic review of
  - Accessibly
  - Water supply and waste water facilities
  - Biodiversity
  - Existing settlement pattern
  - Flooding issues
  - Possibility of archaeology present
- As well as external review by Scottish Natural Heritage, Scottish Environmental Protection Agency, Scottish Water, Shetland Amenity Trust (Archaeology) and Council's Roads Service
- The information pertaining to the commercial activities/community benefits proposed was not formally submitted as part of the Call for Sites process. This information was put forward following the close of the Call for Sites process and as such did not form the basis of the decision making process with regard to Site 19a.

No detailed proposal was attached to the original submission of site 19a. The exclusion of this area as a Site with Development Potential does not preclude the landowner/developer from submitting a planning application for the site.

**Reporter's conclusions:**

1. Issue ED4 is one of several dealing with the non-inclusion of Site 19a, Setter Ness, Gulberwick as a Site with Development Potential. My main conclusions relating to this matter are set out in issue S36.
2. Between March 2010 and April 2012 the council carried out a "Call for Sites" process. Developers and landowners were invited to submit potential development sites for consideration. The submitted sites were then assessed by both the council

and external bodies, and some were designated as Sites with Development Potential. Using the information available to it at the time, the council decided not to designate Site 19a, Setter Ness as a Site with Development Potential.

3. A questionnaire survey of local opinion indicated that, at the time it was conducted, there was both support for, and opposition to, development at Setter Ness.

4. I have no reason to doubt the points made in the representation about the potential benefits of a farm shop and a hotel.

5. None of the above matters override my conclusions in issue S36.

**Reporter's recommendations:**

No modifications.

<b>Issue GP1</b>	<b>General Requirements for All Development</b>	
<b>Development plan reference:</b>	GP2 – page 20	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Natural Heritage (021)		
<b>Provision of the development plan to which the issue relates:</b>	GP2 General Requirements for All Development	
<b>Planning authority’s summary of the representation(s):</b>		
<p><u>Scottish Natural Heritage (021)</u></p> <ul style="list-style-type: none"> <li>the second bullet point of GP2 refers to the aim of maintaining and enhancing landscape character, but this is not reflected in the policy itself. Recommends an additional point added to the policy to the effect that development should maintain and enhance landscape character.</li> <li>In the final sentence of the justification “Forthcoming Supplementary Guidance Design” should presumably read “Forthcoming Supplementary Guidance <u>on</u> Design”</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>Recommends an additional point added to the policy to the effect that development should maintain and enhance landscape character.</li> <li>In the final sentence of the justification “Forthcoming Supplementary Guidance Design” should presumably read “Forthcoming Supplementary Guidance <u>on</u> Design”</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>Maintenance and enhancement of landscape character is addressed in point I) of GP2 General Requirements for All Development which reads: <ul style="list-style-type: none"> <li>“Development should be consistent with National Planning Policy, other Local Development Plan policies and Supplementary Guidance.”</li> </ul> </li> <li>This includes H5 Siting and Design, which addresses landscape.</li> <li>Landscape character will also be covered in forthcoming Supplementary</li> </ul>		

Guidance – Design.

The final sentence should read “Forthcoming Supplementary Guidance – Design”  
If the Reporter is minded to recommend this typographical change the Planning Authority will correct the Policy accordingly.

**Reporter’s conclusions:**

1. Requirement I of Policy GP2 requires development to be consistent with National Planning Policy, other Local Development Plan policies and Supplementary Guidance. Policy H5 states that development will be supported if it fits well into the surrounding landscape and settlement pattern. That accords with the aim of maintaining and enhancing landscape character.

2. I agree with the council and SNH that the final sentence of the justification for the policy requires amendment.

**Reporter’s recommendations:**

I recommend the following modification be made:

The final sentence of the justification for Policy GP2 should read “Forthcoming Supplementary Guidance – Design will provide more information on minimising energy use.”

<b>Issue GP2</b>	<b>Use of Low and Zero Carbon Generating Technologies (LZCGT)</b>	
<b>Development plan reference:</b>	GP2 – page 20	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Government (070)		
<b>Provision of the development plan to which the issue relates:</b>	General Policies GP2	
<b>Planning authority's summary of the representation(s):</b>		
<ul style="list-style-type: none"> <li>The approach of Policy GP2(e) is inconsistent with section 3F of the Town and Country Planning (Scotland) Act 1997 as there is no hook for, or indication of a specified and rising proportion of greenhouse gasses to be avoided through the use of low and zero-carbon generating technologies (LZCGT). The reference to building Standards in the policy is not applicable as building standards legislation does not mandate the use of LZCGT's. The use of LZCGT's is not required to achieve the minimum building standard (Bronze sustainability level)</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>A reference to the requirement for LZCGT on all new buildings should be inserted into the policy.</li> <li>The Policy should not reference Building Standards legislation as it is not applicable in the case of LZCGT's.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>The Planning authority note the comments made by the Scottish Government on the issue of Low and zero carbon generating technologies.</li> <li>It is the intention of Shetland Islands Council to provide more detailed information on the requirement for LZCGT's in forthcoming Supplementary Guidance on Design which will also cover issues such as siting, orientation and materials.</li> <li>If the Reporter is minded to do so the Planning authority will alter clause (e) within Policy GP2 to remove the reference to building standards requirements and replace this with 'in accordance with 3F of the Town and Country Planning (Scotland) Act 1997'. In addition if the Reporter feels it necessary further reference will be made to the type of information that will be included in Supplementary Guidance on the matter of design. We believe that this would</li> </ul>		

provide a relevant Policy 'hook' to enable the detailed information on LZCGT's to be included within Supplementary Guidance.

**Reporter's conclusions:**

1. Section 3F of the Town and Country Planning (Scotland) Act 1997 requires the council to include in the development plan, policies requiring all new buildings to avoid a specified and rising proportion of the projected greenhouse gas emissions from their use, through the installation and operation of low and zero-carbon generating technologies (LZCGT). Section 3F does not apply to alterations or extensions to existing buildings. However, paragraph 44 of SPP states that local development plans or supplementary guidance should set out the approach to existing buildings which are being altered or extended including historic buildings, and the approach to applications where developers are able to demonstrate that there are significant technical constraints to using on-site low and zero carbon generating technologies.

2. I note that the council intends to provide more detailed information on the requirement for LZCGT in Supplementary Guidance. That guidance, once adopted, would form part of the development plan. To meet the requirements of section 3F of the 1997 Act the guidance would have to ensure that a specified and rising proportion of the greenhouse gases that arise in the use of a new building are avoided through the use of LZCGT.

3. It may well be, as has been suggested by the Scottish Government, that a two to three percent saving to be apportioned to LZCGT for new buildings would not be unduly onerous but there is no empirical evidence before me to support such a conclusion. In any event I do not consider it appropriate for me to specify what proportion of greenhouse gas emissions should be avoided. I do agree however, that in order to comply with the provisions of section 3F of the 1997 Act, it is necessary to insert a reference to the requirement for LZCGT on all new buildings into the policy.

**Reporter's recommendations:**

I recommend that the following modification to Policy GP2 be made:

Delete Policy GP2e and substitute "All new buildings shall avoid a specified and rising proportion of the projected greenhouse gas emissions from their use, through the installation and operation of low and zero-carbon generating technologies (LZCGT). The proportion of such emissions shall be specified in the council's Supplementary Guidance – Design. That guidance will also set out the approach to existing buildings which are being altered or extended, including historic buildings, and the approach to applications where developers are able to demonstrate that there are significant technical constraints to using on-site low and zero carbon generating technologies."

<b>Issue GP3</b>	Biodiversity/Geodiversity	
<b>Development plan reference:</b>	Policy GP2, section a & c – Page 20	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Shetland Amenity Trust (016)		
<b>Provision of the development plan to which the issue relates:</b>	GP2 General Requirements for All Development	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Shetland Amenity Trust (016)</u></p> <ul style="list-style-type: none"> <li>• GP2, Section a) - There is nothing specific on biodiversity and geodiversity in the wider countryside only reference in relation to designated sites</li> <li>• GP2 Section c) Too long, does not make sense, unclear what it actually means regarding biodiversity and geodiversity should also be included. Suggest a separate section relating to biodiversity and Geodiversity which would encompass their setting in the wider countryside.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Reference geodiversity and biodiversity in the first bullet point in GP2</li> <li>• Add an additional section relating to biodiversity and Geodiversity which could read...Development should be located, constructed and designed so as to minimize impact on biodiversity and geodiversity, or similar.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• Biodiversity and Geodiversity are addressed in point I) of GP2 General Requirements for All Development which reads:</li> <li>• “Development should be consistent with National Planning Policy, other Local Development Plan policies and Supplementary Guidance.”</li> <li>• This includes Natural Heritage Policies NH3 Furthering the Conservation of Biodiversity and NH6 Geodiversity. These policies both give specific reference to their relationship within the wider countryside and outline information for developers regarding Shetland’s biodiversity and Geodiversity. Therefore, it is not necessary to include extra text as requested.</li> </ul>		



**Reporter's conclusions:**

1. Policy GP2I requires development to be consistent with national planning policy, other local development plan policies and Supplementary Guidance. Paragraph 126 of SPP states that planning authorities should take a broader approach to landscape and natural heritage than just conserving designated or protected sites and species, taking into account the ecosystems and natural processes in their area. While Policy GP2a refers to development affecting designated sites, Policy NH3 Furthering the Conservation of Biodiversity, applies to all development and is consistent with national planning policy as set out in paragraph 126 of SPP. Similarly Policy NH6 Geodiversity applies to all development in the wider countryside. Paragraph 8 of Circular 6/2013: Development Planning makes clear that Scottish Ministers want development plans to be succinct. In the light of Policies NH3 and NH6, there is no need to expand Policy GP2a as requested.

2. I have some sympathy with the suggestion that Policy GP2c is not worded in a particularly helpful manner. Paragraph 117 of Circular 6/2013 makes clear, however that I am expected, within the bounds of the issues raised in representations, primarily to examine the appropriateness and sufficiency of the content of the proposed plan. Only if the proposed plan is insufficient or inappropriate should other approaches be considered. I am not tasked with making the plan as good as it can be, but with modifying those parts that are clearly inappropriate or insufficient. In view of that, and for the reasons set out in the preceding paragraph, it would be inappropriate to make further reference in Policy GP2 to minimising impact upon biodiversity and geodiversity.

**Reporter's recommendations:**

No modifications.

<b>Issue GP5</b>	All Development Layout and Design	
<b>Development plan reference:</b>	Policy GP3 – Page 22	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish and Southern Energy (072)		
<b>Provision of the development plan to which the issue relates:</b>	General Policies	
<b>Planning authority's summary of the representation(s):</b>		
<u>Scottish and Southern Energy (072)</u> <ul style="list-style-type: none"> <li>This Policy reads as a general development policy that contains policy that reads as not being directly applicable to wind energy and energy development.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>The accompanying policy text should be modified to make it clear that the policy GP3 does not require to be applied in circumstances when considering energy and infrastructure developments.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>The Planning authority note the comments made by Mr. Winter on behalf of Scottish and Southern Energy.</li> <li>The General Policies included within the Shetland Local Development Plan are intended to be applicable to all developments. Although we do recognise that elements of Policy GP3 relate to housing development the crux of the policy will be applicable to all development types. Therefore, we do not feel the above modification is necessary.</li> <li>Further guidance on specific requirements for energy developments will be included within forthcoming supplementary guidance (CD15).</li> </ul>		
<b>Reporter's conclusions:</b>		
<p>The council accepts that elements of Policy GP3 relate to housing development but states that the General Policies contained in the plan are intended to apply to all developments. I see nothing wrong with that stance. The correct approach in considering any development proposal is to determine which development plan policies/criteria are relevant and then assess the proposal against them accordingly. For example, in addition to Policy GP3, Policy RE1 Renewable Energy would be of</p>		

relevance in considering any proposed wind energy development. I am therefore satisfied that it would not be appropriate to exempt energy and infrastructure developments from Policy GP3.

**Reporter's recommendations:**

No modifications.

<b>Issue GP6</b>	<b>Sustainable Development</b>	
<b>Development plan reference:</b>	Policy GP1 – Sustainable Development – page 19	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Total E&P UK Limited (084)		
<b>Provision of the development plan to which the issue relates:</b>	General Policies GP1	
<b>Planning authority’s summary of the representation(s):</b>		
<p><u>Total E&amp;P UK Limited (084)</u></p> <ul style="list-style-type: none"> <li>• Policy GP1 Sustainable Development should be amended to permit new employment developments within existing allocated industrial sites, such as Sullom Voe and the Shetland Gas Plant (SGP). At present, Policy GP1 would not appear to apply to the terminals as they are not within existing settlements.</li> <li>• The LDP should be amended to make it more explicit that further development/ planning applications at Sullom Voe/the SGP will be favourably considered in accordance with the industrial/employment policies.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Policy GP1 Sustainable Development should be amended to permit new employment developments within existing allocated industrial sites, such as Sullom Voe and the SGP.</li> <li>• The LDP should be amended to make it more explicit that further development/ planning applications at Sullom Voe/the SGP will be favourably considered in accordance with the industrial/employment policies</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• The Planning Authority notes the representation made on behalf of Total E&amp;P UK Limited.</li> <li>• We do not feel that the wording of GP1 precludes development within existing industrial sites as the reference to new employment developments relates to residentially compatible industry.</li> <li>• Supplementary Guidance – Business and Industry (CD5) provides specific policies on such developments. Policy SGED1 states:</li> </ul>		

### **Industrial areas and Sites with Development Potential**

The development of new, or extensions to existing, business and industrial enterprises in Classes 4, 5 and 6 will be supported within the defined industrial areas, sites with development potential for business and industry and brownfield sites where the proposal meets all relevant policies set out within the Plan and corresponding supplementary guidance.

Proposals for waste management facilities will be supported within the defined industrial areas providing all relevant policies within the Plan are met.

Special consideration will be given to the siting of industrial uses that are hazardous or might potentially give rise to noxious emissions

### **Justification**

In accordance with Scottish Planning Policy this policy identifies a supply of land for industrial developments in Use Classes 4, 5 and 6. This is a key action in delivering the Council's commitment to sustainable economic growth throughout Shetland. The Action Programme identifies the indicative timescales for the development of the sites with development potential for business and industry.

The Industrial areas were brought forward from the existing 2004 Local Plan and the sites with development potential for business and industry were identified through the Call for Sites process. It is recognised that Sullom voe is an existing industrial area. Following the deletion of current Local Plan policy CST4 we believe this should be included as an existing industrial area within the Supplementary Guidance – Business and Industry in future. However it is not felt that there needs to be a change within the LDP 'hook' policy to allow this to happen.

Each planning application is, and will continue to be assessed on its own merits, against the national and local policy framework. Therefore the Planning Authority is of the opinion that it is not necessary for the LDP to make it explicit that *'further development/ planning applications at Sullom Voe/the SGP will be favourably considered in accordance with the industrial/employment policies.'*

### **Reporter's conclusions:**

1. Policy GP1 is a widely drawn general development policy that seeks, among other things, to guide new developments to existing settlements that have basic services and infrastructure. As drafted, it appears to me that it would apply, to a greater or lesser extent, to almost all development. Having said that, it is well understood that the correct approach in considering any development proposal is to determine which development plan policies/criteria are relevant and then assess the proposal against them on the basis of the individual merits of the particular case.

2. Policy ED1 Support for Business and Industry is specifically aimed at supporting sustainable economic growth, strengthening established industries and providing opportunities for emerging industries. Policy ED1 states *"Areas for business and industrial uses have been identified through the Local Development Plan process and are contained within Supplementary Guidance – Location of Industry"* (the council accepts that this is a typographical error in the plan and that

it is the undernoted Business and Industry guidance that should be referred to). For the avoidance of doubt, I deal with this below.

3. In its response, the council states that it relies upon its Supplementary Guidance – Business and Industry (CD5) to set out detailed policies and maps relating to business and industrial developments in Shetland. The industrial areas and sites with development potential for industry are identified on maps 1-5 within the Supplementary Guidance. That guidance does not, however, identify Sullom Voe and the Shetland Gas Plant (SGP) as existing industrial areas. In my opinion, if the Supplementary Guidance is to be seen as comprehensive, the sites should have been so identified in the guidance.

4. The council proposes to rectify the situation by making clear in the Supplementary Guidance that Sullom Voe and the SGP are existing industrial areas. The guidance will form part of the development plan and on the basis that the council has stated that it will take this action, I am satisfied that this is sufficient to address the concerns raised in this representation. The typographical error must, however, be addressed.

#### **Reporter's recommendations:**

I recommend that the following modification be made:

Delete the words "Location of Industry" in the first paragraph of Policy ED1 and substitute: "Business and Industry".

<b>Issue GP8</b>	<b>General Policy 3 Wording</b>	
<b>Development plan reference:</b>	Policy GP3 – page 22	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Natural Heritage (021)		
<b>Provision of the development plan to which the issue relates:</b>	Policy GP3	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Scottish Natural Heritage (021)</u></p> <ul style="list-style-type: none"> <li>• Recommends that the opening sentence of Policy GP3 should be amended to read “All new development should be <u>sited and</u> designed to respect the character and local distinctiveness of the site and its surroundings.”</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Suggested new opening sentence for Policy GP3: “All new development should be <u>sited and</u> designed to respect the character and local distinctiveness of the site and its surroundings.”</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
Note request to add ‘sited and’ to Policy GP3. If the Reporter is minded to approve these changes the Planning Authority will amend the Policy accordingly.		
<b>Reporter's conclusions:</b>		
The council has accepted the proposed modification suggested by SNH and I see no reason to disagree.		
<b>Reporter's recommendations:</b>		
<p>I recommend that the following modification be made:</p> <p>Add the words “sited and” between the words “be” and “designed” in the first line of Policy GP3.</p>		

<b>Issue GP9</b>	<b>View Point at Staney Hill</b>	
<b>Development plan reference:</b>	Local Protection Area review consultation	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Lerwick Community Council (048)		
<b>Provision of the development plan to which the issue relates:</b>	View point at Staney Hill	
<b>Planning authority's summary of the representation(s):</b>		
<u>Lerwick Community Council (048)</u> <ul style="list-style-type: none"> <li>No consideration has been given to protecting the viewpoint at Staney Hill, despite Lerwick Community Council feeding into the consultation.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>Consideration of viewpoint at Staney Hill.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>The response regarding the viewpoint at Staney Hill was fed into the LPA Review and was considered in the formulation of the Local Landscape Areas Supplementary Guidance (CD6).</li> <li>Any development will have to comply with policy GP3 which states; GP3 All Development: Layout and Design</li> <li>All new development should be designed to respect the character and local distinctiveness of the site and its surroundings.</li> <li>The proposed development should make a positive contribution to: <ul style="list-style-type: none"> <li>maintaining identity and character</li> <li>ensuring a safe and pleasant space</li> <li>ensuring ease of movement and access for all</li> <li>a sense of welcome</li> <li>long term adaptability, and</li> <li>good use of resources</li> </ul> </li> <li>The Planning Authority may request a Masterplan and/ or Design and Access Statement in support of development proposals.</li> </ul>		



A Masterplan should be submitted with applications where Major Development is proposed; Major Development is defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, Reg 2 (1). (CD32) Further details for these requirements are set out in Supplementary Guidance.

#### **Reporter's conclusions:**

1. The council states that it considered the viewpoint at Staney Hill in its preparation of the draft Supplementary Guidance on Local Landscape Areas (CD6). I note, though, that Staney Hill does not lie within any of the proposed Local Landscape Areas.
2. The correspondence on this issue refers to North Staney Hill. This hill is an important topographic feature, which make a major contribution to Lerwick's setting. It affords attractive and interesting views over Lerwick and much of the surrounding area.
3. The undeveloped part of North Staney Hill lies within the Lerwick Area of Best Fit, and most of it lies within site LK012 – Staney Hill, Lerwick, a site designated as having potential for housing development. The summit of the hill is covered by both designations.
4. The site notes for site LK012 state, amongst other things, that all development must conform to the plan's policies and related Supplementary Guidance, and that a full design statement will be required. Policy GP3 All Development: Layout and Design states, amongst other things, that all new development should be designed to respect the character and local distinctiveness of the site and its surroundings.
5. There is no inherent contradiction between protecting public views from the summit of North Staney Hill and encouraging development within site LK012. I think it is reasonable to assume that the design statement for the development of the site will take account of the site's character and local distinctiveness. I also think it is reasonable to assume that the site's character and local distinctiveness will be seen by those responsible for designing and approving development on the site as including the hill's importance as a viewpoint. However, and for avoidance of doubt, I can see merit in inserting a further site note emphasising this matter.

#### **Reporter's recommendations:**

I recommend the following modification be made:

Insert the following sentence in the site notes for site LK012 – Staney Hill, Lerwick: "Views from the summit of North Staney Hill must be protected."

<b>Issue GP10</b>	General Policy 2 Grammar	
<b>Development plan reference:</b>	Policy GP2 – page 20	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Natural Heritage (021)		
<b>Provision of the development plan to which the issue relates:</b>	GP2 General Requirements for All Development	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Scottish Natural Heritage (021)</u></p> <ul style="list-style-type: none"> <li>• There is a grammatical error in the final sentence in the justification of GP2</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Reword last sentence of the Justification for GP2 so it reads “Forthcoming Supplementary Guidance <u>on</u> Design”.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
Noted grammatical change .If the Reporter is minded to approve this grammatical change the Planning Authority will alter the Policy accordingly.		
<b>Reporter's conclusions:</b>		
<p>In issue GP1 the council indicated that the final sentence of the justification for Policy GP2 should read “Forthcoming Supplementary Guidance – Design” and that if I was minded to recommend this typographical change the council would correct the policy accordingly. I have agreed with the council and SNH that the final sentence of the justification for the policy required amendment and recommended accordingly. I see no reason to revisit that conclusion. For the avoidance of doubt, my previous recommendation is reiterated below.</p>		

**Reporter's recommendations:**

I recommend the following modification be made:

The final sentence of the justification for Policy GP2 should read "Forthcoming Supplementary Guidance – Design will provide more information on minimising energy use."

<b>Issue H1</b>	<b>HNDA and Land Supply</b>	
<b>Development plan reference:</b>	Effective Land Supply – Page 38	<b>Reporter:</b> Dave Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Dennis Leask (009) Marie Fullerton (014) Colin Mackie (017) Bobby Elphinstone (035) Lerwick Community Council (048) Jonathan Wills (053) Bryan Leask (055) Hjaltland Housing Association (068) Mr J Anderson (076)		
<b>Provision of the development plan to which the issue relates:</b>	HNDA and land supply	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Dennis Leask (009)</u></p> <ul style="list-style-type: none"> <li>• Not supplying an adequate land supply for pressure areas</li> <li>• All tenures:- the HNDA only deals with social housing</li> <li>• No mention of the HNDA within the LDP</li> <li>• Number of housing units in Lerwick area questioned</li> <li>• Gulberwick is for all intent and purpose, part of Lerwick.</li> </ul> <p><u>Marie Fullerton (014)</u></p> <ul style="list-style-type: none"> <li>• LDP does not provide sufficient land to meet demand for all market areas- no figures on private housing and therefore the LDP is only for one tenure.</li> <li>• By providing one location in the first 10 years, limits choice to an unacceptable level – should offer wider choice more than one landowner. Only one significant site (Lerwick) that doesn't belong to SIC.</li> <li>• No vision on how proposed sites will be developed and therefore cannot be matched to housing needs.</li> </ul> <p><u>Colin Mackie (017)</u></p> <ul style="list-style-type: none"> <li>• The Plan has provided insufficient land to meet housing demand as the</li> </ul>		

HNDA (CD29) has not accounted for private housing which *accounts for approximately 75% of Shetlands Housing.*

- Based on an analysis of the figures provided within the HNDA it appears that the Shetland Local Development Plan only provides has been designed to cater for the Net Backlog Housing Need of 721.
- 'It [the HNDA] assumptions that many households in the Gross Need total can be moved into housing stock elsewhere'.

Bobby Elphinstone (035)

- LDP does not provide adequate sites in the areas of most demand (with the exception of Brae).

Lerwick Community Council (048)

- The Plan does not come close to identifying the essential need for housing sites in Lerwick to meet the waiting list for housing within the next 5-10 years. There is a significant lack identified ground within Lerwick, and the immediate surrounding area. The Plan has failed to achieve this as the number and location of sites "with Development Potential" does not match the requirements of the Local Housing Strategy.
- Planners should make a concerted effort to be more proactive in securing sites for inclusion on the Local Plan.
- Greater thought should be given to identifying land suitable for housing in areas where there is existing infrastructure.
- Contrary to the perception, over the last few years, there has been a steady population drift from Lerwick; the Shetland Proposed Plan does nothing to address this.

Dr J Wills (053)

- Representation 053 submitted by Jonathan Wills is in support of representation 009 and adds no further information or comment.

Bryan Leask (055) & Hjaltland Housing Association (068)

- Plan has failed to achieve this as the number and location of sites "with Development Potential" does not match the requirements of the Local Housing Strategy.
- The Local Housing Strategy (CD30) has identified that the largest area of housing demand is Lerwick and the Central Mainland and not the outlying areas. However, while the Plan may have provided "a generous supply of land to meet the housing requirements identified across all tenures" it has failed to do so in the areas identified in the LHS.

Mr J Anderson (076)

- The proposed Shetland Development Plan does not allow for the enhancement of all existing communities, namely Lerwick which has seen negative growth over the past years. The current proposed plan does not identify enough land, for housing, to even offset the historical depopulation of Lerwick let alone allow for the increased properties required to preserve the status quo considering the downward trend of occupancy rates.

**Modifications sought by those submitting representations:**

- More sites to be included especially within the high pressure areas; areas mentioned specifically within representations are Scalloway, Lerwick and Gulberwick.

**Summary of responses (including reasons) by planning authority:****HNDA/LHS (Representations 009,014,017,048,053,055, 068)**

- The HNDA is a government assessed document compiled to follow the guidance issued by the Scottish Government in March 2008. To that end it must demonstrate that it meets the core outputs through a robust process, using reliable data and processes to develop it. Shetland's HNDA has been certified as 'robust and credible' and therefore is fully compliant with the guidance issued.
- The HNDA is clear that there is a difference between 'affordable housing need', i.e. housing for which some form of public subsidy is required to make it affordable to those who require it and the market housing need. This is expressed by Core Outputs 6 and 7. Core Output 6 uses a government certified calculation of affordable need, Core Output 7 (page 143) sets out the projected number of households able to afford to buy or rent in the market.
- The HNDA cannot and does not seek to predict individual market solutions – its purpose is to provide a robust evidence base which informs both the Local Housing Strategy on the whole area housing market and the Local Development Plan on future land use – the link being that the LDP identifies a generous supply of land to meet housing need.
- In response to representation 009, the LHS has identified housing need based on localities where Gulberwick is considered a part of the South Mainland, along with settlements of Quarff, Cunningsburgh, Dunrossness and Sandwick.
- In response to representation 009, the HNDA is a requirement of Scottish Government for the preparation of the LDP; its importance in providing evidence for the Plan is cited on page 38 at the beginning of the housing policy section.

**The Spatial Strategy and land supply** (Representations 009, 014, 017, 035, 048, 053, 055, 068, 076)

- The Spatial Strategy for Shetland states that the planning system has a role to play in delivering sustainable development and the creation of sustainable, vibrant, and mixed communities, where everyone is able to participate and support healthy lifestyles.
- To assist sustainable economic growth and support the development of an inclusive society based on Shetland dispersed settlement pattern, the Plan identifies, allocated land; sites with development potential; and Areas of Best Fit (AoBF).
- Sites with Development Potential -The Local Development Plan contains 96 sites with development potential, 75 (or 150.96 ha) of which are available for residential and/or mixed use.
- Areas of Best Fit - Each locality has an AoBF and these have been identified as;
  1. Baltasound
  2. Mid Yell
  3. Symbister
  4. Brae
  5. Aith
  6. Scalloway
  7. Lerwick
  8. Sandwick
- Eight areas have been identified as Areas of Best Fit (AoBF), these areas which have amenities such as schools, shops, employment and essential infrastructure are all readily available through a range of sustainable transport options, and will support large, medium and small scale developments. AoBF have been identified as desirable for development because they;
  - Can connect to the main sewer
  - Are within 800m (walking distance) of two of the following; convenience store/post office, GP surgery, primary school, public hall and a play park
  - No part of the AoBF on the mainland is more than 400 metre from a public bus route
  - No part of the AoBF is below the 5m contour or shown on the SEP flood maps.
  - Low likelihood of having significant impacts on biodiversity including European or locally designed nature conservation sites.
- Large scale developments (over 50 units) outwith the areas of best fit, will not have access to as much infrastructure or services and are therefore are not

likely to be supported. LDP Policy H4 states;

‘Major Developments (developments in excess of 50 units or 2 hectares - as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, Reg 2 (1) (CD32) and as included in the Schedule) should only occur within Areas of Best Fit unless the applicant can provide evidence of demand in an alternative area or that no land is available for development within the best fit area.’

- It should also be noted that any site not allocated, a site of development potential or within an Area of Best Fit (AoBF) can be submitted at anytime for consideration under the LDP policies. Therefore the combination of these options will adequately supply the housing demand.

### **Reporter’s conclusions:**

1. The unresolved issues covered in this issue (H1 HNDA and Land Supply) overlap with those in issues AP1 Action Programme and SD1 Deliverability of Sites. I consider that it is appropriate to deal with these issues together. This section therefore contains my conclusions relating to issues H1, AP1 and SD1.

2. In summary, these issues concern:

- The housing requirement
- The housing land supply in the plan – including site capacity, programming and effectiveness
- The distribution of the identified land.

3. I initially sought further written information, then held a hearing to explore matters further, and finally sought clarification on the housing requirement. The hearing also considered some matters relating to issues S35 Inclusion of Utnabrake Site (Site No 046b) and S36 Inclusion of 19a Setter Ness.

#### National policy and advice

4. The Scottish Government’s policy relating to housing land is set out in Scottish Planning Policy (SPP). Paragraph 67 states that housing need and demand assessment provides the evidence base for defining housing supply targets in local housing strategies and allocating land for housing in development plans. It further states that where the housing need and demand assessment is considered robust and credible by the Scottish Government, the approach used will not normally be considered at a development plan examination.

5. Paragraph 70 of SPP states that the delivery of housing through the development plan to support the creation of sustainable mixed communities depends on a generous supply of appropriate and effective sites being made available to meet need and demand, and on the timely release of allocated sites. Paragraph 72 states that local development plans should allocate land on a range of sites which is effective or capable of becoming effective to meet the housing land



requirement up to year 10 from the predicted year of adoption, ensuring a minimum of 5 years effective land supply at all times. Paragraph 74 states that planning authorities should ensure that sufficient land is available to meet the housing requirement for each housing market area in full, unless there are serious local environmental or infrastructure constraints. Paragraph 75 states that planning authorities should manage land supply through an annual housing land audit.

6. Paragraph 86 of SPP states that affordable housing is defined broadly as housing of a reasonable quality that is affordable to people on modest incomes. Where the housing need and demand assessment and local housing strategy identify a shortage of affordable housing, it should be addressed in the development plan as part of the housing land allocation.

7. Planning Advice Note 2/2010 – Affordable Housing and Housing Land Audits provides further relevant guidance. It states, at paragraph 54, that the audit should distinguish effective, i.e. unconstrained sites, from those which are affected by constraints which cannot be overcome in time to contribute to the housing land requirement. Paragraph 55 states that the effectiveness of individual sites should be determined by planning authorities in the light of consistent interpretation of criteria relating to ownership, physical constraints, contamination, deficit funding, marketability, infrastructure and land use.

#### The housing requirement

8. The Shetland Islands Assessment of Housing Need and Demand (HNDA), dated August 2010 (CD29), was signed off by the Scottish Government as robust and credible. The HNDA's emphasis is on housing need, rather than market demand. The other published source of housing figures relied upon by the council is the 2011-2016 Local Housing Strategy (LHS), dated August 2011 (CD30).

9. According to the LHS (paragraph 7.10), the housing supply target figures are as follows:

<b>Housing supply target</b>	<b>Over 10 years</b>	<b>Per year</b>
Overall – private and affordable housing	1230-1420	123-142
Affordable housing only	530-721	53-72

The affordable housing figures range from an annual baseline figure of 53, through a high migration figure of 58, to a figure of 71 derived from Shetland's Community Plan '2025 Priorities and Targets' (HNDA, figures 127-129).

10. The council states that the housing requirement figures used in the preparation of the proposed plan are an overall figure for private and affordable housing of 1420 units, including 710 affordable units, over the 10 year period from the anticipated adoption of the plan in 2014.

11. The requirement for 710 affordable units appears to be based on the scenario with the highest population projection, namely that in Shetland's Community Plan. By contrast, the overall requirement – for 1420 units – appears to be based on the

middle (second) scenario. The council disputed this latter point at the hearing, but apparently accepted it in its letter of 20 May 2014.

12. If the council had chosen to base its overall requirement on the Community Plan's target, the figure would have been substantially greater than 1420 units. The HNDA states, on page 120, that meeting the Community Plan's target would require an additional 200 homes per year over the 20 years from 2006 to 2026. This equates to a requirement of 2000 units over the 10 year plan period.

13. Some of those who have made representations consider the overall requirement for 1420 units over the 10 year plan period to be seriously inadequate. While I have some sympathy for that point of view, I do not consider that the council's choice of this figure could be described as unreasonable.

#### The housing land supply in the plan

14. Assessing the adequacy of the housing land supply in the proposed plan is not straightforward. Policy H1 Effective Land Supply states: "Through the provision of Allocations and Sites with Development Potential the council will seek to identify an effective land supply to meet the needs of Shetland for the lifetime of this plan and beyond." There are, however, no housing "allocations" as such. The plan identifies Sites with Development Potential and Areas of Best Fit. Many of the former are identified for housing use, while the latter are intended to provide a focus for growth, including housing development. Policy H3 All Housing Development, which lists the types of land where new residential development should take place, also refers to brownfield land and undeveloped land within existing settlements.

15. Annual housing land audits are not undertaken in Shetland. The council stated that this was for "historic" reasons. Most affordable housing in Shetland is developed by the Hjaltland Housing Association, and most private housing is built on small sites by individuals or small groups of people. The large national house builders do not generally operate in Shetland. The identification of Sites with Development Potential, rather than firm allocations, together with the absence of housing land audits, means that there can sometimes be little agreement on how and when a site is likely to be developed.

#### Site Capacity

16. The council has carried out a desk-based exercise using site areas and the following density multipliers: 18 houses per hectare in Lerwick, 14 houses per hectare in Areas of Best Fit, and 7 houses per hectare for all other areas. According to the council, the housing Sites with Development Potential described as short term (1-5 years) could accommodate 649 units. Adding sites with a rolling timescale (short/medium/long) increases this figure to 1492. Sites identified for development in the longer term (more than 10 years) would provide a further 284 houses. Further houses could be built on other land in the Areas of Best Fit, and elsewhere.

17. The density multipliers used by the council are based on existing development. However they do not take account of site characteristics. Nor do they take account of whether the housing would be private or housing association. As a result, some

of the figures are bound to be inaccurate. For example, the council calculated that Staney Hill, Lerwick (site LK012) could accommodate 791 houses, but much of it is steep and likely to remain undeveloped. Based on what I was told at the hearing, Staney Hill's capacity seems more likely to be about 400 units. Some of the sites likely to be developed for private family housing might accommodate only 5-7, or so, houses per hectare. On the other hand, the number of units on some sites outside Lerwick being developed by Hjaltland Housing Association exceeds that based on the council's formulae. Clearly the council's indicative figures have to be treated with caution.

#### Programming and effectiveness

18. The Action Programme (CD23) was produced in parallel with the proposed plan. It identifies the actions required to deliver the key policies and proposals in the plan, who is responsible, and the timescales for concluding each action. The timescales attributed to the Sites with Development Potential are: short (1-5 years), medium (5-10 years) and long (more than 10 years). As the council confirmed, these timescales are based essentially on what the developer or landowner stated in the "Call for Sites" exercise.

19. The council assumed that all Sites with Development Potential had been put forward with the intention of development, and each had been assessed by the council and other parties. In the council's view all could be considered to be effective when the proposed plan was first prepared. However, as discussed in issue S19 below, there now appears to be significant doubt about whether the major site at Oxlee, Lerwick (site LK008) will be developed, because of an adjoining landowner's apparent unwillingness to sell land that may be required to access the site. Many Sites with Development Potential have infrastructure constraints, and in some cases it is unclear when, and indeed if, these will be overcome.

20. Assessing the effectiveness of potential housing sites, and anticipating when they will be developed, is rarely a precise exercise. In Shetland, the nature of private house building and the lack of a housing land audit make the exercise particularly difficult.

#### The distribution of the identified land

21. The council stated that it considered each locality (Central Mainland, South Mainland etc.) to be a separate housing market area. It is certainly true that housing need figures have been calculated for each locality, as shown in the HNDA, in figure 132. However as far as I am aware, no such figures have been produced for private housing demand. Moreover, I am not persuaded that the Shetland Isles really comprises 7 housing market areas, each coincident with one of the defined localities. For example, Scalloway and Tingwall lie in the Central Mainland locality, and Gulberwick lies in the South Mainland locality, but all three are in reality part of a "greater Lerwick" housing market area, however that may be defined.

22. The council stated that it was satisfied that an adequate housing land supply had been identified in each locality. I do not think that the evidence supports that point of view. There can be little doubt that the greatest demand for private housing

is in Lerwick and in those locations fairly readily accessible to it, including Scalloway, Tingwall and Gulberwick. The Hjaltrand Housing Association expressed a similar view: almost 75% of those on its waiting list were seeking housing in Lerwick or in Central Mainland.

23. As noted, the information available on site capacity needs to be treated with caution, and the effectiveness and programming of some sites is uncertain. This makes meaningful quantification all but impossible. However it seems to me to be clear that while the housing land supply in the remoter parts of Shetland is generally generous, the same cannot be said of that in and near Lerwick. Another problem with the housing land supply in Lerwick itself is that choice is limited, with much of it at one large site, LK012 – Staney Hill, where there is likely to be relatively little opportunity for the development of market housing.

24. There is a degree of tension between, on the one hand, support for concentrating development in and around Lerwick, and on the other hand, supporting a more even spread of development around the islands, focussing much new development in the peripheral Areas of Best Fit. The Main Issues Report had recommended the development of a policy to encourage larger new development on allocated sites within the central mainland, with secondary hubs at Sandwick and Sullom Voe / Brae (CD27, page 12). Instead, the council decided to support a spatial strategy based on Shetland's dispersed settlement pattern. The proposed plan reflects the latter.

25. It is not my role to question that decision, but it seems to me that it may be at least partially responsible for the less than generous housing land supply in and near Lerwick. Other factors, including environmental constraints, are undoubtedly also relevant. A different spatial strategy, though, might have identified more housing land in locations closer to Lerwick, and perhaps rather less in locations further from Lerwick.

#### Overall conclusions

26. As already noted, national policy states that local development plans should allocate land on a range of sites which is effective or capable of becoming effective to meet the housing land requirement up to year 10 from the predicted year of adoption, ensuring a minimum of 5 years effective land supply at all times.

27. The lack of quantitative information makes it difficult to reach firm conclusions on the extent to which the plan complies with this policy. While the land supply across Shetland as a whole may comply, it seems clear that the land supply in the high pressure areas in and around Lerwick is not overly generous – especially in the short term, and for market housing.

28. The substantive modification which those who have made unresolved representations on issues H1, AP1 and SD1 are seeking is the identification of more housing sites in these high pressure areas. However, representations have been made in support of only two large named sites: Utnabrake, Scalloway and Setter Ness, Gulberwick. I deal with these in issues S35 and S36 respectively, below. As no other large sites in and around Lerwick have been proposed for housing

development, I am not in a position to even consider recommending that other large sites be identified as Sites with Development Potential in this area.

29. In the council's closing comments at the hearing, it was suggested that it would be better to adopt the plan, despite its flaws, as otherwise the council would be forced to rely on its old local plan, based on research carried out in the 1990s. It was further suggested that adopting the plan would enable work to start sooner on the next Main Issues Report. I think there is merit in that argument.

**Reporter's recommendations:**

No modifications.

<b>Issue H2</b>	Housing Policy	
<b>Development plan reference:</b>	Policy H5 – Page 41, paragraph 3	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Natural Heritage (021)		
<b>Provision of the development plan to which the issue relates:</b>	H5 Siting and Design	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Scottish Natural Heritage (021)</u></p> <ul style="list-style-type: none"> <li>Policy H5 largely replicates general policy GP3 regarding siting and design, but with particular reference to housing. This provides a link to proposed supplementary guidance, however the scope of this guidance is not specified. For example, the justification refers to a number of factors, such as landscape, natural heritage, biodiversity, but it is not clear whether these will be addressed in the guidance. It would be preferable if the scope of the supplementary guidance was clearly spelt out in the policy.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
It would be preferable if the scope of the supplementary guidance was clearly spelt out in the policy.		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>The Planning Authority is of the opinion that it is not necessary to include the scope of the supplementary guidance in the policy as the policy provides the hook for the relevant supplementary guidance. Supplementary Guidance can be updated during the lifetime of the LDP and therefore to explicitly spell out the scope of the guidance within the policy could limit the flexibility to adapt the document in response to changing circumstances.</li> </ul>		
<b>Reporter's conclusions:</b>		
<p>1. Paragraph 135 of Circular 6/2013: Development Planning makes clear that, in order to allow development plans themselves to focus on vision, the spatial strategy, overarching and other key policies and proposals, much detailed material can be contained in Supplementary Guidance. Paragraph 138 makes clear that</p>		

Supplementary Guidance should cover topics specifically identified in the plan as being topics for Supplementary Guidance and be limited to the provision of further information or detail in respect of policies or proposals set out in the plan. There must be a sufficient “hook” in the plan policies or proposals to hang the Supplementary Guidance on, in order to give it statutory weight.

2. Paragraph 141 states that the content of Supplementary Guidance does not need to be scrutinised at Examination, given that the principle of the policy or proposal will already have been scrutinised and subsequently included in the plan - the Supplementary Guidance will be limited to providing further detail on that.

3. I am satisfied that Policy H5 and the justification thereof set out in the plan accord with the above policy guidance. In view of that, for the reasons set out in the preceding paragraph and because the Supplementary Guidance may well be updated during the life of the plan, I do not consider it appropriate for the scope of the Supplementary Guidance to be clearly spelt out in Policy H5 as requested.

**Reporter’s recommendations:**

No modifications.

<b>Issue M1</b>	<b>Minerals</b>	
<b>Development plan reference:</b>	Sites with Development Potential	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Mr D Leask (009) Jonathan Wills (053)		
<b>Provision of the development plan to which the issue relates:</b>	Site 19a Setter Ness which was excluded from the Local Development Plan.	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Mr D Leask (009)</u></p> <ul style="list-style-type: none"> <li>• States that site 19a was rejected on the grounds of being contrary to the Council's minerals policy and in particular the need to preserve the minerals under the proposed development.</li> <li>• The proposed development does not sterilise any viable mineral reserve; and would not affect the viability of the nearby quarrying operation at Brindister.</li> <li>• Mr Leask believes that he has submitted sufficient information to the Planning Service for the site to be included within the Local Development Plan. Documents submitted to the Planning Service are; <i>Geologists Report on Brindister to Setter Ness</i> produced by A.Fraser in September 2011 and <i>Setter Ness, Gulberwick, Shetland – Minerals Report</i> by JWS Ross in July 2012.</li> <li>• The representation states that Council's policy LP Min 4 in Minerals Interim Planning Policy Document - "There will be a general presumption against new, or extensions to existing, quarries and mines within 800 metres of occupied houses'. Expanding the quarry into site 19a would be within 800m of the existing settlements in Gulberwick."</li> <li>• Representation 053 submitted by Jonathan Wills is in support of representation 009 and adds no further information or comment.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Inclusion of site 19a Setter Ness into the Local Development Plan</li> </ul>		



**Summary of responses (including reasons) by planning authority:**

- Mr. Leask's submission for the call for sites can be seen in the supporting documents. Even though the site is extensive, no information was submitted in regards to the minerals resource and Brindister quarry when the site was first submitted.
- It should be noted that the (Geology and Minerals) reports were submitted to Development Management as part of a pre-application enquiry for the same site. As pre-application enquires are confidential and the reports were not submitted formally as part of the Call for Sites and Representation process they cannot be attached to this Schedule 4 Form.
- A Geology report was submitted to Planning Service by the landowner Mr Leask during the assessments of sites, however the information within it was deemed to be insufficient in detail and a Minerals Report was requested.
- The Minerals Report was submitted to Planning Service in July 2012, this was four months after Mr. Leask had been notified that the site was not suitable for inclusion with in the Local Development Plan and after Members had been notified of sites to be included within the Local Development Plan (Development Committee Meeting March 9<sup>th</sup> 2012).
- Given site 19a close proximity to a working quarry, there was insufficient information submitted as to the potential impact of site 19a upon the quarry's current and future operations. Therefore site 19a should not be included within the Shetland Local Plan.

Council policy LP Min 4 in Interim Planning Policy –Minerals.

- Policy LP Min 4 is contained within Interim Planning Policy (CD19) – Minerals which was adopted by the Council in December 2009 and is not part of the current Local Development Plan process.

The other matters raised by the representees can be found on related Schedule 4 Forms;

**A1 – Areas of Best Fit**

**AP1 – Action Programme**

**ED3 – Sites with Development Potential**

**ED4 – Sites with Development Potential**

**H1 – Effective Land Supply**

**S36 – Sites with Development Potential**

**S39 – Duplication of Sites**

**Reporter's conclusions:**

1. Issue M1 is one of several dealing with the non-inclusion of Site 19a, Setter Ness, Gulberwick as a Site with Development Potential. My main conclusions relating to this matter are set out in issue S36.
2. On 6 March 2012 the council wrote to Mr Leask advising him that Site 19a had been assessed as having no development potential at (that) time. The reason given for that assessment was that the development would conflict with the current Minerals Interim Planning Policy. Site 19a site lies at the south end of Gulberwick, north-east of Brindister Quarry.
3. Mr Leask had submitted a geology report, prior to the council's assessment, in September 2011. Following a request from the council, he submitted a minerals report in July 2012.

Minerals policy

4. Scottish Planning Policy states (at paragraph 227) that planning authorities should ensure a landbank of permitted reserves for construction aggregates of a minimum 10 years extraction is available at all times in all market areas. It states (at paragraph 231) that development plans should aim to minimise significant negative impacts from minerals extraction on the amenity of local communities.
5. Policy M1 of the proposed local development plan states that the council should seek to safeguard aggregate sources and mineral deposits. It further states that commercial extraction will be allowed in suitable locations in accordance with Supplementary Guidance – Minerals. As far as I am aware, a draft of this Supplementary Guidance has not yet been published.
6. The non-statutory interim policy (CD19) referred to in the council's assessment was published in 2009. Policy SPG MIN 1 of this document safeguards mineral resources at, amongst other places, Brindister Quarry, Gulberwick. Policy SPG MIN 6 states that there will be a general presumption against mineral extraction within 800 metres of an occupied school or permanently occupied houses.

Mineral issues regarding Site 19a

7. The geology report states that any future viable extraction would most likely be on the south side of the Hill of Brindister, from the present quarry south-east to the coast; and that deposits to the north of the Hill of Brindister are unlikely to have any commercial value. The minerals report states, amongst other things, that Mr Leask is the owner of the mineral interest in the area, and that the site had not to the author's knowledge been identified by any mineral operating company.
8. At the hearing, the council planning officer acknowledged that the minerals report updated the information that had previously been available. However the council had not received any information from the operator of Brindister Quarry, and it had not yet managed to establish whether Shetland had an adequate minerals landbank. The council was also unsure what impact any future extraction at Brindister might

have on the amenity of nearby residents.

9. National and local policies support both the safeguarding of mineral reserves and the protection of amenity from mineral extraction activities. These are important considerations. On the basis of the information provided, it seems reasonably likely that Site 19a could be developed for housing without major implications for mineral working in the area. However further information and assessment would be needed to establish firstly, whether there is a need to safeguard the mineral resource at Brindister, and secondly, the environmental impacts of extracting the minerals there. In my view it would be impractical to attempt such an exercise in the context of this examination.

10. I conclude that irrespective of the merits of providing more housing in this area, questions remain relating to minerals.

**Reporter's recommendations:**

No modifications.

<b>Issue M2</b>	<b>Minerals</b>	
<b>Development plan reference:</b>	Policy M1 – Page 51	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Natural Heritage (021)		
<b>Provision of the development plan to which the issue relates:</b>	Minerals Policy M1 Local Development Plan	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Minerals Policy M1</u></p> <ul style="list-style-type: none"> <li>Policy M1 does not contain any protection for the natural environment from mineral extraction and it is not clear whether this will be included in the forthcoming Supplementary Guidance on Minerals. We recommend that the policy is expanded to provide some general criteria against which mineral extraction will be assessed.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>Suggested wording change:  This might follow the wording used in the Renewable Energy Policy RE1, i.e.: “Proposals for mineral extraction will be supported where it can be demonstrated that there are no unacceptable impacts on people (benefits and disbenefits for communities) the natural and water environment, landscape, historic environment and the built environment and cultural heritage of Shetland. “</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>Any development including that of mineral extraction will need to fulfil the requirements of the forthcoming Supplementary Guidance Minerals and that of the SG Natural Heritage (CD8) policies.</li> <li>Until the SG Minerals is produced the Interim Planning Policy document on Minerals (CD19) will be used to determine minerals applications alongside any relevant LDP and SG policies and guidance. The Planning Authority is of the opinion that no change to this policy is required.</li> </ul>		

**Reporter's conclusions:**

1. Policy M1 seeks to safeguard aggregate sources and mineral deposits so that Shetland's need for these can be met from local resources. The policy states that commercial extraction will be allowed in suitable locations in accordance with proposed Supplementary Guidance – Minerals. As already stated in my report on Policy H2, the content of Supplementary Guidance does not need to be scrutinised at Examination, given that the principle of the policy or proposal will already have been scrutinised and subsequently included in the plan - the Supplementary Guidance will be limited to providing further detail on that.
2. Paragraph 231 of SPP states that development plans and development management decisions should aim to minimise significant negative impacts from minerals extraction on the amenity of local communities, the natural heritage and historic environment and other economic sectors important to the local economy, and should encourage sensitive working practices during extraction. Extraction should only be permitted where impacts on local communities and the environment can be adequately controlled or mitigated. Wherever possible, haulage should be by rail, or coastal or inland shipping, rather than by road. Where there are significant transport impacts on local communities, routes which avoid settlements as far as possible should be identified.
3. SPP also makes clear that, in addition to the foregoing policy guidance, in considering any mineral application, the council would also have to have regard to advice contained in PAN 50: Controlling the Environmental Effects of Surface Mineral Workings; PAN 50: Annexes A-D and PAN 64: Reclamation of Surface Mineral Workings.
4. The council's proposed Supplementary Guidance - Minerals will require to be publicised to make people who may wish to comment aware of the guidance and give them an opportunity to comment, setting a date before which representations may be made. The council must then consider any timeous representations made to it on the proposed Supplementary Guidance.
5. The council must send Scottish Ministers a copy of the guidance it wishes to adopt. The council must also send Ministers a Statement setting out the publicity measures undertaken, the comments, and an explanation of how these comments were taken into account. Paragraph 143 of Circular 6/2013: Development Planning makes clear that Ministers will not wish to allow Supplementary Guidance to be adopted which they consider to be significantly contrary to Scottish Planning Policy.
6. At present, the council's Interim Planning Policy on Minerals (CD19) is a material planning consideration in relation to developments involving minerals extraction. The Interim Planning Policy sets out a strategic and detailed policy framework for mineral developments in Shetland. The intention is to provide a strategic overview and protect the environment from the harmful effects of mineral development.
7. In view of the existence of this Interim Planning Policy, having regard to the safeguards for the environment in respect of mineral extraction set out in SPP and for the reasons set out in paragraph 5, I am satisfied that it is unnecessary to

expand Policy M1 as requested.
<b>Reporter's recommendations:</b>
No modifications.

<b>Issue NH1</b>	<b>Natural Heritage</b>	
<b>Development plan reference:</b>	Natural Heritage Chapter – Page 24	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Natural Heritage (021)		
<b>Provision of the development plan to which the issue relates:</b>	Natural Heritage	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Scottish Natural Heritage (021)</u></p> <ul style="list-style-type: none"> <li>• SNH recommends an added policy on “General Landscape” under which landscape issues in the wider countryside will be considered and to describe suitable design for the surrounding landscape which should consider whether a proposal would maintain the distinctiveness and diversity of landscape character and aim to safeguard areas with high qualities of wildness. Further guidance regarding landscape should be made in either the policy or the Supplementary Guidance on Natural Heritage (CD8). Reference should be made in either the policy or the supplementary guidance to “A landscape assessment of the Shetland Isles” (Gillespies, 1998) (CD37), the Wildness Qualities map on our web site at <a href="http://www.snh.gov.uk/protecting-scotlands-nature/looking-after-landscapes/landscape-policy-and-guidance/wild-land/mapping/">http://www.snh.gov.uk/protecting-scotlands-nature/looking-after-landscapes/landscape-policy-and-guidance/wild-land/mapping/</a>, and to paragraph 99 of NPF2 (CD33) and paragraph 128 of SPP (CD34).</li> <li>• We suggest the policy might be worded as follows:  “All development proposals should ensure a high standard of siting and design in terms of location, scale, form, pattern, materials and colour, to ensure development might best be coordinated and be appropriate for particular landscape character areas. Development should avoid any significant adverse effects, either directly or indirectly, on present landscape quality and character, including areas with a high quality of wild land character”.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Inclusion of Policy with suggested wording:  We recommend that a general landscape policy is added, which should consider whether a proposal would maintain the distinctiveness and diversity of</li> </ul>		

landscape character and aim to safeguard areas with high qualities of wilderness. Further guidance regarding landscape should be made in either the policy or the Supplementary Guidance on Natural Heritage. Reference should be made in either the policy or the supplementary guidance to “A landscape assessment of the Shetland Isles” (Gillespies, 1998), the Wilderness Qualities map on our web site at <http://www.snh.gov.uk/protecting-scotlands-nature/looking-after-landscapes/landscape-policy-and-guidance/wild-land/mapping/>, and to paragraph 99 of NPF2 and paragraph 128 of SPP.

- We suggest the policy might be worded as follows:

“All development proposals should ensure a high standard of siting and design in terms of location, scale, form, pattern, materials and colour, to ensure development might best be coordinated and be appropriate for particular landscape character areas. Development should avoid any significant adverse effects, either directly or indirectly, on present landscape quality and character, including areas with a high quality of wild land character”.

#### **Summary of responses (including reasons) by planning authority:**

- Landscape issues in the wider countryside are covered in the Local Development Plan in Policies GP1, GP2, GP3, H5 and also Supplementary Guidance – Local Landscape Areas and Supplementary Guidance – Natural Heritage. It will also be considered in the forthcoming Design – Supplementary Guidance.
- We note the requests for references to Gillespies, the Wilderness Qualities map, NPF2 and SPP. Gillespies and the Wilderness Qualities map will be referenced to in the Natural Heritage Supplementary Guidance. The paragraphs 99 of NPF2 and 128 of SPP will not be referenced as policies do not reference specific paragraphs of related documents and these will be superseded by the time this plan has been published.

#### **Reporter’s conclusions:**

1. Paragraph 126 of SPP provides that planning authorities should take a broader approach to landscape and natural heritage than just conserving designated or protected sites and species, taking into account the ecosystems and natural processes in their area. Paragraph 127 states that landscape in both the countryside and urban areas is constantly changing and the aim is to facilitate positive change whilst maintaining and enhancing distinctive character. The European Landscape Convention makes it clear that all landscapes require consideration and care. Different landscapes will have a different capacity to accommodate new development, and the siting and design of development should be informed by local landscape character. The natural and cultural components of the landscape should be considered together, and opportunities for enhancement or restoration of degraded landscapes, particularly those affecting communities, should be promoted through the development plan where relevant. Paragraph 128 states that areas of wild land character in some of Scotland’s remoter upland, mountain and coastal areas are very sensitive to any form of development or intrusive human



activity and planning authorities should safeguard the character of these areas in the development plan.

2. I note that it is accepted that the National Scenic Area and Local Landscape Areas are covered by Policies NH1 and NH4 respectively. The council's draft Supplementary Guidance – Local Landscape Areas also contains development guidelines for proposals within Local Landscape Areas.

3. In relation to general landscape issues, in my findings in Issue GP8, I proposed a modification to Policy GP3 to the effect that all new development should be sited and designed to respect the character and local distinctiveness of the site and its surroundings. Policy GP2 also offers protection for landscape by requiring that development should not adversely affect the integrity or viability of sites designated for their landscape and natural heritage value. Policy H5 supports development if it fits well into the surrounding landscape and settlement pattern. That accords with the aim of avoiding significant adverse effects on landscape character.

4. The council has stated that landscape issues in the wider countryside will also be considered in the forthcoming Supplementary Guidance – Design. That guidance will form part of the development plan and will only be adopted after consultation and consideration of any representations.

5. Paragraph 117 of Circular 6/2013: Development Planning makes clear that my role, within the bounds of the issues raised in representations, is primarily to examine the appropriateness and sufficiency of the content of the proposed plan. Only if the proposed plan is insufficient or inappropriate should other approaches be considered. I am not tasked with making the plan as good as it can be, but with modifying those parts that are clearly inappropriate or insufficient.

6. Having regard to the foregoing policy guidance, and for the reasons set out in paragraphs 3 and 4 above, I am satisfied that the approach taken by the council in addressing landscape issues in the local plan is broadly consistent with the relevant provisions of SPP. There is therefore no need for an additional general landscape policy.

7. I note that, as requested, the council intends to reference Gillespies and the Wilderness Qualities Map in the Natural Heritage Supplementary Guidance. I agree there is no need for reference to NPF2 or SPP since both will shortly be superseded.

**Reporter's recommendations:**

No modifications.

<b>Issue NH4</b>	<b>Soils</b>	
<b>Development plan reference:</b>	Policy NH5 – Page 28 Paragraph 1	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
SEPA (011) Scottish and Southern Energy (072)		
<b>Provision of the development plan to which the issue relates:</b>	NH5 Soils	
<b>Planning authority’s summary of the representation(s):</b>		
<p><u>SEPA (011)</u></p> <ul style="list-style-type: none"> <li>SEPA recommends reconsidering the wording ‘to an extent that is considered relevant and proportionate to the scale of the development’ as SEPA comment that it is too ambiguous and it would be helpful to users of the plan if what is expected was clearer.</li> </ul> <p><u>Scottish Southern Energy (072)</u></p> <ul style="list-style-type: none"> <li>Policy appears to apply to all soil resources and functions without definition. The Supplementary Guidance entitled ‘Natural Heritage’ (CD8) does not provide sufficient guidance on soils to the extent that the policy requirements of the policy and any outcome of assessment against it would be clear to any developer or investor. On this basis the policy is considered to be inconsistent with the advice within Circular 1/2009 (CD35) Development Planning and accordingly would benefit from a clearer form of words or from better guidance within the Natural Heritage Supplementary Guidance notes on how the policy will be applied.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<p><u>SEPA (011)</u></p> <ul style="list-style-type: none"> <li>Reconsider wording to clarify to developers what is expected by ‘to an extent that is considered relevant and proportionate to the scale of the development’.</li> </ul> <p><u>Scottish and Southern Energy (072)</u></p> <ul style="list-style-type: none"> <li>Wants a better definition of soils either within Policy NH5 ‘Soils’ and/ or better guidance on how the policy will be applied for different soil types in the Natural Heritage Supplementary Guidance.</li> </ul>		

**Summary of responses (including reasons) by planning authority:**SEPA (011)

- The wording “to an extent that is considered relevant and proportionate to the scale of the development’ is suitable. This allows the flexibility needed for this Policy to be applied in varying measures according to the nature and scale of the development.
- Scottish and Southern Energy (072) Soil functions are set out clearly in justification of NH5 and the justification also includes a reference to Scottish Soils Framework, which gives further advice and definition. We believe this is a satisfactory and sufficient definition of soils and guidance on how policy will be applied for different soil types.

**Reporter’s conclusions:**SEPA

1. No alternative wording for the first paragraph of Policy NH5 is suggested. I agree with the council that some measure of flexibility is needed so that the policy may be properly applied to a whole range of developments. As stated elsewhere, my role, within the bounds of the issues raised in representations, is primarily to examine the appropriateness and sufficiency of the content of the proposed plan. Only if the proposed plan is insufficient or inappropriate should other approaches be considered. I am not tasked with making the plan as good as it can be, but with modifying those parts that are clearly inappropriate or insufficient. In my opinion, the first paragraph of Policy NH5 is sufficient to allow the council the flexibility needed to determine, where development is to take place, the measures required to maintain soil resources.

Scottish and Southern Energy

2. Paragraph 135 of Circular 6/2013: Development Planning makes clear that Scottish Ministers envisage that in order to allow plans themselves to focus on vision, the spatial strategy, overarching and other key policies and proposals, much detailed material can be contained in Supplementary Guidance. Paragraph 139 states that suitable topics for Supplementary Guidance include detailed policies where the main principles are already established. The position adopted by the council in relation to this issue appears to accord with the policy guidance in Circular 6/2013. While it may be that the policy advice contained in the Supplementary Guidance – Natural Heritage might benefit from further clarification and refinement, that is a matter for the council.

**Reporter’s recommendations:**

No modifications.

<b>Issue NH5</b>	Geodiversity	
<b>Development plan reference:</b>	Policy NH6 – Page 29	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Shetland Amenity Trust (016) Sport Scotland (077)		
<b>Provision of the development plan to which the issue relates:</b>	NH6 Geodiversity	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Shetland Amenity Trust (016)</u></p> <ul style="list-style-type: none"> <li>• Explicit mention of the geodiversity is a positive step, however there is no mention of Geopark Shetland. Geosites covers all the key sites for geoconservation in the islands. The Geopark Register should be given explicit mention in policy NH6 Geodiversity, with more details provided in Appendix 5, including a list of Gesoites (Geosite Register)</li> </ul> <p><u>Sportscotland (077)</u></p> <ul style="list-style-type: none"> <li>• Sportscotland writes that geodiversity provides a resource for 'a variety of recreation and outdoor activities' as well as education and research. Sportscotland wants geodiversity to be references in this policy ensuing awareness of the need to consider such interests in relation to relevant development proposals</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<p><u>Shetland Amenity Trust (016)</u></p> <ul style="list-style-type: none"> <li>• Geopark Shetland and the Geopark Register should be given explicit mention in policy NH6 Geodiversity, with more details provided in Appendix 5, including a list of Geosites.</li> </ul> <p><u>Sportscotland (077)</u></p> <ul style="list-style-type: none"> <li>• Include in Policy NH6 that Geodiversity provides a resource for 'a variety of recreation and outdoor activities'. It appears inequitable to make reference only to education and research in the policy when geodiversity is as much a resource for recreation and outdoor activities.</li> </ul>		

**Summary of responses (including reasons) by planning authority:**Paul Harvey (016)

- Geoparks do not hold the same legal status as other designated sites; therefore it is not appropriate to include them in this policy. Geoparks are referenced within Supplementary Guidance – Natural Heritage.
- The Planning Authority is of the opinion that it is not appropriate to mention the Geopark Register in Appendix 5 Areas of Best Fit Maps. It should also be noted they would not be appropriate in Appendix 6 Designated Site Maps for the reason stated above.

Sport Scotland (077)

- It is implicit within the justification of Policy 6 Geodiversity that 'Recreation and outdoor activities' are covered; therefore, the Planning Authority is of the opinion that it is not necessary to list it within the policy itself.

**Reporter's conclusions:**Shetland Amenity Trust

1. The council's Supplementary Guidance – Natural Heritage will form part of the development plan. That guidance contains a specific reference to Geopark Shetland on page 41. There is no need for this reference to be repeated in Policy NH6.

Sport Scotland

2. The justification for Policy NH6 states that geodiversity can be regarded as a finite non-renewable resource that underpins many different types of services that ecosystems provide. The justification gives some examples of such services, including recreation and outdoor activities. I do not read this list as being intended to be comprehensive. Similarly, I take the inclusion of a reference to educational or research value in paragraph 1 of Policy NH6 to be illustrative only. I find, therefore, that there is no need for a modification to paragraph 1 of Policy NH6 to make specific reference to recreation and outdoor activities.

**Reporter's recommendations:**

No modifications.

<b>Issue NH6</b>	Policy NH7 – Water Environment Comments	
<b>Development plan reference:</b>	Policy NH7 – Page 30	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
SportsScotland (078)		
<b>Provision of the development plan to which the issue relates:</b>	NH7 Water Environment	
<b>Planning authority's summary of the representation(s):</b>		
<u>SportsScotland (078)</u> <ul style="list-style-type: none"> <li>Recognise the role of buffer strips in providing for access rights and outdoor recreation and to make specific reference to this role in the policy (or its justification).</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<u>SportsScotland (078)</u> <ul style="list-style-type: none"> <li>Recognition of the buffer strips providing access right and recreation by making specific reference to this role in the policy or justification of NH7.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>Although recreational opportunities can arise through the creation and maintenance of buffer strips, the provision of access rights and outdoor recreation are not considered as main roles for a buffer strip. Therefore the inclusion of the recreational uses of buffer strips is not appropriate within the policy or justification of NH7.</li> <li>Recreation is considered elsewhere in the plan, specifically: CF1 Community Facilities and Services (incl. Education) and CF2 Open Space.</li> </ul>		
<b>Reporter's conclusions:</b>		
<p>The justification for Policy NH7 makes clear that the council has a duty to protect, and where possible improve, Shetland's water environment. The role of buffer strips in this is to help reduce flooding, allow for the maintenance of watercourses, reduce pollution and allow for wildlife corridors to be maintained or established. Although buffer strips may be used for access and outdoor recreation they are not specifically</p>		

provided for such purposes. It would therefore be inappropriate to introduce a reference to such purposes in Policy NH7.

**Reporter’s recommendations:**

No modifications.

<b>Issue NH7</b>	Local Natural Designations	
<b>Development plan reference:</b>	Policy NH4 – Page 27	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Sports Scotland (085)		
<b>Provision of the development plan to which the issue relates:</b>	NH4 Local Designations	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Sports Scotland (085)</u></p> <ul style="list-style-type: none"> <li>• Paragraph 140 of the SPP (CD34) is clear on the role of local landscape areas (LLAs) in safeguarding and promoting important settings for outdoor recreation. Policy NH4 makes reference to the need for development not to adversely affect the qualities for which a LLA has been identified.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• To include recreational benefits in LLA and to include impacts on attributes such as gradients, vegetation cover, path networks, rock formations, and the existence of water etc.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• Scottish Planning Policy 140 states; The purpose of designating a local landscape area in the development plan should be to:             <ul style="list-style-type: none"> <li>• safeguard and enhance the character and quality of landscapes which are important or particularly valued locally or regionally, <b>or</b></li> <li>• promote understanding and awareness of the distinctive character and special qualities of local landscapes, <b>or</b></li> <li>• safeguard and promote important settings for outdoor recreation and tourism locally.'</li> </ul> </li> <li>• Given that SPP states three possible purposes for designation and that the basis for the designation of LLAs in policy NH4 is to primarily safeguard and enhance the character and quality of landscapes which are important or particularly valued locally or regionally, The Planning Authority is of the opinion that it is not appropriate to re-evaluate the LLAs regarding recreational use.</li> </ul>		



**Reporter's conclusions:**

1. Paragraph 139 of SPP makes clear that the reasons for designating Local Landscape Areas (LLAs) in the development plan should be clearly explained. Paragraph 140 of SPP sets out 3 possible purposes for designating an LLA. Safeguarding and promoting important settings for outdoor recreation and tourism locally is the third of these possible purposes. The justification for Policy NH4, however, mentions the first of these purposes, namely, protecting and enhancing the character and quality of landscapes which are valued locally. The council has confirmed that the basis for the designation of LLAs in Policy NH4 is to primarily safeguard and enhance the character and quality of landscapes which are important or particularly valued locally or regionally.
2. The council's draft Supplementary Guidance – Local Landscape Areas (CD6) states that the purpose of the LLAs is to ensure sympathetic siting and design of new development within these areas. Although the justification for Policy NH4 also states that the creation of LLAs can support outdoor recreation, physical activity and local tourism, the council has made clear that is not the basis for the designation of the LLAs in the plan.
3. From my reading of Policy NH4 and the justification for the policy it is not absolutely clear that the sole reason for designating LLAs is to primarily safeguard and enhance the character and quality of landscapes which are important or particularly valued locally or regionally. I am of the view that the justification for the policy requires to be stated in more unambiguous terms, as required by SPP. That would clarify matters and obviate any need to revisit the Supplementary Guidance to make specific reference to recreational qualities of LLAs.

**Reporter's recommendations:**

I recommend that the following modification be made:

Delete the first sentence of the second paragraph of the justification for Policy NH4 and substitute "The reason for designation of Local Landscape Areas is primarily to safeguard and enhance the character and quality of landscapes which are important or particularly valued locally or regionally."

<b>Issue NH8</b>	<b>Policy NH7 - Water Environment</b>	
<b>Development plan reference:</b>	Policy NH7 – page 30, paragraph 1	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
SEPA (011)		
<b>Provision of the development plan to which the issue relates:</b>	Policy NH7	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>SEPA (011)</u></p> <ul style="list-style-type: none"> <li>SEPA recommends reconsidering the wording 'to an extent that is considered relevant and proportionate to the scale of the development' as SEPA comment that it is too ambiguous and it would be helpful to users of the plan if what is expected was clearer.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<p><u>SEPA (011)</u></p> <ul style="list-style-type: none"> <li>Reconsider wording to clarify to developers what is expected by 'to an extent that is considered relevant and proportionate to the scale of the development'.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>The policy and the accompanying justification goes on to clearly explain the criteria which Planning Officers will look at to determine whether or not a development will be permitted based on the potential impact on the water environment. Therefore, the Planning Authority does not consider it necessary to reword the policy.</li> </ul>		
<b>Reporter's conclusions:</b>		
<p>No alternative wording for the first paragraph of Policy NH7 is suggested. Policy NH7 sets out criteria which must be met where there is potential for development to have an adverse impact on a watercourse or water body. I am of the view that some measure of flexibility is needed so that the policy may be properly applied to a whole range of developments. In my opinion, the first paragraph of Policy NH5 is sufficient to allow the council the flexibility needed to determine, where development is to take place, the measures required to protect the marine and freshwater environments.</p>		

**Reporter's recommendations:**

No modifications.

<b>Issue RE1</b>	<b>Policy RE1 - Renewable Energy</b>	
<b>Development plan reference:</b>	Policy RE1 - Renewable Energy – page 49	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Natural Heritage (021) Scottish and Southern Energy(SSE) (072)		
<b>Provision of the development plan to which the issue relates:</b>	Policy RE1 - Renewable	
<b>Planning authority’s summary of the representation(s):</b>		
<p><u>Scottish Natural Heritage (021)</u></p> <ul style="list-style-type: none"> <li>• Policy RE1 should be reworded to make it clear that the impacts of associated infrastructure as well as the aerogenerators themselves will be assessed.</li> </ul> <p><u>Scottish and Southern Energy(SSE) (072)</u></p> <ul style="list-style-type: none"> <li>• The word ‘significant’ should be inserted into the Policy before ‘unacceptable impacts’.</li> <li>• The LDP should set out the framework for what information will be included in the Supplementary Guidance.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<p><u>Policy rewording</u></p> <ul style="list-style-type: none"> <li>• The Policy should state what will be included within the Supplementary Guidance.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• Policy RE1 refers to renewable energy developments as a whole not simply the energy generator itself. The more detailed policies relating to onshore wind energy developments contained within the forthcoming Supplementary Guidance on the topic makes reference, where necessary, to the consideration of associated infrastructure and ancillary development.</li> <li>• The word significant is not included within the policy as any unacceptable impacts, that could not be mitigated against, would deem the development unworthy of planning permission. To try to quantify levels of acceptability would weaken the Policy core. This is consistent with the approach taken throughout</li> </ul>		

the LDP.

- If the Reporter is minded Policy RE1 will be amended to make the content of the Supplementary Guidance apparent. In particular it would be made explicit that the Spatial Framework for Windfarms of 20MW and above will be contained within the forthcoming Supplementary Guidance – Onshore Wind Energy (CD15), released for consultation in July 2013.

#### **Reporter's conclusions:**

##### SNH

1. Policy RE1 deals with renewable energy developments as a whole. I do not read the policy as being restricted only to consideration of the actual generator itself. The policy states that further detailed guidance is provided in Supplementary Guidance. The council's draft Supplementary Guidance – Onshore Wind Energy (CD15) makes clear that when assessing the impact of developments, questions of access, the associated infrastructure, including tracks, power lines and ancillary development should all be considered as well as the scale and pattern of the turbines. In view of all of the foregoing, I do not consider it necessary to reword Policy RE1 to make specific reference to associated infrastructure.

2. I note that the council is content to modify Policy RE1 to make it clear that the forthcoming Supplementary Guidance would contain the Spatial Framework for Windfarms of 20MW and above. I am happy to accept this.

##### SSE

3. It is inevitable that all development will have an impact and one of the tests in deciding whether or not to approve a development is the acceptability or otherwise of such impact. The correct approach in considering any development proposal is to determine which development plan policies/criteria are relevant and then assess the proposal against them accordingly. A development will either be acceptable or it will not. Nothing is to be gained by attempting to define levels of unacceptability.

4. As stated in paragraph 1 above, Policy RE1 is to be read along with the council's Supplementary Guidance which will form part of the development plan. I am satisfied that Policy RE1 and the guidance taken together provide a suitable framework for assessing development proposals.

#### **Reporter's recommendations:**

I recommend that the following modification be made:

After the words "Supplementary Guidance" in the last line of Policy RE1 add the following "- Onshore Wind Energy which will contain the spatial framework for large scale wind energy developments of 20MW and above generating capacity."

<b>Issue RE2</b>	Spatial Framework for Windfarms	
<b>Development plan reference:</b>	Policy RE1 – Renewable Energy page 49	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish and Southern Energy(SSE) (072)		
<b>Provision of the development plan to which the issue relates:</b>	RE1 – Renewable Energy	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Scottish and Southern Energy (072)</u></p> <ul style="list-style-type: none"> <li>• According to the latest advice Local Development Plans should contain the Planning Authority's spatial framework for onshore windfarm developments.</li> <li>• The Plan does not appear to be compliant with the requirements of Scottish Planning Policy and Circular 1/2009 due to the fact that the Supplementary Guidance on renewables has not been completed.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• It is recommended that in order for the LDP to be compliant with the requirements of Scottish Planning Policy (CD34) and Circular 1/2009 (CD35) Development Planning, as well as the Development Planning regulations, the Supplementary Guidance would require to be published prior to the LDP examination and integrated in some form within the Plan.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• Our intention has always been to progress the Spatial Framework for Windfarms as part of the Onshore Wind Energy Supplementary Guidance (CD15). The issue of Renewable Energy was not included within the Main Issues Report (CD27) in 2010, therefore inclusion of the Spatial Framework within the main body of the LDP would have been inappropriate having not been discussed at Main Issues stage.</li> <li>• We have now drafted Supplementary Guidance on Onshore Wind Energy developments. This does include the Spatial Framework for Windfarms. This allows the Supplementary Guidance to be progressed to a stage whereby it could be immediately adopted following examination and adoption of the Local Development Plan.</li> </ul>		

**Reporter's conclusions:**

1. Paragraph 189 of SPP states that planning authorities should set out in the development plan a spatial framework for onshore wind farms of over 20MW generating capacity. As stated in my report on Issue RE1, the council is content to modify Policy RE1 to make it clear that forthcoming Supplementary Guidance would contain the Spatial Framework for Windfarms of 20MW and above. In this respect, I note that it is agreed that such a spatial framework could be progressed through the route of Supplementary Guidance, provided there is appropriate recognition thereof in the local plan.

2. The council's draft Supplementary Guidance – Onshore Wind Energy was released for consultation in July 2013. That guidance, once adopted, will form part of the development plan, and have that status for decision making in line with section 25 of the Planning Act. My recommended modification to Policy RE1 makes clear that the forthcoming Supplementary Guidance would contain the Spatial Framework for Windfarms of 20MW and above. In view of all of the foregoing, I am satisfied that in respect of this particular issue, the council has met the relevant requirements of SPP, The Town and Country Planning (Development Planning) (Scotland) Regulations 2008, and Circular 6/2013: Development Planning.

**Reporter's recommendations:**

No modifications.

<b>Issue RE3</b>	Impacts on Recreational sites by renewable energy developments	
<b>Development plan reference:</b>	Policy RE1 – Page 49	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Sport Scotland (079)		
<b>Provision of the development plan to which the issue relates:</b>	RE1 – Renewable Energy	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Sport Scotland (079)</u></p> <ul style="list-style-type: none"> <li>Paragraph 185 of the SPP (CD34) advises that planning authorities should ensure that the development plan explains the factors that will be taken into account in decision making on all renewable energy generation developments. The SPP advises that this would include consideration of amenity and community interests, which will include sport and recreation interests. In the advice on wind farms, paragraph 187 of the SPP is clear that amenity and community interests will include consideration of impacts on recreation interests. This is supported by paragraph 190 which identifies recreation interests as a potential constraint on wind farm development. It is crucial that outdoor sport and recreation interests are taken into consideration in renewables development and we recommend such reference be made in policy RE1.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>Policy RE1 should be amended to specifically include reference to the consideration of recreation interests in assessing Renewable Energy developments.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>In relation to Paragraph 185 we believe that Policy RE1 does set out the range of factors which renewable energy developments must be compliant with. In addition any development must comply with all relevant Local Development Plan policies and supplementary Guidance Policies. We believe that the Policy covers the issue of tourism and recreation under the term 'benefits and disbenefits' for communities. The forthcoming Supplementary Guidance on Onshore Wind Farm (CD15) development will provide further detailed guidance on what will be taken in to consideration when determining Onshore wind Energy developments.</li> </ul>		



Therefore, the Planning Authority is of the opinion that it is not necessary to amend Policy RE1 in the Local Development Plan.

**Reporter's conclusions:**

1. Paragraph 185 of SPP states that planning authorities should ensure that the development plan or supplementary guidance clearly explain the factors that will be taken into account in decision making on all renewable energy generation developments. Some indicative factors are referred to, including impact on the landscape, historic environment, natural heritage and water environment, amenity and communities, and any cumulative impacts. Paragraph 187 of SPP states that development plans should provide a clear indication of the potential for development of wind farms of all scales, and should set out the criteria that will be considered in deciding applications for all wind farm developments, including extensions. Examples are given of likely relevant criteria, including tourism and recreation interests. Tourism and recreation interests are also identified as a potential constraint on wind farm development in paragraph 190 of SPP.
2. In drafting Policy RE1 the council has made reference to some of the factors and criteria listed in paragraphs 185, 187 and 190 of SPP. No mention is made, however, of tourism and recreation interests. The council is of the view that Policy RE1 covers the issue of tourism and recreation under the heading of "benefits and disbenefits for communities".
3. I note that the council's draft Supplementary Guidance – Onshore Wind Energy deals with impacts on communities. The guidance states that development proposals must assess the likely impact on communities, including long term and significant impact on amenity. There must be an assessment of the effects on these locations covering a range of factors including; visual amenity, noise, shadow flicker, electromagnetic interference, designated sites, road safety and construction/decommissioning logistics, phasing and any other identifiable significant effects. I find no mention in the Supplementary Guidance of impact upon tourism and recreation interests.
4. In view of the foregoing, I am unable to accept the council's contention that a reference to benefits and disbenefits for communities in Policy RE1 addresses the policy guidance in paragraph 185 of SPP. I am reinforced in this view by paragraphs 187 and 190 of SPP which clearly differentiate between tourism and recreation interests, and benefits and disbenefits for communities.
5. I accept that it is impractical to attempt to detail in advance every possible factor that may be required to be taken into account when considering a particular planning application for a renewable energy development. I am satisfied however, that given the specific references in SPP to tourism and recreation interests, these should be listed as factors that may be taken into account in decision making on all renewable energy generation developments.

**Reporter's recommendations:**

I recommend that the following modification be made:

After the words "for communities" in line 4 of Policy RE1 insert the words "and tourism and recreation interests".

<b>Issue RE4</b>	Policy gaps on renewable energy in Local Development Plan	
<b>Development plan reference:</b>	Policy RE1 – Page 49	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish and Southern Energy (072)		
<b>Provision of the development plan to which the issue relates:</b>	RE1 – Renewable Energy	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Scottish and Southern Energy (072)</u></p> <ul style="list-style-type: none"> <li>• In terms of the representation to the MIR (CD27), a number of recommendations have not been addressed within the LDP.</li> <li>• There are significant policy gaps within the LDP relating to transmission and distribution.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• To address the issues raised within the MIR through the LDP.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• The Main Issues Report and Monitoring Statement formed the basis of the Local Development Plan development process. At the time of the Main Issues Report consultation a response was provided in response to the issues raised by SSE. This response outlined the fact that matters relating to the operational practice of renewable energy developments is out with the scope and remit of the Local Development Plan.</li> <li>• The intention, as set out in Appendix 4 of the MIR, was to update the current Shetland Local Plan (2004) (CD25) and Structure Plan (2001) (CD26) relating to Renewable Energy. We have achieved this by placing an overarching policy on renewable energy within the LDP and producing detailed guidance on Wind Energy developments within Supplementary Guidance (CD15).</li> </ul>		
<b>Reporter's conclusions:</b>		
<p>1. It is suggested that a number of representations made in respect of the Main Issues Report have not been taken account of in finalising the local plan. In particular it is suggested that there should be a suitable policy framework for the</p>		

delivery of electricity transmission and distribution infrastructure in the local plan because substations and converter stations associated with transmission and distribution infrastructure require planning permission.

2. Applications for the installation of electric lines are dealt with under the provisions of the Electricity Act 1989. I agree with the council that it is inappropriate, therefore, to provide in a local development plan, prepared under the terms of the Town and Country Planning (Scotland) Act 1997, a policy planning framework that would seek to address, among other things, the location of electricity transmission and distribution lines.

3. The local plan contains a clear policy (RE1) committing the council to delivering renewable energy developments that contribute to the sustainable development of Shetland. The council has produced draft Supplementary Guidance on onshore wind energy which, when adopted, will form part of the development plan. The stated purpose of that guidance is to:

- Provide developers with information and guidance on where, in principle, large-scale onshore wind energy developments and all associated infrastructure, are likely to be acceptable;
- Provide the criteria by which developments between 50KW and 20MW will be assessed and
- Provide guidance for micro-turbine schemes.

It is clear therefore, that the local development plan contains detailed policy guidance relating to renewable energy developments.

4. Paragraph 117 of Circular 6/2013: Development Planning makes clear that my role within the bounds of the issues raised in representations is primarily to examine the appropriateness and sufficiency of the content of the proposed plan. Only if the proposed plan is insufficient or inappropriate should I consider other sites or approaches. I am not tasked with making the plan as good as it can be, but with modifying those parts that are clearly inappropriate or insufficient. For the reasons set out above I am satisfied that no modification to the plan is required as a result of this representation.

**Reporter's recommendations:**

No modifications.

<b>Issue SD1</b>	<b>Deliverability of Sites</b>	
<b>Development plan reference:</b>	Deliverability of Sites	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Marie Fullerton 014 Bryan Leask 053 Hjaltland Housing Association (068)		
<b>Provision of the development plan to which the issue relates:</b>	General deliverability of the Plan	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Marie Fullerton 014</u></p> <ul style="list-style-type: none"> <li>• 'In the councils call for development sites it states that the council is looking for <i>especially land accompanied with realistic and sustainable development proposals that could be brought forward in the future to meet demand</i>. Given that the only sites put forward in Lerwick is the Stanyhill Sites (LK012) which is owned by SLAP, I think that it would be reasonable to have seen a much more detailed development plan for this particularly site. Apart from the Stanyhill Site LK012, the only two other significant sites in the area are; The Anderson High School Sites and Yoxli' However Anderson High School site is under current council policy reserved for educational use only and access to the Yoxli has not be confirmed with landowner.</li> </ul> <p><u>Bryan Leask 053 &amp; Hjaltland Housing Association (068)</u></p> <p>The only sites identified in the Plan as having Development Potential in the central mainland are;</p> <ul style="list-style-type: none"> <li>• <b>Strand, Tingwall</b> – a site which has already been almost fully developed.</li> <li>• <b>Veensgarth, Tingwall</b> – a site already refused planning permission by the SIC (twice) as well as being refused on appeal by the Scottish Government as not being suitable for development.</li> <li>• <b>Veensgarth, Tingwall</b> – a HRA site which Hjaltland have already investigated and found to be unsuitable due to the number of services within the site and the prohibitive cost of diverting said services. The site is also poorly drained and susceptible to flooding</li> <li>• <b>Nesbister, Whiteness</b> – while this site offers good development opportunities its size will limit the number of houses which can be developed</li> </ul>		

here and is more suitable for private development than for affordable housing.

- **Sundibanks, Scalloway** – while this site offers good development opportunities its size will limit the number of houses which can be developed here and is more suitable for private development than for affordable housing.
- **Staney Hill, Lerwick** – a site which has already been almost fully developed (Hoofields)
- **Staney Hill, Lerwick** – this site offers good development opportunities.
- **Norstane, Lerwick** – a site with limited access and suitable only for a small number of houses.
- **Oxlee (Quoys), Lerwick** – this site was investigated when Hjaltland bought and developed Quoys but was found to have unsuitable ground conditions and multiple land owners, most of whom were unwilling to sell.
- **Met Office, Lerwick** – this site offers good development opportunities.
- **Nederdale, Lerwick** – a site already refused planning permission by the SIC as well as being refused on appeal by the Scottish Government as not being suitable for development.
- **Seafield, Lerwick** – mixed use site. I understand that the current proposal is to develop a new care facility on the site which would leave limited land for housing development.
- **AHS, Lerwick** – mixed use site. Site will only become available when new school completed (projecting 2016/17) and existing building removed. Site can offer good development potential in the long term.
- **Lower Sound, Lerwick** – a site only large enough for an individual house
- **Heathery Park, Gulberwick** - this site offers good development opportunities
- **Hillside, Gulberwick** – while this site offers good development opportunities its size will limit the number of houses which can be developed here.

#### **Modifications sought by those submitting representations:**

No clear modification sought.

#### **Summary of responses (including reasons) by planning authority:**

During the call for sites, details of proposed development were requested. However this was the first time potential developers had been asked to submit sites and therefore site details were not compulsory. Development on sites with development potential will be monitored through the Action Programme (CD23).

- The Local Development Plan contains 96 sites with development potential, 75 (or 150.96 ha) of which are available for residential and/or mixed use. This is to provide 1230-1420 homes (both private and affordable) over 10 years, as stated within the HNDA/LHS (CD29 & CD30). Furthermore sites not included in an Area of Best Fit or Potential Development Sites can be submitted at any time for consideration for planning permission.

All sites within the Local Development Plan have been assessed against planning criteria. Ownership or any covenant on a site is not a consideration for the planning

process.
<b>Reporter's conclusions:</b>
See my conclusions on issue H1 HNDA and Land Supply.
<b>Reporter's recommendations:</b>
No modifications.

<b>Issue T1</b>	Policy Trans1 – Integrated Transport	
<b>Development plan reference:</b>	Policy Trans1 – Page 45	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Natural Heritage (021)		
<b>Provision of the development plan to which the issue relates:</b>	Trans 1 – Integrated Transport	
<b>Planning authority's summary of the representation(s):</b>		
<ul style="list-style-type: none"> <li>• SNH – recommends that the supplementary guidance on Open Space is referred to in Policy Trans 1.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• SNH – recommends that the supplementary guidance on Open Space is referred to in Policy Trans 1, with a brief description of its aim and objective, so that it will be underpinned by a specific policy in the LDP.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• The justification for TRANS1 Integrated Transport states that “Further guidance regarding Core Paths will be contained in the forthcoming Supplementary Guidance – Open Space.”</li> </ul>		
<b>Reporter's conclusions:</b>		
<p>Regulation 27(2) of The Town and Country Planning (Development Planning) (Scotland) Regulations 2008 provides that supplementary guidance adopted and issued under section 22(1) of the Town and Country Planning (Scotland) Act 1997 in connection with a local development plan may only deal with the provision of further information or detail in respect of the policies or proposals set out in that plan and then only provided that those are matters which are expressly identified in a statement contained in the plan as matters which are to be dealt with in supplementary guidance. The justification for Policy TRANS1 identifies that further guidance regarding Core Paths will be contained in the forthcoming Supplementary Guidance – Open Space. There is also a reference to that guidance in Policy CF2 Open Space. That is sufficient in my view to meet the requirement of Regulation 27(2).</p>		



**Reporter's recommendations:**

No modifications.

<b>Issue T3</b>	Policy wording TRANS1 – Integrated Transport	
<b>Development plan reference:</b>	Policy wording TRANS1 – Page 45	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
SportsScotland (082)		
<b>Provision of the development plan to which the issue relates:</b>	Policy TRANS 1 – Integrated Transport Clause 7, page 46	
<b>Planning authority's summary of the representation(s):</b>		
<p>Clause 7 should not refer to footpaths. The Land Reform Act establishes access rights, provided they are exercised responsibly, across all paths for a range of recreational purposes. Their use cannot therefore be restricted to pedestrian access and the term footpath should not therefore be used.</p>		
<b>Modifications sought by those submitting representations:</b>		
Remove the word footpath and replace with path.		
<b>Summary of responses (including reasons) by planning authority:</b>		
<p>The Planning Authority notes the comment made by SportScotland referring to footpaths.</p> <p>If the Reporter is minded to uphold the request to replace the word footpath in Clause 7 of Policy Trans1 the Planning Authority will amend the Policy.</p>		
<b>Reporter's conclusions:</b>		
The council has no objection to replacing the word "footpath" with the word "path" in Policy TRANS1 and I see no reason to disagree.		
<b>Reporter's recommendations:</b>		
<p>I recommend that the following modification be made:</p> <p>Delete the word "footpath" in criterion 7 of Policy TRANS1 and substitute the word "path".</p>		

<b>Issue WD2</b>	<b>Policy WD2 - Wastewater</b>	
<b>Development plan reference:</b>	Policy WD2 – Page 56	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Water (071)		
<b>Provision of the development plan to which the issue relates:</b>	WD2 Wastewater	
<b>Planning authority’s summary of the representation(s):</b>		
<ul style="list-style-type: none"> <li>• If private treatment is to be used then permission must be obtained from SEPA</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
Additional reference to the fact that if private treatment is to be used the permission must be obtained from SEPA in the policy.		
<b>Summary of responses (including reasons) by planning authority:</b>		
Further info on requirements and additional permissions is provided in the supplementary Guidance document Flooding and Drainage which is referenced in Policy WD2. Therefore, the Planning Authority is of the opinion that it is not necessary to amend Policy WD2 to include the additional reference stated in the modification sought.		
<b>Reporter’s conclusions:</b>		
Policy WD2 states that further policy guidance can be found in Supplementary Guidance – Flooding and Drainage (this should read “Water and Drainage). Paragraph 6.2 of that guidance states that “ <i>Discharges from private wastewater systems require a CAR license from SEPA</i> ”. The guidance (CD12) forms part of the development plan and apart from correcting the typographical error no further modification is required.		
<b>Reporter’s recommendations:</b>		
I recommend that the following modification be made:  Delete the word “Flooding” in the last line of Policy WD2 and substitute the word “Water”.		

<b>Issue WD3</b>	Policy WD3 - SUDS	
<b>Development plan reference:</b>	Policy WD3 – Page 57	<b>Reporter:</b> Ron Jackson
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Water (071)		
<b>Provision of the development plan to which the issue relates:</b>	WD3 - SUDS	
<b>Planning authority’s summary of the representation(s):</b>		
<p><u>Scottish Water (071)</u></p> <ul style="list-style-type: none"> <li>• SW in support of the policy. SUDS help attenuate flows and reduce the amount of surface water going into the public sewerage network and can help minimise the risk of localized flooding.</li> <li>• If SUDS are to be adopted by SW they will need to comply with the specifications set out in Sewers for Scotland Manual, 2<sup>nd</sup> Ed.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• In the policy or justification, reference the need for SUDS to comply with Sewers for Scotland 2<sup>nd</sup> Ed. Should the developer be seeking SW adoption.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<p>Further info on requirements and additional permissions is provided in the supplementary Guidance document Water and Drainage (CD12) which is referenced in Policy WD3. Therefore, the Planning Authority is of the opinion that it is not necessary to amend Policy WD3 to include the additional reference stated in the modification sought.</p>		
<b>Reporter’s conclusions:</b>		
<p>Policy WD3 states that further policy guidance can be found in Supplementary Guidance – Flooding and Drainage (this should read “Water and Drainage). That guidance contains a great deal of information regarding SUDS. I consider that if any specific reference is to be made to any kind of technical manual, that would best be done by way of Supplementary Guidance – not least because the requirements in such manuals are frequently updated. That however, is a matter for the council.</p>		

The guidance forms part of the development plan and apart from correcting the typographical error, no further modification is required.

**Reporter's recommendations:**

I recommend that the following modification be made:

Delete the word "Flooding" in the last line of Policy WD3 and substitute the word "Water".

<b>Issue S1</b>	Site NI001 – Boundary change	
<b>Development plan reference:</b>	NI001- Ulsta, Yell – Page 113	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Jeremy Dare (007)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority’s summary of the representation(s):</b>		
<ul style="list-style-type: none"> <li>• A technical change to remove part of the site which covers Mr Dare’s garden.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
Removal of part of the site which is owned by Mr Dare		
<b>Summary of responses (including reasons) by planning authority:</b>		
If the Reporter is minded to amend the boundary as per Mr Dare’s request the Planning Authority will amend the boundary accordingly.		
<b>Reporter’s conclusions:</b>		
<p>1. This site is identified as having development potential for housing. Most of the site is rough grazing land. It also includes, at its south-east corner, an area of garden ground, on which a shed has been built. It would be appropriate to remove the garden ground from the site.</p> <p>2. I discuss the issues of the 5 metre contour and the flood risk assessment in issue S37.</p>		
<b>Reporter’s recommendations:</b>		
<p>I recommend the following modification be made:</p> <p>The boundary of the site should be amended as requested.</p>		

<b>Issue S2</b>	Site NM001 – Boundary change	
<b>Development plan reference:</b>	Site NM001 – The Houllands, Brae, Shetland – Page 117	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Raymond Peterson (001)		
<b>Provision of the development plan to which the issue relates:</b>	Sites with Development Potential	
<b>Planning authority’s summary of the representation(s):</b>		
<ul style="list-style-type: none"> <li>• I would like to make representation towards one of your recent areas of “Areas of Best Fit” Ref:NM001, within the Shetland Local Development Plan 2012. With respect to your proposed area, approved for development, I would like to take this opportunity to request a minor change in the said area, to include another small portion of this land for development use. The area in question is highlighted in red on the attached Location Plan; an area to the South-East of the existing access track and area already approved, shown in green. This area would amount to 1.15 Ha. And would primarily be for the development of a single dwelling house.</li> <li>• I have assessed the area against many of your policy objectives and feel it could contribute positively towards this criteria. I feel that the area should be included within your Plan for a number of reasons and would appreciate your consideration of the matter.</li> <li>• The proposed development in this area would compliment the existing low density settlement patterns of the neighbouring properties, GP1 – Sustainable Development, whilst avoiding any detrimental effects upon them, reduction of natural lighting, access restrictions or congestion problems. In addition, the area is well above the perceived flooding risk of 5.00m above O.D and would have minimal risk of flooding now or in the future, GP2 – General Requirements for all developments.</li> <li>• In accordance with GP2 and WD2 – Waste Water, the neighbouring property on the opposite side of the road has an existing private septic tank for the use of two houses, with only one connected at present. Therefore any new development could utilise this spare capacity without the necessity for further waste water provision. Due to the topography of the site, only a development within this proposed area would be able to use this existing facility. I have conducted several trial excavations within this area and can confirm that the</li> </ul>		

said area would satisfactorily accommodate a SuDs system for the safe and sustainable disposal of surface water in accordance with WD3 – SuDs, thus avoiding increased pressure on road side ditches or adverse effects on neighbouring properties.

- The area would also enable any development to achieve sufficient parking and turning provision, combined with adequate amenity space for residential use, in accordance with H3/H5 & H6 of your development plan document.
- Overall, I welcome your proposal for the Area of Best Fit, Ref No. NM001, within the new Development Plan 2012, but would request your re-consideration to include the small additional area shown in red on my attached Location Plan.

**Modifications sought by those submitting representations:**

A change to the boundary of Site NM001 as indicated on the attached Location Plan.

**Summary of responses (including reasons) by planning authority:**

We note the Comments made in representation 001. However, having revisited the site we believe our initial assessment of the site boundary to be appropriate. This reflects the current pattern of development and directs development away from the roadside.

In terms of the process for assessing suitability of Sites with Development Potential All Sites were subject to systematic review of

- Accessibly
- Water supply and waste water facilities
- Biodiversity
- Existing settlement pattern
- Flooding issues
- Possibility of archaeology present
- 

As well as external review by Scottish Natural Heritage, Scottish Environmental Protection Agency, Scottish Water, Shetland Amenity Trust (Archaeology) and Council's Roads Service

This exclusion of this proposed area as a site with development potential does not preclude the landowner/developer from submitting a planning application for this area.

**Reporter's conclusions:**

1. Site NM001 is identified as having potential for housing development. It lies about one kilometre south of Brae, on the south side of the Sparl road.
2. The northern part of the site is bounded to the south-east by a minor road which



runs south-west from the Sparl road. The representee wishes to extend the northern part of the site to include a parcel of land on the south-east side of the minor road. He states that this parcel extends to about 1.15 hectare, and that it would be used mainly for the development of a single house.

3. When I inspected the site I noticed that development appeared to have started on the disputed parcel of land. The council subsequently confirmed that planning permission had been granted for the erection of a house there.

4. If planning permission had not already been granted, I would have found the argument for extending the site fairly persuasive. Given the grant of planning permission, I can see no sound reason for not supporting the extension sought by the representee.

5. I discuss the issues of the 5 metre contour and flood risk in issue S37.

**Reporter's recommendations:**

I recommend the following modification be made:

The boundary of the site should be amended as requested.

<b>Issue S3</b>	<b>Removal of Site NM011</b>	
<b>Development plan reference:</b>	Site NM011 – Bankhead, Mossbank - Page 127	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Richard Hardy (051) J Hutcheson (060)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Richard Hardy (051)</u></p> <ul style="list-style-type: none"> <li>• Relative currently uses the land for sheep grazing and wishes to continue to do so.</li> <li>• 5 septic tanks currently draining onto the site and no mains sewerage available.</li> <li>• High voltage overhead lines within the site.</li> </ul> <p><u>J Hutcheson (060)</u></p> <ul style="list-style-type: none"> <li>• Ground is wet and low lying at the bottom of a hill.</li> <li>• At least 2 septic tanks within the site.</li> <li>• Sea can encroach over the road in certain wind and tidal conditions making the road hazardous</li> <li>• Large overhead electric lines within the site</li> <li>• Near a listed building</li> <li>• As it is a Greenfield site all infrastructure would have to be led in causing quite a bit of disruption to the residents</li> <li>• Location of site is not accessible to supermarket in Brae, fuel costs are high. Suggests it would be more sensible to build nearer shops and/or on previously developed sites at Firth Camp, Leaside and Sandside where infrastructure exists.</li> <li>• Not notified of this proposed development but informed by neighbours.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Site NM011 not to be included as a site with development potential</li> </ul>		

**Summary of responses (including reasons) by planning authority:**

- The site has been assessed by the Planning Authority and issues relating to Flood risk, sewerage provision, water supply, proximity to Listed Building and the siting of the Electric cable have been highlighted in text relating to this proposed development site.
- This site is within the settlement of Mossbank and close to the services provided within that settlement. Therefore, the Planning Authority is of the opinion that Site NM011 should remain within the Local Development Plan.
- Text relating to the Strategic Flood Risk Assessment (CD4) could be added, change text relating to FRA from 'May' To 'Will' as requested by SEPA if the reporter is minded.

**Reporter's conclusions:**

1. The site is a field at the north end of the village of Mossbank. It is bounded to the north by the minor road that runs close to the shore. The ground rises quite steeply up from the road. There is a public house to the east, and there are several scattered houses to the west.

2. The site is close to the centre of the village, and a well designed housing development on the site would fit well with the form of the village. Mossbank is an established settlement, albeit one with fairly few facilities, and it seems to me to be an appropriate place to encourage growth. The site is one of several with potential for housing development in Mossbank identified in the proposed plan.

3. The site notes identify a number of issues relating to the site, including access, flood risk, the electricity cable and water infrastructure within or close to the site, and the nearby listed building. While these would clearly influence the form of development, they would not necessarily prevent development. Another site note states that any development must connect to the public sewer. The design of new drainage infrastructure would presumably take into account the presence of septic tanks within or near the site.

4. As noted in issue AL1 Good Agricultural Land above, the proposed plan has no policy presumption against the development of agricultural land.

5. I see no reason to remove this potential development site from the proposed plan.

**Reporter's recommendations:**

No modifications (other than that relating to flood risk assessment discussed in issue S37).

<b>Issue S4</b>	Inclusion of archaeology on site-assessment sheet Site NM013	
<b>Development plan reference:</b>	Site NM013 – Loch of Haggriester - Page 129	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Shetland Amenity Trust (044)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Shetland Amenity Trust 044</u></p> <ul style="list-style-type: none"> <li>• Site NM013 (previously 031y) which includes archaeological sites and would require archaeological work before proceeding – although this is probably confined to a small part of the site and could be mitigated for.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<p><u>(Shetland Amenity Trust) 044</u></p> <ul style="list-style-type: none"> <li>• Standard text about contacting the archaeological section would be appropriate for site NM013</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• Due to the nature of the proposed development on this site significant additional information may be required therefore detailing all the separate requirements at this stage would not be appropriate. Any proposal will be subject to the development management process and procedures including archaeological sites.</li> </ul>		
<b>Reporter's conclusions:</b>		
<ol style="list-style-type: none"> <li>1. This site is identified as having potential for industrial use.</li> <li>2. The representation indicates that archaeological work would have to take place before the site was developed, and that mitigation would be required. There is no suggestion that the archaeological interest in the site would prevent the site being developed for industrial use.</li> </ol>		

3. One of the site notes states that development would have to conform to the appropriate policies in the plan and to related Supplementary Guidance when approved. Policy HE4 Archaeology of the proposed plan sets out the council's policy on archaeology, and it is proposed to produce Supplementary Guidance on the subject. The archaeological resources within the site would therefore be afforded appropriate policy protection irrespective of whether a further site note about archaeology is provided.

4. However, this is the only site about which the Shetland Archaeologist has made an unresolved representation. Furthermore, including a note on the site's archaeological importance would, on the face of it, appear to be consistent with the approach taken to other sites containing archaeological assets, including LK008 – Oxlee, Lerwick, LK021 – Dales Voe, Lerwick and WM005 – Kirkhouse, South Whiteness.

5. I therefore think there is merit in the modification being sought.

6. I discuss the issue of sewerage in issue S37.

**Reporter's recommendations:**

I recommend the following modification:

Insert the following sentence in the site notes: "There is a risk of archaeology in this area, please contact the Shetland Archaeologist at the Shetland Amenity Trust for further information."

<b>Issue S5</b>	<b>Removal of Site NM015</b>	
<b>Development plan reference:</b>	Site NM015 – Busta, Brae - Page 131	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Colin Hunter (052)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority’s summary of the representation(s):</b>		
<p><u>Colin Hunter (052)</u></p> <ul style="list-style-type: none"> <li>• Loss of amenity and privacy</li> <li>• Concerns that development may lead to change in the water table</li> <li>• Light pollution</li> <li>• Reduction in property values</li> <li>• Possible noisy neighbours</li> <li>• Disruption due to building works</li> <li>• Existing fluctuating water pressure may become worse</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Site NM015 to be excluded from the Local Development Plan</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<p>The site has been assessed by the Planning Authority and issues relating to Flood risk, sewerage provision, water supply, proximity to Archaeology, Road access issues have been highlighted in text relating to this proposed development site.</p> <p>A full design statement including details of phasing will be required for this site to ensure appropriate siting and scale of development. All Development will be required to comply with LDP policies and associated SG this ensure appropriate siting, design and amenity provision. Therefore, the Planning Authority is of the opinion that Site NM015 should remain within the Local Development Plan.</p>		

**Reporter's conclusions:**

1. Site NM015, which comprises four parcels of land, is identified as having potential for housing development. It lies on the western edge of Brae, south of the A970 road and west of the road to Muckle Roe. It lies outwith the Brae Area of Best Fit.
2. Three of the parcels are in agricultural use. Housing development has started on the second most northerly parcel. The parcels are separated from one another by existing housing.
3. The representee has raised a number of matters. I have dealt with the issue of good quality agricultural land in issue AL1 above. Developing all four parcels would change the character of the area, but the plan promotes Brae as a focus for growth and these sites are fairly close to many of Brae's facilities. Issues relating to the protection of residential amenity will be more relevant at the development management stage. Scottish Water is responsible for water supply. The council Roads Service has made various comments on how the site might be accessed.
4. The development of these parcels raises many questions, some of which are highlighted in the site notes. However, I see no reason to object in principle to NM015 being designated a Site with Development Potential.

**Reporter's recommendations:**

No modifications (other than that relating to flood risk discussed in issue S37).

<b>Issue S6</b>	Access, water and sewerage supply - Site CL003	
<b>Development plan reference:</b>	Site CL003 – Strand, Tingwall - Page 86	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p>Duncan Henderson (004)  Duncan Henderson (008)  Tingwall Whiteness and Weisdale Community Council (024)  Scottish Water (071)</p>		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Duncan Henderson (004)</u></p> <ul style="list-style-type: none"> <li>• Access issues, may be potential problems with the access for the new 40 house hjaltland development in the same area. Additional development in this area would increase traffic using this junction, it would be prudent to see how this junction copes with the traffic from the 40 houses before further development is considered.</li> <li>• Other areas within Tingwall are proposed for development, in particular at Veensgarth. This area was recommended by the reporter.</li> <li>• A moratorium on house building within the north Tingwall area may be wise to see if the water supply and sewer system are able to cope with the increase in demand put on them when the latest housing development is complete.</li> </ul> <p><u>Duncan Henderson (008)</u></p> <ul style="list-style-type: none"> <li>• Additional houses will turn Tingwall into a township rather than a rural setting</li> <li>• Great Deal of Controversy over this land which has not been adequately dealt with</li> <li>• 2 other areas in Tingwall which have been proposed, 1 of which the SG reporters unit maintained were suitable for housing. Wishes to see these used for future housing development instead.</li> </ul> <p><u>Tingwall Whiteness and Weisdale Community Council (024)</u></p> <ul style="list-style-type: none"> <li>• Site too big and needs to be divided in order to be considered in depth and would require gaps where no development could take place.</li> <li>• Parts of the area could be suitable for low density private housing rather than housing schemes.</li> </ul>		



- The Maps do not show developments which are almost complete or a higher density scheme which is currently under construction
- Capacity of sewerage needs to be considered

Scottish Water (071)

- A project has been initiated to upgrade capacity at Tronafirth ST. Additional Capacity has been included to serve CL003 SW and CL005 SW are unable to include any further allocations as SIC have been unable to provide indicative development numbers for other sites within the Tronafirth catchment.

**Modifications sought by those submitting representations:**

Duncan Henderson (004) & Duncan Henderson (008)

- Site CL003 to be excluded from the LDP

Tingwall Whiteness and Weisdale Community Council (024)

- Design, layout and density to be considered. Capacity of the sewerage system to be considered

Scottish Water (071)

- None

**Summary of responses (including reasons) by planning authority:**

- The site has been assessed by the Planning Authority and issues relating to Flood risk, sewerage provision, water supply, and road access have been highlighted in text relating to this proposed development site. It has been noted by the Roads Service that there are issues regarding access to this site and that any development on this site will be required to have adequate access, parking and circulation layout.
- A full design statement including details of phasing will be required for this site to ensure appropriate siting and scale of development. All Development will be required to comply with LDP policies and associated SG this ensure appropriate siting, design and amenity provision.
- Scottish Water have indicated in their response that a project to upgrade capacity at the Tronafirth Sewerage Treatment works, which serves this site and the surrounding area, has been initiated, they have also stated that they have allocated capacity within this site.
- Therefore, the Planning Authority is of the opinion that Site CL003 should remain within the Local Development Plan.

**Reporter's conclusions:**

1. This site at Strand, Tingwall, is identified as having potential for housing development. Part of the site has recently been developed by Hjaltland Housing Association. The housing association questioned whether all of the remainder of site is likely to be developed, but it has not objected to the site's inclusion in the plan.
2. This is a large site within a mainly rural area, and I think it would be regrettable if it was developed as a continuous high density township. One of the site notes states that a full design statement will be required. This should help to ensure that the site is developed appropriately.
3. The council Roads Service has pointed out that the site is well related to some of the main focal points in Tingwall, including the school and hall. It has advised that various road and footway upgrading works would be required. One of the site notes states that the site has "issues" regarding access.
4. A project to upgrade capacity at the Tronafirth sewage treatment works, with capacity for at least some housing on this site, has been initiated by Scottish Water. As noted in my conclusions on issue S38, the council is content for this information about sewerage to be inserted in the site notes.
5. I conclude that this site is capable of being developed satisfactorily, and that it should be retained in the plan.
6. I discuss the issue of flood risk in issue S37.

**Reporter's recommendations:**

I recommend the following modification be made:

Insert the sentence "A project has been initiated to upgrade capacity at the Tronafirth sewage treatment works, which serves this area." in the site notes for this site.

<b>Issue S8</b>	Objections to previous planning permission road access and sewerage provision – Site CL005	
<b>Development plan reference:</b>	Site CL005 – Veensgarth, Tingwall - Page 88	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Tingwall Whiteness and Weisdale Community Council (026) Scottish Water (071)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Tingwall Whiteness and Weisdale Community Council (026)</u></p> <ul style="list-style-type: none"> <li>• Objection to earlier planning permission on the site included following reasons: <ul style="list-style-type: none"> <li>• Increase in traffic at 2 dangerous junctions</li> <li>• The sewerage system, the inability to cope without further investment.</li> </ul> </li> </ul> <p><u>Scottish Water (071)</u></p> <ul style="list-style-type: none"> <li>• A project has been initiated to upgrade capacity at Tronafirth ST. Additional Capacity has been included to serve sites CL003 &amp; CL005 SW are unable to include any further allocations as SIC have been unable to provide indicative development numbers for other sites within the Tronafirth catchment.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• 026: Site CL005 to be excluded from the LDP</li> <li>• 071: None</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• The site has been assessed by the Planning Authority and issues relating to sewerage provision, water supply, proximity to a listed building and road access have been highlighted in text relating to this proposed development site.</li> <li>• Scottish Water have indicated in their response that a project to upgrade capacity at the Tronafirth Sewerage Treatment works, which serves this site and the surrounding area, has been initiated, they have also stated that they have allocated capacity for within this site.</li> </ul>		

- Therefore, the Planning Authority is of the opinion that Site CL005 should remain within the Local Development Plan.

#### **Reporter's conclusions:**

1. This site is identified as having potential for housing development. It lies north-east of the crossroads at the centre of the small settlement of Veensgarth, Tingwall. It is presently in agricultural use.

2. Two planning applications have been refused for housing development on the site, but the council now supports this form of development. I consider that an appropriately designed residential development would fit well with the existing built form.

3. The council Roads Service described the site as being readily accessible and already well served by public and school transport. A project to upgrade capacity at the Tronafirth sewage treatment works, with capacity for this site, has been initiated by Scottish Water. As noted in my conclusions on issue S38, the council is content for this information about sewerage to be inserted in the site notes.

4. I conclude that this site should be retained as a site with development potential.

#### **Reporter's recommendations:**

I recommend the following modification be made:

Insert the sentence "A project has been initiated to upgrade capacity at the Tronafirth sewage treatment works, which serves this area." in the site notes for this site.

<b>Issue S9</b>	Boundary change – Site WM001	
<b>Development plan reference:</b>	Site WM001 – Nesbister, Whiteness - Page 166	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Tingwall, Whiteness & Weisdale Community Council (027)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
Tingwall, Whiteness & Weisdale <u>Community Council (027)</u>		
<ul style="list-style-type: none"> <li>• Support for a reduced area of site WM001 to allow low density development in a single row in keeping with the existing pattern. Previously attempts have been made to maintain a gap between the existing settlements but recent planning applications, which are not shown on the map, have reduced the gap on the lower side of the road. Development on the upper side of the road should not be allowed to reduce the gap on that side to less than on the lower side. Residents have expressed a desire to maintain a rural feel. Amenities, including road safety and the sewage system, would need to be considered.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
Tingwall, Whiteness & Weisdale <u>Community Council (027)</u>		
<ul style="list-style-type: none"> <li>• Reduce area to allow low density development in a single row in keeping with existing pattern.</li> <li>• Development on the upper side of the road should not be allowed to reduce the gap on that side to less than on the lower side.</li> <li>• Amenities, including road safety and the sewage system, would need to be considered.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• The site has been assessed by the Planning Authority and issues relating to Flood risk, sewerage provision, water supply, proximity to Archaeology, Road access issues have been highlighted in text relating to this proposed development site.</li> <li>• A full design statement including details of phasing will be required for this site to ensure appropriate siting and scale of development. All Development will be</li> </ul>		

required to comply with LDP policies and associated SG this ensure appropriate siting, design and amenity provision.

- Therefore, the Planning Authority is of the opinion that Site WM001 should remain unaltered within the Local Development Plan.

**Reporter's conclusions:**

1. This site is identified as having potential for housing development. It lies near the head of Whiteness Voe, a short way down its east side, on the landward side of the Nesbister road.

2. There are houses on both sides of the road to the south of the site, and recent building has resulted in a continuous row of houses on the shore side of the road opposite the site. To the north of the site there is a short undeveloped gap on either side of the road. The plan does not propose development there.

3. Several planning permissions have already been granted for housing development on site WM001. When I inspected the site, I noticed that construction work had begun on an access road and one house. Given the recent planning history of the site and its surroundings, I am not inclined to make recommendations about how the remaining parts of the site should be developed. The site notes state that a full design statement will be required, and I assume that the council will be looking for a high standard of development here.

**Reporter's recommendations:**

No modifications.

<b>Issue S12</b>	Boundary Change – WM005	
<b>Development plan reference:</b>	Site WM005 – Kirkhouse, South Whiteness - Page 170	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Tingwall, Whiteness and Weisdale Community Council (030) Marion Hughson (019) Denise Morgan & Iain Johnson (073)		
<b>Provision of the development plan to which the issue relates:</b>	Sites with Development Potential	
<b>Planning authority’s summary of the representation(s):</b>		
<p><u>Tingwall, Whiteness and Weisdale Community Council (030)</u></p> <ul style="list-style-type: none"> <li>Support this site. Consideration may need to be given to SSI conditions. The area where there are currently sheds is probably too small and too close to the road for housing development.</li> </ul> <p><u>Site Number WM005 Kirkhouse, South Whiteness (019)</u></p> <ol style="list-style-type: none"> <li>The shaded area to the west of the B Class Road is within the stated 100 meters of the Churchyard/Burial Ground therefore not suitable for housing.</li> <li>The Shaded area to the West of the B Class Road contains 2 sheds and when planning permission was granted for extension of this Contractors Building Area parking space was allocated for the use for Access to the Burial Ground.</li> <li>No 3 Shed belongs to the adjoining crofter and it is doubtful if it should be shown in this shaded area.</li> </ol> <p><u>Comments in relation to Site WM005 at Kirkhouse, Whiteness (073)</u></p> <ul style="list-style-type: none"> <li>Part of the area outlined for development in the plan is owned by ourselves and should not be included in the development plan. This was pointed out to the planning department during the previous consultation phase.</li> </ul> <p>Part of the area outlined is on a narrow piece of land at the side of a busy side road with no obvious room for parking. We are concerned that inappropriate buildings ie multiple occupancy will result in problems with parking and result in the graveyard parking spaces being used inappropriately. The traffic passes this area at some speed and we are concerned that the close proximity to the road and lack of garden space could lead to children being harmed.</p>		

**Modifications sought by those submitting representations:**

- Concern relating to traffic
- 073 – Removal of part of Site WM005 from Proposed Local Development Plan.

**Summary of responses (including reasons) by planning authority:**

We note the comments made on Site WM005.

Tingwall, Whiteness and Weisdale Community Council (030)

- Any proposal for development of this site would require submission of a Planning Application and thus be subject to the Development Management process.

Site Number WM005 Kirkhouse, South Whiteness (019)

- There is no Policy stating a separation distance of 100m from a burial ground.
- If the Reporter is minded to the sheds will be removed as per representation 073.

Removal of part of Site WM005 from Proposed Local Development Plan (073)

- We note the error in the boundary of Site WM005 as previously advised. If the Reporter is minded to this area will be removed from the site boundary of WM005.

In terms of the process for assessing suitability of Sites with Development Potential All Sites were subject to systematic review of

- Accessibly
- Water supply and waste water facilities
- Biodiversity
- Existing settlement pattern
- Flooding issues
- Possibility of archaeology present

As well as external review by Scottish Natural Heritage, Scottish Environmental Protection Agency, Scottish Water, Shetland Amenity Trust (Archaeology) and Council's Roads Service.

Any specific proposal on the site would be subject to the Development management process which would consider the issues raised in representation 073 to ensure appropriate development.



**Reporter's conclusions:**

1. This site is identified as having potential for housing development. It lies on either side of the road which runs down the White Ness peninsula. The western part of the site is narrow, with three sheds along the road frontage. Much of the larger, eastern part looks derelict and untidy, with the remains of old buildings and materials dumped on it.
2. The council has confirmed that at least a portion of the western part of the site was included in error, and it now suggests that the entire western part be removed from the site. I agree. Apart from any ownership issues, I consider this part of the site to be too narrow and too close to the road to allow a satisfactory housing development to be built.
3. Following its rehabilitation, the eastern part would provide an attractive housing site, with views over Whiteness Voe. I see no significant problems arising from the site's proximity to the small burial ground to the north.
4. I deal with the issue of sewerage in issue S37.

**Reporter's recommendations:**

I recommend the following modification:

The part of the site on the west side of the road should be deleted.

<b>Issue S13</b>	Site with Development Potential WM006	
<b>Development plan reference:</b>	Site WM006	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Marion Hughson (019) Tingwall, Whiteness & Weisdale Community Council (031)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Marion Hughson (019)</u></p> <ul style="list-style-type: none"> <li>Nesbister is not in South Whiteness. Nesbister is situated to the East of the Whiteness Voe. The site shaded here is to the East of the B Class road in South Whiteness and it is on the Breck croft.</li> <li>At present there are two houses built on the Breck Croft which originally had a yard dyke running parallel to the B Class Road and the planning conditions applied in each build was to move the boundary back 8ft from the Stone Dyke. (the remains of the dyke is still standing. Hopes the third site will follow the same line of boundary).</li> </ul> <p><u>Tingwall, Whiteness &amp; Weisdale Community Council (031)</u></p> <ul style="list-style-type: none"> <li>Note that the site is not in Nesbister.</li> <li>Suitable for a maximum of 2 dwellings.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<p><u>Marion Hughson (019) &amp; Tingwall, Whiteness &amp; Weisdale Community Council (031)</u></p> <ul style="list-style-type: none"> <li>Note that the site is not in Nesbister.</li> </ul> <p><u>Marion Hughson (019)</u></p> <ul style="list-style-type: none"> <li>Any added properties building on the Breck Croft to follow the original planning application applied to the earlier builds to move the boundary back 8ft from the Stone Dyke</li> </ul>		

**Summary of responses (including reasons) by planning authority:**

- The planning authority notes that the representee states the site is not in Nesbister. If the Reporter is minded to do so the site address would be amended to 'Breck, South Whiteness'.
- Siting and Design Issues will be dealt with at the planning application stage.
- A full design statement including details of density will be required for this site to ensure appropriate siting and scale of development. All Development will be required to comply with LDP policies and associated SG this ensure appropriate siting, design and amenity provision.
- Any development proposals should conform with all relevant Shetland Local Development Plan policies and associated supplementary guidance.

**Reporter's conclusions:**

1. The site address of site WM006 is stated in the proposed plan to be "Nesbister, South Whiteness". However Nesbister lies on the east side of Whiteness Voe, whereas this site lies on the west side of the voe. Site WM006 has been given the wrong site address.
2. The other matters raised in these representations are for the development management process. They do not require any change to the plan.
3. I discuss the issue of sewerage in issue S37.

**Reporter's recommendations:**

I recommend the following modification:

Change the site address to "Breck, South Whiteness".

<b>Issue S14</b>	<b>Removal of Site WM010</b>	
<b>Development plan reference:</b>	Site WM010 – Wormadale, Whiteness - Page 175	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Tingwall, Whiteness and Weisdale Community Council (032) Jane Puckey (045)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Tingwall, Whiteness and Weisdale Community Council (032)</u></p> <ul style="list-style-type: none"> <li>• Support but with concerns about access</li> </ul> <p><u>Jane Puckey (045)</u></p> <ul style="list-style-type: none"> <li>• Due to steepness and instability of hill behind this site together with inadequate access this site is unsuitable for any kind of development, especially housing.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<p><u>Tingwall, Whiteness and Weisdale Community Council (032)</u></p> <ul style="list-style-type: none"> <li>• None</li> </ul> <p><u>Jane Puckey (045)</u></p> <ul style="list-style-type: none"> <li>• Removal of site from Local Development Plan</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• The site has been assessed by the Planning Authority and issues relating to sewerage provision, water supply, proximity to a listed building and road access have been highlighted in text relating to this proposed development site. Therefore, the Planning Authority is of the opinion that Site WM010 should remain within the Local Development Plan.</li> </ul>		

**Reporter's conclusions:**

1. This site is identified as having potential for housing development. It lies immediately north-east of a group of 10 chalet-style properties at Wormadale, on the hillside above the head of Whiteness Voe. (Site WM011 – the subject of issue S15 – lies immediately south-west of the chalets.)
2. The site is disused, and partly covered with rubble from a demolished building. To the rear of the site the land rises steeply. The hillside did not appear to me to be unstable, and in any case, questions of structural stability are not generally directly relevant to planning. I am satisfied that the site itself could accommodate an appropriately designed, small scale housing development without harming the amenity of nearby residents or the appearance of the surrounding area.
3. The access, however, is poor. The council Roads Service has drawn attention to several problems, and advised that fairly major upgrading would be required. I broadly agree with that assessment.
4. Overall, I think it is reasonable for this site to remain in the plan as a Site with Development Potential for housing.

**Reporter's recommendations:**

No modifications.

<b>Issue S15</b>	Removal of WM011	
<b>Development plan reference:</b>	Site WM011 – Wormadale, Whiteness Page 176	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Tingwall, Whiteness and Weisdale Community Council (033) Jane Puckey (045)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Tingwall, Whiteness and Weisdale Community Council (033)</u></p> <ul style="list-style-type: none"> <li>Support in general but with concerns about access</li> </ul> <p><u>Jane Puckey (045)</u></p> <ul style="list-style-type: none"> <li>Due to inadequate access and close proximity to the chalets this site is unsuitable for any kind of development.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<p><u>Tingwall, Whiteness and Weisdale Community Council (033)</u></p> <ul style="list-style-type: none"> <li>None</li> </ul> <p><u>Jane Puckey (045)</u></p> <ul style="list-style-type: none"> <li>Removal of site from Local Development Plan</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>The site has been assessed by the Planning Authority and issues relating to Flood risk, sewerage provision, water supply, and road access have been highlighted in text relating to this proposed development site. Therefore, the Planning Authority is of the opinion that Site WM011 should remain within the Local Development Plan.</li> </ul>		

**Reporter's conclusions:**

1. This site is identified as having potential for housing development. It lies immediately south-west of a group of 10 chalet-style properties at Wormadale, on the hillside above the head of Whiteness Voe. (Site WM010 – the subject of issue S14 – lies immediately north-east of the chalets.)

2. The site appears to be disused. Part of it is occupied by an old building. This would presumably be demolished if the site was developed. I am satisfied that the site itself could accommodate an appropriately designed, small scale housing development without harming the amenity of nearby residents or the appearance of the surrounding area.

3. The access, however, is poor. The council Roads Service has drawn attention to several problems, and advised that fairly major upgrading would be required. I broadly agree with that assessment.

4. Overall, I think it is reasonable for this site to remain in the plan as a Site with Development Potential for housing.

**Reporter's recommendations:**

No modifications.

<b>Issue S16</b>	<b>Removal of Site WM012</b>	
<b>Development plan reference:</b>	Site WM012 – Gronnack, Whiteness - Page 177	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p>Mrs Poplar (018)  Marion Hughson (019)  Tingwall, Whiteness and Weisdale Community Council (023)  Eleanor Hunter (067)  Harriet Bolt (069)</p>		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Mrs Poplar (018)</u></p> <ul style="list-style-type: none"> <li>Property has experienced flooding in the past due to construction work in the vicinity. Interested in the Reference to the CAR regs in the Flood Risk Assessment (CD4) for the site ' A CAR licence would be required for each watercourse crossing and care should be taken that construction work does not create temporary or permanent change to the direction or volume of existing flows in watercourses, including roadside ditches'.</li> <li>Concerned that more properties will suffer if further development is to take place.</li> <li>There are an abundance of springs in this area.</li> </ul> <p><u>Marion Hughson (019)</u></p> <ul style="list-style-type: none"> <li>Site contains the main drain for the water main from the main west road coming down the Wornadale hill, drains were altered when the new access road layout was constructed. The gardens of existing houses are laden with water during any wet period.</li> <li>Numerous Springs and a Well in the area.</li> <li>There is a right of way from the east grind to the Nesbister Road.</li> <li>The Traffic on the Nesbister road is immense, there is a blind corner at the south end of the row of houses this does not slow down traffic.</li> <li>The road is part of the Scattald and the sheep are straying on the road.</li> <li>The quantity of housebuilding in this area leads to a high volume of traffic.</li> <li>Is the Nesbister Road B Class Road?</li> <li>Why is the Nesbister road only a single road? Do you not cater for the future as each new build comes move back to widen the road to 30ft.</li> </ul>		



- Is 30ft not the stated distance for the road width in your new housing schemes?
- Will you be making a new road into the Area from Wornadale Hill
- What are your long range plans?

Tingwall, Whiteness and Weisdale Community Council (023)

- Site is not known as Gronnack
- Support in general but consider the area to be suitable for low density only
- Drainage and access needs to be considered.

Eleanor Hunter (067)

- Wet ground in the area.
- Road to and from the proposed site does not have a safe opening access onto Nesbister road and could be a hazard
- Existing Nesbister road is bad enough with the increase in traffic in recent years and more to come with no reduction in speed limit it is becoming dangerous at times just to cross the road to get to own car.
- State objection to development of site.

Harriet Bolt (069)

- Site contains watercourses
- Is partly below the 5m contour
- May be subject to flooding
- Is extremely waterlogged and would require considerable drainage before development, increasing environmental damage and disturbance to residents during construction.
- The recent increase in housing at Nesbister has already created access problems along the single track road that serves the areas.
- Lives immediately adjacent to the access route to the site would be particularly exposed to the increased traffic and associated disturbance.
- Proximity of development to existing house could cause issues of reduced light and privacy as well as temporary but significant disturbance during construction.
- Moved to area for tranquillity and unspoilt views, loss of this would have significant impact on quality of life of residents.
- States objection to site WM12 inclusion in the LDP

**Modifications sought by those submitting representations:**

- Exclusion of site WM012 from the LDP

**Summary of responses (including reasons) by planning authority:**

- The site has been assessed by the Planning Authority and issues relating to flood risk, sewerage provision, water supply, and road access have been highlighted in text relating to this proposed development site. It has been noted by the Roads Service that there are issues regarding access to this site and that any development on this site will be required to have adequate access, parking and circulation layout.
- A full design statement including details of phasing will be required for this site to ensure appropriate siting and scale of development. All Development will be required to comply with LDP policies and associated SG this ensure appropriate siting, design and amenity provision. Therefore, the Planning Authority is of the opinion that Site WM012 should remain within the Local Development Plan.
- The Planning Authorities short, medium and long range plans are identified within the LDP and the Action Programme.
- The Landowner submitted Site WM012 as Gronnack, therefore we accept that as the Site name.

**Reporter's conclusions:**

1. This site is identified as having potential for housing development. It is an area of open land lying south of the A971 road, at the head of Whiteness Voe. It would be accessed from the Nesbister road, which runs for more than a kilometre down the east side of the voe. There are about a dozen houses along parts of its northern and eastern boundary.
2. The site is low lying and boggy in places. Site notes draw attention to the fact that part of it lies below the 5 metre contour, and to the risk of flooding.
3. The council Roads Service has stated that the roads here are to a standard that could withstand a modest amount of additional housing, and that if the road infrastructure was improved larger developments could be accommodated. There appear to be at least two options for accessing the site from the Nesbister road.
4. The site is large enough to enable a number of houses to be built without significantly affecting the amenity of adjoining residents.
5. I see no reason to remove this potential development site from the plan.

**Reporter's recommendations:**

No modifications (other than that relating to flood risk assessment discussed in issue S37).

<b>Issue S19</b>	Oxlee, objection - LK008	
<b>Development plan reference:</b>	Site LK008 – Oxlee, Lewick - Page 99	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Peter Malcolmson (039) Marie Fullerton (014)		
<b>Provision of the development plan to which the issue relates:</b>	Sites with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Peter Malcolmson (039)</u></p> <ul style="list-style-type: none"> <li>• Objection. I wish to record my objection. This is a piece of land which should remain a green belt area. Also, I own the land through which access would need to be sought, and I have no intention of selling.</li> </ul> <p><u>Marie Fullerton (014)</u></p> <ul style="list-style-type: none"> <li>• Apart from the Staneyhill Site LK012, the only two other significant sites in the area are: <ul style="list-style-type: none"> <li>• The Anderson High School Site, and</li> <li>• Yoxli (LK008)</li> </ul> </li> <li>• Note: Both of which are scheduled to be developed only after 10 years.</li> <li>• Access to the Yoxli site has not been confirmed with the landowner, whom I am told does not favour housing in this particular area?</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<p><u>Peter Malcolmson (039)</u></p> <ul style="list-style-type: none"> <li>• Removal of site LK008 as a site with development potential. This site should be retained as greenbelt.</li> </ul> <p><u>Marie Fullerton (014)</u></p> <ul style="list-style-type: none"> <li>• No clear modification sought.</li> </ul>		

**Summary of responses (including reasons) by planning authority:**

- Scottish Planning Policy Paragraph (CD34) 159 states that *'green belt designation should be used to direct development to suitable locations, not to prevent development from happening.'* Paragraph 160 continues *'Land should only be designated by a planning authority as green belt where it will contribute to the settlement strategy for an area.'*
- We believe that there is no justifiable need to designate area LK008 as green belt. Other policies within the Plan provide a context for decision making to ensure suitable sustainable development in Shetland. Within the proposed Local Development Plan we have placed a number of caveats on the development of this site including the requirement for a full design statement with details of development phasing.
- With regard to the availability of sites for development we asked the submitter to indicate an indicative timescale for development:
  - short (1-5 years)
  - medium (5-10 yrs)
  - long (10yrs +)
 These timescales are recorded in the Action Programme (CD23) and reflect the fact that the Local Development Plan is a strategic document with a long term vision for 20 years.

Ownership of the site is not a consideration in the Planning Process.

**Reporter's conclusions:**

1. This site, at the south-west end of Lerwick, is identified as having potential for housing development. It is bounded to the north by the Quoys housing development, and to the south-east by the shoreline on the Voe of Sound. It lies within the Lerwick Area of Best Fit.
2. This is one of the largest potential housing development sites in Lerwick, and it is well located to meet housing need and demand. This is particularly relevant given my conclusions in issues H1, AP1 and SD1 that housing land supply is not overly generous in and around Lerwick.
3. One of the representees states that the site should be retained as "green belt". Lerwick does not have a green belt, in the normal sense of that term. It is though an attractive coastal site, and an argument could be made on landscape grounds for leaving part of it undeveloped.
4. The main unresolved issue in this case relates to land ownership. Mr Peter Malcolmson states that he owns the land through which access would need to be sought and he has no intention of selling. In response, the council states that a number of alternative access points may be achievable, and that there are a number of mechanisms available to acquire the site should this prove necessary.
5. There is clearly some doubt about when, and indeed whether, this site might

become available for development. However this is potentially a very important housing site, and I am not persuaded that it has no prospect of being developed. I therefore think that it is reasonable to retain it in the plan as a site with development potential.

**Reporter's recommendations:**

No modifications (other than that relating to flood risk discussed in issue S37, and that relating to drainage capacity discussed in issue S38).

<b>Issue S20</b>	Removal of site LK009	
<b>Development plan reference:</b>	Site LK009 – Lower Sound, Lerwick Page 100	<b>Reporter:</b>  David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Mr Frank Curran (054) Mrs Sandra Chapman on behalf of Norderdale residents (074)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Mr Frank Curran (054)</u></p> <ul style="list-style-type: none"> <li>I wish to lodge my objection to this proposal on the grounds that had some years ago proposed to build on the same site mentioned in your letter. At that time the Scottish Office became involved and they sent a representative to Shetland and after meeting with Mr Brian Leask from Hjatland Housing and the objectors and after walking the site the Scottish Office agent was informed that the original owner of the land had bequeathed that particular area as a green belt area. The Scottish Office agent then informed us that he would go back and deliberate his findings and inform us, some weeks later I received a letter informing me that they had found in favour of the objectors.</li> </ul> <p><u>Mrs Sandra Chapman on behalf of Norderdale residents (074)</u></p> <ul style="list-style-type: none"> <li>We as residents of this area disagree with the proposal that the site LK009 (open area) be developed for housing.</li> <li>Attached are the names of residents in the area who would strongly object to any proposed development of this area (open space). In September 2005 the Scottish Executive was against development of this site and held it being retained as 'open space'. We strongly disagree that the site LK009 at Lower Sound Lerwick should be developed for housing <ul style="list-style-type: none"> <li>this 'open ground' is the only green area in the vicinity and is a recreational area for residents.</li> <li>the area is well used as a children's play area, and for exercising dogs and horses.</li> <li>site makes an important contribution to recreational amenity of the area, in</li> </ul> </li> </ul>		

terms of its usage by local residents and to the environmental quality of the area.

the existing road network is over-stretched especially in the summer months and the additional traffic would be unacceptable particularly at the junction of Nedersund Road, Kantersted Road and the Lower Sound road, which would remain dangerous even if improvements were carried out.

**Modifications sought by those submitting representations:**

- Removal of Site LK009 from the proposed Local Development Plan and for this area to be retained as designated Open Space.

**Summary of responses (including reasons) by planning authority:**

- The previous proposal 2005/340/PCO was for the erection of 12 dwelling houses on Site LK009.
- Site LK009 is in the proposed Local Development Plan as a site with development potential for housing. There are no detailed proposals for the site at present and we believe this site is suitable for low density housing. The Open Space provision in the surrounding area is of a sufficient standard and we do not believe that development on this area would result in an unacceptable level of open space provision. Since the 2005 proposal the surrounding area has benefited from the creation of Peerie Oversund Park in the near vicinity as well as an upgrade to the existing play park within Nederdale.
- All sites submitted were subject to stakeholder consultation including with the SIC Roads Department Service. The information that accompanies Site LK009 in the Proposed Local Development Plan states that 'Any development on this site will be required to have adequate access, parking and circulation layout. Contact the Council Roads Service for information'. Therefore, the Planning Authority is of the opinion that Site LK009 should remain within the Local Development Plan.

**Reporter's conclusions:**

1. This site is identified as having potential for housing development. It lies in a residential area towards the south-west end of Lerwick, within the Lerwick Area of Best Fit. It comprises three distinct parts. The northern part is a fairly level area of mown grass. The southern part has the appearance of a mound of grass covered soil. The eastern part (site LK017) is a roughly triangular garden area enclosed by a stone wall. I deal further with this last part in issue S39.

2. In 2005 the Hjaltland Housing Association was refused outline planning permission to erect 12 houses on the site, on the ground that it would result in the loss of open space used by local residents for recreation. That decision was upheld on appeal. The council states that open space provision in the area has since been extended and upgraded, and is of a sufficient standard. The council now believes that the site is suitable for low density housing. I agree.



3. In my conclusions in issues H1, AP1 and SD1, I noted that housing land supply was not overly generous in and around Lerwick. There is a case for providing more, rather than less housing land in Lerwick. This would be a well located, attractive housing site. I conclude that it should be retained in the plan as a site with potential for housing development.

**Reporter's recommendations:**

No modifications (other than that relating to the buffer around watercourses discussed in issue S38).

<b>Issue S21</b>	Removal of Site – LK010	
<b>Development plan reference:</b>	Site LK010, Seafield, Lerwick – Page 101	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
William E Smith (020)		
<b>Provision of the development plan to which the issue relates:</b>	Sites With Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>William E Smith (020)</u></p> <ul style="list-style-type: none"> <li>• The Seafield Fields were purchased in 1950 for the sum of £3000 raised publicly by Shetland Sports Association</li> <li>• Trustees were appointed to ensure that the fields were used for sports and recreation only. A condition clearly set out in the bill of sale. These trustees were – the convenor of the ZCC, the provost of Lerwick, and the chairman of the ZCC Education Committee.</li> <li>• When the SIC took over all responsibilities of the LTC, trustees should have been appointed – namely the Convenor of the SIC, the Chairman of Lerwick Community Council, and the Chairman of the SIC Education Committee. This never happened. The Shetland Sports Association eventually handed over responsibility for the fields to the SIC without ensuring that the original condition of the sale was adhered to, by the appointed of trustees.</li> <li>• When the SIC came forward with proposals to build a new Eric Gray Centre on the “hockey field” they mentioned that this field was used only occasionally by the Pony Club, which would be accommodated elsewhere. These submissions were made to the Scottish Sports Association and the judge looking at the change of use, raised no objections.</li> <li>• The Lerwick Community Council objected to the proposal flying in the face of the policy set out in your Structure Plan (CD26) paragraph 14.8 – “regarding the loss of public open space, the change of use only permissible if such spaces can be conveniently replaced in the area.” Your map clearly shows the benefit of this adjacent beautiful park to the residents of Sandveien, Nederdale and Kantersted, and it should not be built on. Play equipment should be provided in this park.</li> <li>• As an alternative, housing should be developed on the North Staney Hill, from existing SIC houses around the contours to above the proposed new Anderson High School. (A scheme proposed over 30 years ago, but no one would listen)</li> <li>• On the basis of the points detailed above, I object to the proposal to develop this land, which should be retained for its present use.</li> </ul>		

**Modifications sought by those submitting representations:**

- Withdrawal of site LK010 from the Proposed Local Development Plan and the area to be retained for recreational use.

**Summary of responses (including reasons) by planning authority:**

- Site LK010 has been included in the Proposed Local Development Plan as a Site with Development Potential for a mixed use development. The remaining fields at Seafield have not been included and can still be used for recreation purposes. During the preparation of the Proposed Local Development Plan part of this Site has obtained outline planning permission for the erection of a new day care centre, Ref: 2011/103/PCO.
- Ownership or any covenants on a site are not considerations for the planning process. Therefore, the Planning Authority is of the opinion that Site LK010 should remain within the Local Development Plan.

**Reporter's conclusions:**

1. This site is identified as having potential for mixed use development. It comprises the northern third or thereabouts of the Seafield Fields. It lies just outwith the Lerwick Area of Best Fit, on the southern edge of the town, facing Brei Wick to the east.

2. The west part of site LK010 is a car park, and the larger, east part is a former hockey pitch. The southern part of Seafield Fields, to the south of site LK010, comprises a large playing field and, to the east, two fields. There is a pavilion at the north-east corner of the southern playing field.

3. The Seafield Fields were purchased for sport and recreational use. In 2011 outline planning permission was granted for the erection of a day care support centre on part of site LK010. Sport Scotland was consulted about that proposal and raised no objection on the basis that the former hockey pitch was no longer fit for purpose, and the needs of the users were now being met at the Clickimin Centre. Additionally, the council had made a financial contribution to the relocation of the equestrian group from the site. The council states that Sport Scotland also raised no objection to the site when consulted on the proposed plan.

4. Scottish Planning Policy sets out the Scottish Government's policy on the use of playing fields at paragraphs 156-158. It defines the circumstances under which it is acceptable to redevelop playing fields and sports pitches. In this case, the proposed development of the site in question is supported by the council and not objected to by Sport Scotland. I am satisfied that the designation of the site as one with potential for mixed use development accords with national policy.

5. There is great demand for development land in and around Lerwick. This site seems to me to be well located for a range of potential types of development. Developing site LK010 would leave the greater part of Seafield Fields as open

space. I therefore consider the designation reasonable.

**Reporter's recommendations:**

No modifications (other than those relating to a buffer around watercourses, the 5 metre contour and flood risk discussed in issue S37, and that relating to drainage capacity discussed in issue S38).

<b>Issue S24</b>	Preservation of Site for Educational Use – LK015	
<b>Development plan reference:</b>	Site LK015, Anderson High School, Lerwick – Page 106	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Marie Fullerton (014) John Telford (047) Lerwick Community Council (048)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority’s summary of the representation(s):</b>		
<p><u>Marie Fullerton (014)</u></p> <ul style="list-style-type: none"> <li>• Raises questions of deliverability. Believe this site under current Council policy is reserved for Educational use only. Site only scheduled for to be developed after 10 years.</li> </ul> <p><u>John Telford (047)</u></p> <ul style="list-style-type: none"> <li>• Is it not the case that much if not all of the land was acquired on the condition that it be used for Educational purposes so it is not possible to designate the site to be used in future for uses other than education.</li> <li>• During the previous redevelopment plans for the AHS on this site there was a need to protect the original AEI buildings and the land to the east of them running down to Twageos Road. Should plans for the site not continue to take account of these matters?</li> </ul> <p><u>Lerwick Community Council (048)</u></p> <ul style="list-style-type: none"> <li>• Lerwick Community Council has made previous representations that it was their preference that the site of the AHS be preserved for educational use (letter ref 2010-048/KS)</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<p><u>John Telford (047) &amp; Lerwick Community Council (048)</u></p> <ul style="list-style-type: none"> <li>• Site should be preserved for educational use only.</li> </ul>		

Marie Fullerton (014)

- Questions Deliverability of the site if restricted to Educational Use only.

**Summary of responses (including reasons) by planning authority:**

- All sites within the Local Development Plan have been assessed against planning criteria. Ownership or any covenants on a site are not a consideration for the planning process.
- Therefore, the Planning Authority is of the opinion that Site LK015 should remain unaltered within the Local Development Plan.
- Deliverability issue raised in response SD1

**Reporter's conclusions:**

1. This site, occupied by Anderson High School, in the Knab area of Lerwick, is identified as having potential for mixed use development. It lies within the Lerwick Area of Best Fit.
2. The council intends to provide a replacement school near the Clickimin Centre, and anticipates that it will be open in August 2016. A council project team is assessing the options for site LK015 and its buildings.
3. Finding new uses for the site is likely to be a complex process. The buildings on it are of various ages and designs, and some are listed. The council Roads Service has advised that some road widening would be required. Given the uncertainty about how the site will be re-used, it seems appropriate for the plan to state that it has potential for mixed use.

**Reporter's recommendations:**

No modifications.

<b>Issue S25</b>	Amendment to site notes - Site LK021 Dales Voe	
<b>Development plan reference:</b>	Site LK021 – Dales Voe, Lerwick – page 112	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Breiwick and Califf Steering Group (010)		
<b>Provision of the development plan to which the issue relates:</b>	Sites With Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Elaine Farquharson-Black on behalf of Breiwick and Califf Steering Group (010)</u></p> <ul style="list-style-type: none"> <li>• Site LK021 at Dales Voe, Lerwick has been identified in the Proposed Local Development Plan (LDP) as a site with development potential for industrial use. The site is noted as currently being used for heavy industry/oil and gas industry uses.</li> <li>• Page 112 of the proposed LDP provides further information in relation to the potential uses of the LK021 site and the key considerations for its development.</li> <li>• The Breiwick and Califf Steering Group ('the Objectors'), which represents 18 landowners in the area of site LK021, are very concerned about the future uses to which the LK021 site could be put. For the avoidance of doubt, the Objectors do not object to the inclusion of the Dales Voe site LK021 in the LDP for appropriate industrial development. However page 112 of the Plan should be amended to include reference to the requirement for appropriate mitigation measures to ensure that there is no detrimental impact on neighbouring residential properties. It is submitted that the current use of the site is not as intensive as the description in the LDP suggests.</li> <li>• The Objectors understand that Lerwick Port Authority have instructed the preparation of an Environmental Impact Assessment (EIA) as part of proposals for a deep water base on the site. This EIA has not yet been prepared or made available for comment. The Objectors are concerned about the impact that the deep water base, or any similar development, will have on their properties across the Voe. Development proposals for the site should include appropriate mitigation measures to ensure the least possible impact on the residential properties in the area. It is submitted that this is consistent with the following policies :-</li> </ul> <p>(a) Policy GP1 Sustainable Development looks for development to be planned to</p>		

meet the economic and social needs of Shetland in a manner that does not compromise the area's high quality environment. The justification for the policy makes it clear that all relevant issues must be considered together before a decision is made looking at longer term implications as well as short term effects. It goes on to say that the policy aims to ensure that the "amenity of those adjacent users affected by development proposals are one of the key considerations of sustainable development.

(b) Policy GP3 All Development: Layout and Design seeks to ensure that all new development should be designed to respect the character and local distinctiveness of the site and its surroundings. The justification for this policy emphasises the need for development to harmonise with the key features of the surrounding area.

- Given the clear requirement to consider the impact of development on neighbouring uses, it would be appropriate for the list of key information relating to the LK021 site allocation on page 112 to make it explicit reference to the need to avoid a detrimental impact on residential amenity in the area.

#### **Modifications sought by those submitting representations:**

- Amend page 112 of the Plan to include reference to the requirement for appropriate mitigation measures to ensure that there is no detrimental impact on neighbouring residential properties.

#### **Summary of responses (including reasons) by planning authority:**

- The Planning Authority notes the comments made in relation to Site LK021.
- At present Site LK021 is designated in the Plan as a Site with Development Potential for industrial development. There are no specific proposals or allocations for this site within the Plan.
- Any development proposal for this site will require the submission of a planning application and be subject to the Development Management Process. Concerned parties can comment on or object to any planning application.
- Any development proposal must comply with the policies set out within the LDP and associated Supplementary Guidance and as such it is not deemed appropriate to quote Policy within the Site notes.
- The Site notes associated with each site with development potential are relevant to the site assessment in general and not specific proposals.
- In terms of the process for assessing suitability of Sites with Development Potential All Sites were subject to systematic review of
  - Accessibly
  - Water supply and waste water facilities
  - Biodiversity
  - Existing settlement pattern
  - Flooding issues
  - Possibility of archaeology present
- As well as external review by Scottish Natural Heritage, Scottish Environmental



Protection Agency, Scottish Water, Shetland Amenity Trust (Archaeology) and Council's Roads Service.

- In addition to this all sites were subject to a period of public consultation.

#### **Reporter's conclusions:**

1. This site, which is currently in industrial use, is identified in the proposed plan as having potential for industrial development. The plan does not expand on what types of industrial development would be acceptable on this site. However, one of the site notes states that all development must conform to the appropriate policies in the plan and related Supplementary Guidance when approved.

2. Relevant policies in the proposed plan include GP1 Sustainable Development, GP2 General Requirements for All Development and ED2 Commercial and Business Development. All of these policies, or their justifications, include references to protecting the environment or amenity.

3. Anyone proposing to carry out development on the site would have to apply for, and obtain, planning permission for that development. Those responsible for processing and determining the planning application would have to consider the proposal's compliance with the development plan and other material considerations. This would inevitably include an assessment of potential impacts on those living on the opposite side of Dales Voe.

4. A number of other sites in Shetland have been identified as having potential for industrial development. The site notes for those sites do not specifically mention the need to avoid detrimental impact on residential amenity.

5. Given the above, I see no need to add a further site note stating explicitly that development on this site should avoid detrimental impact on residential amenity.

#### **Reporter's recommendations:**

No modifications (other than those relating to sewerage and flooding discussed in issue S37).

<b>Issue S26</b>	Boundary Change Site SM008	
<b>Development plan reference:</b>	Site SM008 – Upper Couster, Easter Quarff – page 145	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Stuart Smith (041)		
<b>Provision of the development plan to which the issue relates:</b>	Sites with Development Potential	
<b>Planning authority’s summary of the representation(s):</b>		
<p><u>Stuart Smith (041)</u></p> <ul style="list-style-type: none"> <li>• Seeks a boundary change within site SM008 on the basis of possible land sterilisation due to Crofting Commission Policies on decrofting (sections A and B marked on the attached map).</li> <li>• In addition the representation seeks clarification on the removal of part of the site (Section C marked on the attached map).</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Addition of area A to Site SM008 as marked on the attached Map.</li> <li>• Possible deletion of Area B from Site SM008 as marked on the attached Map.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• The Planning Authority notes the representation.</li> <li>• Following a further site visit we believe our initial assessment of the site remains the same.</li> <li>• With regard to Area A we would not wish to encourage further development above the current boundary of Site SM008.</li> <li>• In terms of removing Area B from Site SM008 we do not feel that this is a necessary action.</li> <li>• The reason Area C has been excluded is related to our comments to the submitter regarding the retention of an irregular and well spaced settlement pattern. If the Reporter is minded to include area C within Site SM008 the Planning Authority will amend the boundary accordingly.</li> </ul>		

**Reporter's conclusions:**

1. This site is identified as having potential for housing development. It lies at the north end of Easter Quarff, a township some 6 kilometres south of Lerwick. It comprises some fields, as well as several existing houses. It lies on either side of the old road to Sumburgh. The new A970 road, which now bypasses much of Easter Quarff, lies to the south of the site.
2. The representee has suggested that two additional parcels of land, sites A and C, be added to the site identified in the proposed plan, and that, if necessary, a third parcel, site B, could be deleted.
3. Site A lies to the north of the east end of the proposed site. It sits above the adjoining part of the proposed site. Most of site A is also higher than the ground on which the house to the east has been built. If a large house was built at the east end of site A, it would appear elevated and over-prominent in the local landscape. However I believe that the west part of site A could accommodate a carefully sited and designed development of, say, two houses, without this detracting from the informal, irregular and low lying character of much of the settlement.
4. Site B lies within the proposed site, at its east end, on the south side of the road. Parts of site B are steeply sloping, but I would have thought that the site could accommodate one house. I see no particular merit in deleting site B from the proposed site.
5. Site C lies beyond the west end of the proposed site. I am satisfied that this site could accommodate a small, well designed development without harming the character of the settlement.
6. I discuss the issues of flood risk and sewerage in issue S37.

**Reporter's recommendations:**

I recommend the following modification:

The boundary of site SM008 should be altered to include sites A and C, as proposed by the representee.

<b>Issue S27</b>	Removal of Site SM010 (and Site SM026)	
<b>Development plan reference:</b>	Site SM010 and Site SM026 – Spiggie, Dunrossness	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
<p>Tim Noble (050)  Allen Sinclair (061)  Allen J Sinclair (062)  Rosalind Burgess (065)  Rosalind Burgess (066)</p>		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Tim Noble (050)</u></p> <ul style="list-style-type: none"> <li>• Received no direct notification or consultation</li> <li>• Associated Infrastructure and Roads Drainage are unknown</li> <li>• Inconsistent conditions placed on site SM010 SM026 which are virtually adjacent. SM026 required to connect to sewer SM010 is not.</li> </ul> <p><u>Allen Sinclair (061)</u></p> <ul style="list-style-type: none"> <li>• Has received no direct notification or consultation regarding this site although their boundary adjoins the proposed development area. Does not recognise 20m as being significant distance for notification.</li> </ul> <p><u>Allen J Sinclair (062)</u></p> <ul style="list-style-type: none"> <li>• Applicant no longer the landowner.</li> <li>• Current land use given in application is not accurate land is not fallow park but a permanent pasture grass field.</li> <li>• The area is within a designated National Scenic Area and adjacent to the RSPB managed Loch of Spiggie and Loch Brow which area within an SSSI and SPA. A number of species identified by the Shetland Local Biodiversity Action Plan area also present in the surrounding area. By-products from the development of the sites if used for multiple house site, such as waste water disposal could be detrimental to the natural heritage and ecosystems services offered by this location. Plus there may be impacts on the ecological status of the waterbodies/water courses within the area if the</li> </ul>		

development of the site consists of bigger development than a single house as the site falls within the catchment area of Spiggie Loch.

- Site is outwith Area of Best.
- Any development must connect to a public sewer as per specifications of SM026 which is within the same area although this requirement is not stipulated for SM010. There is no public sewer in area (WD2).

#### Rosalind Burgess (066)

- Applicant no longer the landowner.
- Current land use given in application is not accurate land is not fallow park but a permanent pasture grass field.
- The area is within a designated National Scenic Area and adjacent to the RSPB managed Loch of Spiggie and Loch Brow which area within an SSSI and SPA. A number of species identified by the Shetland Local Biodiversity Action Plan area also present in the surrounding area. By-products from the development of the sites if used for multiple house site, such as waste water disposal could be detrimental to the natural heritage and ecosystems services offered by this location. Plus there may be impacts on the ecological status of the waterbodies/water courses within the area if the development of the site consists of bigger development than a single house as the site falls within the catchment area of Spiggie Loch.
- Site is outwith Area of Best.

#### Allen Sinclair (061) & Rosalind Burgess (065)

- A multiple housing scheme development on this site is not in keeping with the characteristics of the existing private dwellings in the area which are based on traditional stone build properties/croft houses. Therefore this proposal would not reflect the established settlement pattern of the surrounding area unlike SM010 which has only been put forward as a single house development (GB3).
- There is no public sewer in the area (WD2).
- Access unknown and access points to site limited by existing buildings and surrounding land use.
- The increase in scale of human activity, such as traffic, waste water, use of land for recreational pursuits e.g. dog walking associated with a housing scheme development has potential to have a negative on the areas current land use activities, natural heritage and ecosystems services provided. Also can the current council provided services such as refuse collection and road gritting adequately provide for an increase in dwellings in the area?
- This area is within a designated National Scenic Area and adjacent to the RSBP managed Loch of Spiggie and Loch of Brow which are within an SSSI and SPA. A number of species identified by the Shetland Local Biodiversity Action Plan are also present in the surrounding area. By-products from the development of the site for multiple dwellings, such as waste water disposal, could be detrimental to the flora and fauna and have a knock-on effect on the species biodiversity of the area. Many of the water tributaries will be within the catchment area for the Spiggie Loch and a housing scheme development may

impact on the ecological status of the water bodies/water courses within the area if the development of the site consists of more than a single house build (NH7).

- If there is evidence of previous military activity within 250m of proposed site SM010 this site (SM026) will fall into this 250 m range also and contact with Environmental Health will be required for further guidance prior to development.
- Site outwith Area of Best Fit (H2)
- It is crucial to have sustainable communities/ The area is a farming/crafting area and I feel this needs to be maintained for future generations to ensure a vibrant agricultural industry and to secure the character of the local area and Shetland. I disagree with good crafting land being disposed of for major multiple dwelling housing scheme development.

#### **Modifications sought by those submitting representations:**

Tim Noble (050)

Unknown

Allen J Sinclair (062) & Rosalind Burgess (066)

Removal of site SM010 from the Local Development Plan

#### **Summary of responses (including reasons) by planning authority:**

##### **Notification**

- The Scottish Government produced policy on the procedures for notifying the occupiers and neighbours of some specific proposal sites. The policy from Circular 1 states: "the planning authority must notify the owners, lessees or occupiers of sites which the proposed plan specifically proposes to be developed and which would have significant effect on the use and amenity of the site. It must also notify the owners, lessees or occupiers of land neighbouring (i.e. within 20 metres of) sites which the proposed plan specifically proposes to be developed and which would have a significant effect on the use and amenity of the neighbouring land. Notification is only required where there are premises on the site or neighbouring land."

##### **Site Assessment**

- In terms of the process for assessing suitability of Sites with Development Potential All Sites were subject to systematic review of
  - Accessibly
  - Water supply and waste water facilities
  - Biodiversity
  - Existing settlement pattern
  - Flooding issues
  - Possibility of archaeology present
- As well as external review by Scottish Natural Heritage, Scottish Environmental Protection Agency, Scottish Water, Shetland Amenity Trust

(Archaeology)and Council’s Roads Service.

- Site SM10 is appropriate for a low density or single development, there is no sewer in the area so connection to the public sewer is not appropriate for this development site. Similarly Site SM026 is suitable for small scale housing and SW have informed us that no sewer is available in this area so comments relating to connection to a public sewer are not appropriate for this development and should be removed.
- Landownership is not a consideration for the planning process.
- Sites deemed to have development potential are not required to be within an Area of Best Fit, unless the development is classified as a Major Development (developments in excess of 50 units or 2 hectares - as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, Reg 2 (1) and as included in the Schedule).
- Current land use noted.
- As stipulated on the map for site SM026 “the site has development potential for small scale development” also the description includes “All development must conform to the appropriate policies set out in the Shetland Local Development Plan and related Supplementary Guidance when approved.” Therefore any development for this site must adhere to policies within the plan, which includes Policy GP3 Layout and Design whereby proposed development must maintain identity and character of the area. Also as there is small scale for development this will have limited impact on services.
- Any development proposals should conform with all relevant Shetland Local Development Plan policies and associated supplementary guidance.
- The lack of description for the previous military activity has been noted.
- Therefore, the Planning Authority is of the opinion that Site SM010 should remain within the Local Development Plan.

#### **Reporter’s conclusions:**

1. The council initially recorded this issue as relating only to site SM010, but later confirmed that it was content for me to address the representations on both that site and site SM026 under this issue. Site SM026 lies a short distance south of site SM010. The issues raised in respect of the two sites are similar.

2. Both sites are identified as having potential for housing development. The sites lie immediately south and east of the small settlement of Spiggie, on the west side of South Mainland. They comprise agricultural fields. I have dealt with the principle of developing agricultural land in issue AL1 above.

3. The sites lie within the Shetland National Scenic Area and near the Lochs of

Spiggie & Brow Site of Special Scientific Interest (SSSI) and Special Protection Area (SPA). This is clearly a very sensitive area in both landscape and nature conservation terms.

4. The site notes for site SM010 state that low density or single house development would be appropriate for the site. A multiple house development on the site would not be in keeping with the fairly open settlement pattern in the area. Given the absence of public sewerage in this area, and the sensitivity of the location, larger scale development would probably also be unacceptable on environmental grounds.

5. The site notes for site SM026 say that the site has development potential for small scale development. As with site SM010, a multiple house development on the site would not be in keeping with the settlement pattern in the area. I discuss the issue of sewerage at site SM026 in issue S37.

6. The road network in this area is fairly poor, and there are few potential suitable access points. As stated in the site notes for both sites, the council Roads Service should be contacted for further details.

7. I conclude that, while both sites have significant constraints, they appear to have potential for some, limited, development.

8. I have no clear evidence that neighbour notification was carried out incorrectly.

**Reporter's recommendations:**

No modifications (other than that relating to sewerage, as discussed in issue S37).



<b>Issue S28</b>	<b>Removal of Site SM015</b>	
<b>Development plan reference:</b>	Site SM015, Junior High School, Sandwich – page 152	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Kim and Paul Govier (075)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Kim and Paul Govier (075)</u></p> <ul style="list-style-type: none"> <li>• Land is a Marsh area.</li> <li>• Concerns related to flooding. Have previous experience of flooding issues as a result of development at the end of the lane at Cullister.</li> <li>• Road safety issues in winter months as a result of water on the road forming sheets of ice and speed of cars on the road.</li> <li>• Environmental concerns, frogs thrive here, birds including Curlew and Whimbrels have nested in this field.</li> <li>• Question the sense of building more houses if Sandwich Junior High is to close. If School closes there will be no need for new houses to bring in families with children. If more houses are built bringing in more people how will this be sustainable. Employment will become an issue as there will be many more people applying for the same jobs. NHS and SIC cuts mean there will be fewer jobs.</li> <li>• If the issues of flooding were to be sorted may reconsider objections in a more favourable light.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Site SM015 to be excluded from LDP and remain in current use.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<p>In terms of the process for assessing suitability of Sites with Development Potential All Sites were subject to systematic review of:</p> <ul style="list-style-type: none"> <li>• Accessibly</li> <li>• Water supply and waste water facilities</li> <li>• Biodiversity</li> <li>• Existing settlement pattern</li> <li>• Flooding issues</li> </ul>		

- Possibility of archaeology present
- As well as external review by Scottish Natural Heritage, Scottish Environmental Protection Agency, Scottish Water, Shetland Amenity Trust (Archaeology) and Council's Roads Service.
- Any development proposals should conform with all relevant Shetland Local Development Plan policies and associated supplementary guidance.
- Therefore, the Planning Authority is of the opinion that Site SM015 should remain within the Local Development Plan.

#### **Reporter's conclusions:**

1. The council initially recorded this issue as relating only to site SM015, but later confirmed that it was content for me to address the representations on both this site and site SM014 – Haygreen, Sandwick under this issue.
2. The sites, which are identified as having potential for housing development, lie on either side of the road to Cullister. Site SM015, on the east side of the road, is a field bounded in part by housing and Sandwick Junior High School. Site SM014, on the west side of the road, is a much smaller grassed area, bounded mainly by housing.
3. Both sites lie within the Sandwick Area of Best Fit. As stated in policy H2 of the proposed plan, the Areas of Best Fit have been identified in order to promote sustainable locations for residential or residentially compatible development in every locality in the islands. The sites lie within a mainly residential area, close to a range of facilities. I understand that the council voted against closure of the school's secondary department, but that it is considering whether to discontinue the provision of S3 and S4 there. Despite this, it seems clear that the council continues to see Sandwick as a focus for growth. In principle, then, developing these sites for housing seems appropriate.
4. The road to Cullister was recently upgraded. The north end of the road was widened and a footway was constructed. Further south, including along the frontage of site SM015, the former ditch on the east side of the road was infilled. The representees state that this has led to flooding of their garden, site SM015 and the road. On my site inspection, I noticed that the western edges of the representees' garden and site SM015 were boggy. I would have thought that the council might want to reach a view on whether the present drainage problem has been caused by any fault in the way the ditches have been treated, and if so, to consider taking steps to rectify the problem.
5. I note that the council Roads Service has advised that various road improvements, including road widening, would be required in connection with development on site SM015. It may be that drainage could be improved in association with these other road improvements. Irrespective of this, I do not accept that the existing localised drainage problem renders sites SM015 and SM014 unsuitable for development.
6. The representees state that wildlife thrives on site SM015, and that curlew or

whimbrels have nested there. As neither Scottish Natural Heritage nor any other consultee has objected to the development of either of these sites on natural heritage grounds, I attach limited weight to this point.

**Reporter's recommendations:**

No modifications.

<b>Issue S30</b>	Removal of Site SM017	
<b>Development plan reference:</b>	Site SM017 – Hestingott, Dunrossness – page 154	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Dr Fiona Smart (058)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Dr Fiona Smart (058)</u></p> <ul style="list-style-type: none"> <li>Wishes to record in the strongest terms concern about the proposed development of this piece of farm land. Set against the fact that the need to increase housing stock in the far south of the islands has not been made known, the new build would impact negatively on wildlife habitat, specifically that of birds and would inevitably alter an established small community without any benefit social or economic.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<p><u>Dr Fiona Smart (058)</u></p> <ul style="list-style-type: none"> <li>Removal of site SM017 from the Local Development Plan.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<p>In terms of the process for assessing suitability of Sites with Development Potential All Sites were subject to systematic review of:</p> <ul style="list-style-type: none"> <li>Accessibility</li> <li>Water supply and waste water facilities</li> <li>Biodiversity</li> <li>Existing settlement pattern</li> <li>Flooding issues</li> <li>Possibility of archaeology present</li> </ul> <ul style="list-style-type: none"> <li>External review by Scottish Natural Heritage, Scottish Environmental Protection Agency, Scottish Water, Shetland Amenity Trust (Archaeology) and Council's Roads Service.</li> <li>Any development proposals should conform with all relevant Shetland Local</li> </ul>		

Development Plan policies and associated supplementary guidance.

Therefore, the Planning Authority is of the opinion that Site SM017 should remain within the Local Development Plan.

**Reporter's conclusions:**

1. This site is identified as having potential for housing development. It is presently in agricultural use. It lies near the south end of Mainland, on the southern edge of the small settlement of Hestingott, overlooking the Bay of Quendale.

2. The representee questions the need for more housing in the area. The council has not responded specifically to this point. However, as noted elsewhere, there is a need to provide a substantial amount of land for housing development, and the plan's spatial strategy acknowledges the islands' dispersed settlement pattern. Further housing at Hestingott would be conveniently close to Sumburgh Airport, which supports many jobs.

3. A development on the northern and eastern parts of the site would relate well to the existing settlement. Scottish Natural Heritage has not commented on wildlife, but has advised that development in the central and southern parts of the site running parallel to the coastline should be avoided. The site notes require the submission of a full design statement. This would help assess in detail which parts of the site are appropriate for development, and which parts should remain undeveloped.

4. Any development would, of course, result in the loss of some farmland. I have dealt with this matter in issue AL1.

**Reporter's recommendations:**

No modifications.

<b>Issue S31</b>	<b>Boundary change – Site SM022</b>	
<b>Development plan reference:</b>	Site SM022, Ellagowan, Gulberwick – page 159	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
David Cole (037) Katie Hatfield (038)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority’s summary of the representation(s):</b>		
<p>David Cole (037)</p> <ul style="list-style-type: none"> <li>Existing/previous Local Plan Policy stated that ‘there would be no future building below the road unless it was in the interest and to the benefit of the whole community’ This was a factor in purchase of own property. Disappointing that Council Policy cannot be relied upon to remain constant, Can accept that conditions may change with time. Fail to see what has happened to make Council change mind in this instance.</li> <li>Most displeased if any building was to be allowed on the eastern(lower) part of the site</li> </ul> <p><u>Katie Hatfield (038)</u></p> <ul style="list-style-type: none"> <li>When purchased property was informed by solicitor that there was an agreement that no further development would happen in Gulberwick on the East/seaside of the lower road.</li> <li>Development in this area will put further demand on already overstretched mains drainage</li> <li>Development in this area will mean more cars using the lower Gulberwick road which is already overused.</li> <li>Development of the lower part of the plot would have a direct impact on view from own house and could potentially be overlooked.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>Area of site SM022 which is to the east of the Gulberwick road to be excluded from the LDP.</li> </ul>		

**Summary of responses (including reasons) by planning authority:**

In the previous Shetland Local Plan (CD25) this site was included in an area designated as a Local Protection Area (LPA) (CD6). Local Protection Areas are no longer included within the LDP for the following reasons: Scottish Planning Policy (CD34) states paragraph 139; 'local designations should be clearly identified and protected through the development plan. The reasons for designation should be clearly explained and the on-going relevance and function of local designations should be considered when development plans are prepared and that;

'planning authorities are encouraged to limit non-statutory designations to two types - local landscape areas and local nature conservation sites.'

- Given that Scottish Planning Policy 2010 encourages planning authorities to limit local designations to two types local landscape areas and local nature conservation sites two Supplementary Documents have been published; Local Landscape Areas (LLA) and Local Nature Conservation Sites (LNCS) (CD7). During the research stage of these two Supplementary Guidance documents LPAs contained within the Shetland Local Plan 2004 were evaluated and any area which met the criteria were included.

Site SM022 is neither designated as a LLA or a LNCS. Therefore, the Planning Authority is of the opinion that Site SM022 should remain unaltered within the Local Development Plan.

**Reporter's conclusions:**

1. This site is identified as having potential for housing development. It lies in Gulberwick, on either side of the road running through the settlement. It is one of three potential development sites in Gulberwick, the others being sites SM003 – Heathery Park and SM004 – Hillside. The non-inclusion of Site 19a, Setter Ness, Gulberwick is the subject of issue S36.

2. The second site note states: "The location of part of this site is not considered sympathetic to the existing settlement pattern and therefore only part of this site is included." The council states that this statement was carried forward in error from the original notes to the submitter and should not be included here.

3. Gulberwick lies relatively close to Lerwick and if its various constraints could be overcome, I would have thought that this site would be attractive to potential house developers and residents. As noted in my conclusions in issues H1, AP1 and SD1, housing land supply is not overly generous in and around Lerwick.

4. The council Roads Service has drawn attention to a number of problems relating to access, including visibility at the access to the part of the site on the east side of the road. It is stated that gaining access would be difficult unless neighbouring

fencing and walls could be set back and a greenhouse and shed moved. I recognise that resolving these issues might prove challenging, if not impossible. However I do not consider that this justifies removing all or part of the site from the plan.

5. In Gulberwick, as in many other coastal locations, the strip of land between the coastal road and the shore is a sensitive area in landscape and visual terms. However the proposed plan does not afford it any formal policy protection. Furthermore, there are several existing properties along the east side of this stretch of the road; and immediately north of site SM022 a row of houses extends towards the shore. Given this existing development, a few more carefully sited and designed houses on this part of the site would have only limited landscape and visual impact when viewed from the road.

6. Development on this site would affect the outlook from a number of houses, including those of the two parties who made representations. However no-one has the right to a view over land which they do not control. Other elements of residential amenity, including privacy, would need to be assessed if and when a planning application was submitted.

7. My overall view is that developing this site, especially that part of it to the east of the road, would not be straightforward. I nevertheless think there is merit in retaining it in the plan as a site with development potential.

#### **Reporter's recommendations:**

I recommend the following modification:

The second site note (The location of part of this site is not considered sympathetic to the existing settlement pattern and therefore only part of this site is included.) should be deleted.



<b>Issue S32</b>	Removal of Site SM025	
<b>Development plan reference:</b>	Site SM025 – Harmarsenn, Dunrossness – page 162	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Gill Keber (002)		
<b>Provision of the development plan to which the issue relates:</b>	Sites With Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p>Gill Keber (002)</p> <ul style="list-style-type: none"> <li>• Firstly, the suggestion of a proposed development area to the West of our property (See SM025 in Shetland Local Development Plan) has already lost us a sale on our property, as our house is currently on the market. Secondly, the proposal, we feel, could have a detrimental effect upon the value of our property, due to its size and the proximity. We feel this site is totally unsuitable for the development suggested in the action plan. The access would have to be seriously considered and the appearance of any property would have to be in keeping with those properties – including ours – in close relation to it. Indeed we would insist upon it. Any suggestion of a development encompassing over 25 houses, as suggested by the person to whom my husband spoke to in the department involved would be vehemently opposed by ourselves and other people neighbouring the area. Please note our opposition to this proposal as a whole.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• Removal of Site SM025 from the proposed Local development Plan.</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• The Planning Authority note representation 002.</li> <li>• This site is designated as a site with Development Potential for housing. There are no detailed proposals attached to this site at present.</li> <li>• The assertion that this site is designated for 25 houses or more is unfounded. Within the Proposed Local Development Plan in the site notes it is recognised that this site has development potential for small scale development.</li> </ul>		

- With regards to the design and siting of any proposal on this site would be required to conform to the policies set out in the Local Development Plan and associated supplementary guidance.
- In terms of the Action Programme (CD23) the scope for small scale development is repeated with an attached timescale of 1-5 years as indicated by the submitter.
  - With regard to the availability of sites for development we asked the submitter to indicate an indicative timescale for development:
    - short (1-5 years)
    - medium (5-10 yrs)
    - long (10yrs +)
 These timescales are recorded in the Action Programme and reflect the fact that the Local Development Plan is a strategic document with a long term vision for 20 years.
- Any proposal for this site would still be required to be submitted as a Planning Application and subject to the Development Management process.
- Loss of property value is not a material consideration in the Planning process.
- Therefore, the Planning Authority is of the opinion that Site SM025 should remain within the Local Development Plan.

#### **Reporter's conclusions:**

1. This site is identified as having potential for small scale housing development. It covers a large area of rough grazing land, and lies within an area of generally dispersed housing about one kilometre east of Loch of Spiggie. The representee's property lies immediately east of the site.
2. Policy H3 of the proposed plan states that isolated residential development in the open countryside will not be supported. The justification for this policy states that such development is not sustainable as it does not strengthen or enhance existing communities and creates an excessive burden on services and the public purse. I find the council's support for this site somewhat surprising in the light of this policy.
3. However I acknowledge that an appropriately sited and designed, small scale development of, say, one or two houses would be in keeping with the dominant pattern of development in the area. Such a development need have no significant adverse impact on the amenity of the adjoining property.
4. The council Roads Service has advised that carrying out some earthworks would enable satisfactory visibility to be provided at the access on to the B9122 road.
5. On balance, I consider the inclusion of this site to be acceptable.

**Reporter's recommendations:**

No modifications (other than that relating to sewerage discussed in issue S37).

<b>Issue S35</b>	Inclusion of Utnabrake Site (Site No. 046b)	
<b>Development plan reference:</b>	Site CL001 – Sundibanks, Salloway – page 84 & CL002 – Sundibanks, Scalloway – page 85	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Bobby Elphinstone (035) Bryan Leask (055) Hjaltland Housing Association (068)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority’s summary of the representation(s):</b>		
<p><u>Bobby Elphinstone (035)</u></p> <p><b>Inclusion of Utabrake Site</b></p> <ul style="list-style-type: none"> <li>‘In the Scalloway area only 2 small sites at Sundibanks, CL001, CL002, have been included in the plan although we are aware that the large site at upper Scalloway was put forward by Hjaltland Housing Association, but has not been approved in the plan. We find the decision not included this site in the plan surprising given that there are no other sites within the Scalloway Area available for housing development. This leaves Scalloway with very few sites for development, certainly none for low cost or social housing.’</li> </ul> <p><u>Bryan Leask (055) &amp; Hjaltland Housing Association (068)</u></p> <p><b>Areas of Best Fit</b></p> <ul style="list-style-type: none"> <li>The Plan states ” Major Developments (developments in excess of 50 units or 2 hectares - as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, Reg 2 (1) (CD32) and as included in the Schedule) should only occur within Areas of Best Fit unless the applicant can provide evidence of demand in an alternative area”. The problem with this is that the areas shown as Areas of Best Fit almost all fall entirely within the existing boundaries of Lerwick and Scalloway and only leaves the site immediately above Quoys as available for large scale development.</li> </ul> <p><b>Inclusion of Utrabrake Site</b></p> <ul style="list-style-type: none"> <li>‘With the limitation of suitable sites in the central mainland I find you decision to preclude our proposal for Utnabrake, Scalloway somewhat confusing. You notified us that it was omitted because “the site is not considered sympathetic to the existing settlement pattern.” We would ask you to reconsider this decision for the following reasons;</li> </ul>		

1. There is a willing seller, unlike many of the sites mentioned above the land owner supports the inclusion of the site for development.
  2. Scalloway has the second highest level of demand (after Lerwick) in Shetland yet has no sites identified as having Development Potential that would be suitable for Social Housing.
  3. The topography around Scalloway limits how Scalloway can expand and limits its expansion up the valley.
  4. Utnabrake is currently classified as Zone 3 in the existing Development Plan which is defined as an area “where development will be favourably considered.”
  5. The site is well located in relation to the services and meets all of the criteria as set out by you and which are based on Scottish Planning Policy(CD34);
    - a. Within 1.6km of local facilities – YES
    - b. Within 400m of a bus route – YES
    - c. Within 11kn of larger facilities – YES
    - d. On SEPA 1:200 year flood ma – NO
    - e. Classified as 4.2 or 5.1 on the Macaulay scale – YES, however, the SIC’s own agricultural officer reported during the previous planning application that the site “is suitable for grazing and not for use for arable production.” The site has also been assessed by the Scottish Agricultural College who concluded that “there would not be a significant loss of arable production capacity...”
    - f. May affect strategic mineral resource – NO
    - g. Part or all of site within SSSI – NO
    - h. Part or all of site within NSA – NO
    - i. Part or all of site within an Inventory Landscape – NO
    - j. Part or all of site within a conservation zone – NO
    - k. Listed Building within the site – NO
    - l. Scheduled Monument within the site – NO
- In relation to item 3 above I would ask that you consider your position on the site as without the inclusion of Utnabrake you are relying on Berry Farm to be made available. It should be noted that Berry is currently designated as a Local Protection Zone (“areas regarded by the local community as being worthy of protection”, “the aim of this policy is to maintain these areas free from development”). I would ask that you consider whether the local community have changed their minds as to the importance of retaining these sites without development. If not then Utnabrake becomes the only viable location for housing in the area.
  - Item 4 provides the current position the Planning Department have taken in relation to Utnabrake. Given this is the current position I would be grateful if you could confirm what has changed.  
As you can see from item 5, Utnabrake, as proposed, meets the requirements that were used to measure the suitability of sites for development. The only reason provided for not including Utnabrake was, that the site “was not sympathetic to the existing settlement pattern.” Whilst I value your opinion on planning matters I believe that your failure to use a defined set of measurable criteria to assess the site means that the decision is based on an opinion and not the terms of assessment as set out in the consultation process. I believe that your decision to designate sites on the opinion of individuals can lead to

confusion and a lack of consistency through the process and would ask that you reconsider the omission of Utnabrake.'

**Modifications sought by those submitting representations:**

- Inclusion of Utnabrake (Site No. 046b) within the Local Development Plan.

**Summary of responses (including reasons) by planning authority:**

**Area of Best Fit**

- *Developments (sites in excess of 2 hectares or in excess of 50 units) should only occur in areas of best fit unless the applicant can provide evidence of demand in an alternative area or that no land is available within the best fit area.'* As the policy states if evidence is provided that there is no available land within the Area of Best (AoBF) then sites out with the Area of Best will be considered.

It should be noted that the creation of an AoBF does not preclude development elsewhere nor does it mean that land must be developed. The creation of AoBF is to focus development near to existing services, transport links and facilities, in order to promote sustainable economic growth thus creating strong vibrant communities throughout Shetland, where as many people as possible are able to access services, employment and other opportunities, and lead healthy lifestyles. There are eight proposed AoBF spread throughout Shetland.

**Inclusion of the Utnabrake Site**

- The Utnabrake site was not included as part of the Area of Best Fit because large scale development in this area above Scalloway was not considered appropriate for the site.
- The site in question was submitted in 2009 part of the site for full planning permission for 21 dwellinghouses, and outline planning permission to provide mixed development incorporating residential, business and commercial zones, both applications were refused. Upon appeal the decision was upheld by the Reporter, who states that; 'I do not underestimate the challenges presented in identifying suitable development sites around Scalloway. Such benefits could however, also result from development, possibly better sited elsewhere within or adjacent to the settlement,' (Appeal reference PPA-360-2003, para. 25 and PPA-360-2002 para.22).
- It should be noted that exclusion of a site does not prohibit the site from being submitted for consideration under the LDP for planning permission at any time.

**Reporter's conclusions:**

1. This large site comprises an area of farmland in the Tingwall Valley. It lies immediately north of the north-easternmost part of Scalloway, just outwith the Scalloway Area of Best Fit.
2. The council refused to grant planning permission and outline planning permission for development at Utnabrake in 2010, on policy and prematurity grounds, and the subsequent appeals (references PPA-360-2002 and 2003) were dismissed in April 2011.
3. The site is fairly close to many of the facilities in Scalloway, and there is a willing seller. However Utnabrake sits above most of the existing settlement of Scalloway, and a housing development occupying all or most of the site would have major visual and landscape impacts. When viewed from the east, in particular from the A970 road at the bend above Scord quarry, such a development would appear as a large expansion of Scalloway, almost doubling the apparent north-south extent of the main part of the settlement. It would intrude prominently into the attractive Tingwall Valley, and detract from the settlement's landscape setting.
4. In my conclusions on issues H1, AP1 and SD1 (relating to housing land supply), I noted that the land supply in the high pressure areas in and around Lerwick is not overly generous, especially in the short term and for market housing. This shortage of development opportunities is a particular problem in Scalloway – which lies fairly close to Lerwick, and is an important settlement (and an Area of Best Fit) in its own right. No Sites with Development Potential have been identified within the main part of the settlement, although there are two small sites (CL001 and CL002 Sundibanks, Scalloway) near the B9074, on the east side of the East Voe of Scalloway.
5. The Scalloway Area of Best Fit includes one large undeveloped site – part of Berry Farm. That site relates very well to the existing settlement, and in some respects it would appear to be an obvious candidate for development. It could certainly be developed without the adverse visual and landscape impacts associated with development at Utnabrake. However I understand that the landowner does not wish to sell the site as it is considered essential for the operation of the farm.
6. There is a strong case for allowing further housing development at Scalloway in the relatively near future. However, of the two large sites which have been drawn to my attention, one presents major planning problems and the other appears to be unavailable. The council and other parties will no doubt wish to consider all options, and the best way to proceed, in due course.
7. I have already discussed the planning problems with the site at Utnabrake. I am also disinclined to support the modification sought as this is a major site which has not been the subject of either strategic environmental assessment or full publicity.

**Reporter's recommendations:**

No modifications.



<b>Issue S36</b>	<b>Inclusion of 19a Setter Ness</b>	
<b>Development plan reference:</b>	Sites with Development Potential	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Dennis Leask (009) Jonathan Wills (053)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Dennis Leask (009)</u></p> <ul style="list-style-type: none"> <li>Inclusion of rejected site 19a Setter Ness into the Local Development Plan.</li> </ul> <p><u>Jonathan Wills (053)</u></p> <ul style="list-style-type: none"> <li>Representation 053 submitted by Jonathan Wills is in support of representation 009 and adds no further information or comment.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
Inclusion of site 19A Setter Ness within the LDP.		
<b>Summary of responses (including reasons) by planning authority:</b>		
<p>The site was submitted by the representee during the call for sites process and was assessed in terms of;</p> <ul style="list-style-type: none"> <li>Accessibly</li> <li>Water supply and waste water facilities</li> <li>Biodiversity</li> <li>Existing settlement pattern</li> <li>Flooding issues</li> <li>Possibility of archaeology present</li> <li>Minerals.</li> </ul> <p>Site 19a was also reviewed by Scottish Natural Heritage, Scottish Environmental Protection Agency, Scottish Water, Shetland Amenity Trust (Archaeology) and Council's Roads Service.</p>		

Given site 19a close proximity to a working quarry, there was insufficient information submitted as to the potential impact of site 19a upon the quarry's current and future operations.

Site 19a covered a substantial area covering 44ha and was outwith the Lerwick Area of Best Fit and would therefore be contrary to the policy H2 Areas of Best Fit which states;

*'Major Developments (developments in excess of 50 units or 2 hectares - as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, Reg 2 (1) (CD32) and as included in the Schedule) should only occur within Areas of Best Fit unless the applicant can provide evidence of demand in an alternative area or that no land is available for development within the best fit area.'*

Policy H3 All housing development states that; 'New residential development should take place in Allocated Sites, Sites with Development Potential, Areas of Best Fit, on Brownfield Land or on Undeveloped Land within existing settlements in that order of desirability.' The size and location of site 19a would not be the 'best user of existing investment and infrastructure.'

Therefore, the Planning Authority is of the opinion that the site at Setter Ness should not be included as a Site with Development Potential within the Local Development Plan.

However, the exclusion of site 19a from the LDP as a Site with Development Potential does not preclude the landowner/developer from submitting a planning application for consideration.

The other matters raised by the representee can be found on related Schedule 4 Forms;

**A1 – Areas of Best Fit**

**AP1 – Action Programme**

**ED3 – Sites with Development Potential**

**ED4 – Sites with Development Potential**

**H1 – Effective Land Supply**

**M1 - Minerals**

**S39 – Duplication of Sites**

#### **Reporter's conclusions:**

1. These conclusions build on my conclusions relating to this site in respect of several other issues, notably M1 Minerals and A1 Areas of Best Fit, as well as ED3 and ED4. They also draw on my broader conclusions about housing land supply in issues H1, SD1 and AP1.

2. This large site of some 44 hectares lies at the south end of the settlement of Gulberwick, a few kilometres south-west of Lerwick. The site slopes down in a north-easterly direction from the Hill of Brindister to the coast. Brindister Quarry lies

to the south-west.

3. On 6 March 2012 the council wrote to Mr Leask advising him that Site 19a, had been assessed as having no development potential at (that) time, as development would conflict with the Minerals Interim Planning Policy. It has since become apparent that the council also opposes the designation of Site 19a as a Site with Development Potential on housing policy and related grounds.

4. As discussed in my conclusions on issue M1 Minerals, I believe that further information and assessment would be required on need and on the impacts of extraction, and that it would be impractical to pursue these matters in the context of this examination.

5. As discussed in my conclusions on issue A1, this is a large site lying outwith Areas of Best Fit, and its designation as a Site with Development Potential would be contrary to the plan's spatial strategy.

6. In my conclusions on issues H1, SD1 and AP1, I noted that the greatest demand for housing is in Lerwick and in places such as Gulberwick which are readily accessible to it. I also noted that the land supply in the high pressure areas in and around Lerwick is not overly generous, especially in the short term and for market housing. Setter Ness is an attractive site offering pleasant views over the bay, and there is a willing seller. Designating it as a Site with Development Potential would go some way to easing housing land supply problems.

7. However Gulberwick already has few facilities relative to its population. The development of Site 19a would be likely to exacerbate this problem – even if, as Mr Leask has proposed, a few commercial facilities were built there. In the absence of major investment in infrastructure and facilities, which the council would prefer to see located in Areas of Best Fit, Gulberwick (including Site 19a) would grow to become, in effect, an enlarged, detached suburb of Lerwick. This seems to me to be contrary to the aim of creating sustainable communities, as set out in plan's spatial strategy.

8. For all of the above reasons, I do not consider that the site should be designated for development at present. I am also disinclined to support the modification sought as this is a major site which has not been the subject of either strategic environmental assessment or a level of formal publicity similar to that afforded to sites in the proposed plan.

**Reporter's recommendations:**

No modifications.

<b>Issue S37</b>	Flood risk related comments on Potential development sites	
<b>Development plan reference:</b>	Sites with Development Potential	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
SEPA (011)		
<b>Provision of the development plan to which the issue relates:</b>	Flood risk related comments on Potential development sites	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>SEPA (011)</u></p> <ul style="list-style-type: none"> <li>• Support the strong commitment for sites to connect to foul drainage system. Requirements seems to have been applied inconsistently. Recommend the review of the requirements for sites to connect to the public sewer.</li> <li>• Support the inclusion of protective buffers to watercourses. However this seems to have been applied inconsistently and recommend that this is reviewed to ensure that it is only applied to sites where it is applicable, as outlined in table 1 of the representation.</li> <li>• Noted that there are a few sites which are below the 5m contour and the text to state this has not been included, for consistency recommend review.</li> <li>• Object to the current wording '<i>The site may be at risk of flooding and a floor risk assessment (FRA) <b>may</b> be required to determine which areas of the site, if any, can be developed</i>' Request the text amended to '<i>The site may be at risk of flooding and a floor risk assessment (FRA) <b>will</b> be required to determine which areas of the site, if any, can be developed</i>'</li> <li>• 2 sites where the requirement for a FRA has not been highlighted LK019 and SM008. Object unless the text relating to FRA is added.</li> <li>• Sites NM002, NM006 &amp; NM007 - drainage may be a particular problem. Satisfied that the principle of development on these sites is not compromised but drainage and flooding will need careful consideration. Object unless it is stated in the text that either a DRA or DIA is required to address flooding issues.</li> <li>• Site LK006 States that a 'catchment based drainage assessment' will be required. This sites is at risk of fluvial flooding exacerbated by drainage issues including undersized drainage infrastructure. Misleading to say that a DIA is required when in addition to consideration of drainage a more traditional comprehensive FRA would be required. Object unless the text for this site is amended to '<i>The site may be at risk of flooding and a flood risk assessment (FRA) will be required, including a catchment based assessment of drainage, to determine which areas can be developed and identify works required.</i>'</li> </ul>		

*Further guidance on flood risk for this site is provided in the Shetland Islands Council Strategic Flood Risk Assessment'*

- Support the production of the Strategic Flood Risk Assessment for the Plan. Recommend that some reference is made to it in the site text for the 22 Sites Considered in more detail in the SFRA. Add '*Further guidance on flood risk for this site is provided in the Shetland Islands Council Strategic Flood Risk Assessment'*

#### **Modifications sought by those submitting representations:**

- Review Site text to ensure consistent application of the requirements:
  - To connect to the foul drainage system
  - Use buffers
  - Notification of land below the 5m contour
  - Amend wording relating to FRA in the Site text
  - Add reference to FRA in sites LK019 & SM008
  - State in site text that either a DIA or FRA is required for sites NM002, NM006 & NM007
  - Amend text for Site LK006 relating to DIA to the following: '*The site may be at risk of flooding and a flood risk assessment (FRA) will be required, including a catchment based assessment of drainage, to determine which areas can be developed and identify works required. Further guidance on flood risk for this site is provided in the Shetland Islands Council Strategic Flood Risk Assessment'*
  - Reference the SFRA in the site text for the 22 Sites which are considered in more detail in the SFRA.

#### **Summary of responses (including reasons) by planning authority:**

- Note the omissions, word changes and technical inconsistencies in the site text relating to Flooding. If the Reporter is minded to amend the text to reflect consistency the Planning Authority will amend the text accordingly.
- Note that there have been ongoing construction works on Site LK019 & LK020 which have altered the route of the water course into site LK020, for this reason the continuation of the buffer from LK019 into LK020 is appropriate.
- Note the request for additional water buffer in site SM024. We have used maps at a scale of 1:50,000 to assess the sites for watercourses. We appreciate that there a watercourse (drain) in site but it does not appear on the 1:50,000 scale map so we have determined that it is not of a scale requiring buffering. Any issues relating to the existing watercourse will be assessed as part of any submitted planning application.
- Note that site NM017 contains no land below the 5m contour so no comment relating to the 5m contour has been added.

**Reporter's conclusions:**

1. The representations by SEPA deal with three main subjects: buffers around watercourses, flood risk and waste water.

Buffers around watercourses

2. As stated in the justification for policy NH7 Water Environment, the creation and maintenance of buffer strips can help reduce flooding, allow for the maintenance of watercourses, reduce pollution and allow for wildlife corridors to be maintained or established.

3. Many of the site notes include the note "A buffer will be required around watercourses". This is only appropriate on sites on which there are one or more significant watercourses. I did not see any significant watercourses on the following sites, referred to by SEPA:

CL006 – Northhouse Croft, Burra  
 LK009 – Lower Sound, Lerwick  
 LK010 – Seafield, Lerwick  
 LK013 – Norstane, Lerwick  
 WM007 – Gardens Croft, Sandness

4. Site LK019 and LK020 – Rova Head, Lerwick are proposed for industrial use. On my site visit, I noticed that site LK020 had been levelled and was partly in use, while major earthworks were continuing on site LK019. As confirmed by the Strategic Flood Risk Assessment (CD4), there is one major watercourse on site LK019. It appears that this watercourse has been diverted into site LK020. It would be appropriate to have a buffer alongside the sections of the watercourse in both sites.

5. Site SM024 – Whilligarth (not Hamarsenn, as stated in the plan), Dunrossness is proposed for wind turbines. A significant watercourse crosses this site, and it would be appropriate to add a note referring to the need to provide a buffer around the watercourse.

Flood risk: land below the 5 metre contour, need for flood risk assessment, and reference to Strategic Flood Risk Assessment

6. Policy WD1 Flooding Avoidance states that proposals to build below the 5 metre contour or in other areas shown to be at risk of flooding will not be permitted unless a suitable flood risk assessment is provided. Some site notes state that part or all of the site lies below the 5 metre contour. Others state that the site may be at risk of flooding and a flood risk assessment (FRA) may be required, or in some cases, a (catchment based) drainage assessment will be required. In the light of parties' submissions and what I observed on site, and in the interests of consistency, I consider that it would be appropriate to add the 5 metre reference to the notes on the following sites:

LK010 – Seafield, Lerwick  
 LK020 – Rova Head, Lerwick  
 NI001 – Ulsta, Yell  
 NM001 – The Houllands, Brae  
 SM019 – Scatness, Dunrossness  
 WM002 – Hellister, Weisdale  
 WM008 – Aith Hall

7. With respect to site NM017 – Stucca, Hillswick, I agree with the council that all of this site appears to be above the 5 metre contour.

8. To accord with policy WD1, and in the light of parties' submissions and what I observed on site, I consider that it would be appropriate to require a flood risk assessment (FRA) and/or a drainage impact assessment (DIA) on the following sites:

LK006 – Black Hill Industrial Estate, Lerwick – need FRA, including a catchment based assessment of drainage  
 LK019 – Rova Head, Lerwick – need FRA, including a catchment based assessment of drainage  
 NM002 – Roebreck, Brae – need FRA or DIA  
 NM006 – Firth – need FRA or DIA  
 NM007 – Upper Lea, Firth – need FRA or DIA  
 SM008 – Upper Couster, Easter Quarff – need FRA

9. The site notes for some other sites in the draft plan state that a FRA may be needed. It would be clearer, and more appropriate, to state that a FRA will be needed on these sites.

10. SEPA recommend that, at 22 sites, a note be added stating that further guidance on flood risk for the site is provided in the Shetland Islands Council Strategic Flood Risk Assessment. This is a very useful document, and referring to it seems to me to be appropriate.

#### Waste water

11. Policy WD2 Waste Water states that new developments which require waste water disposal and are located within or adjacent to settlements are expected to connect to the public sewer. Where a connection to the public sewer is not achievable and a waste water system such as a private septic tank is proposed, the developer should demonstrate the absence of detrimental effects.

12. To accord with policy WD2, and in the light of parties' submissions and what I observed on site, I consider that it would be appropriate to modify the site notes relating to waste water to reflect the following comments:

13. Site CL008 – Old School Road, Trondra One house has been built on this fairly large site. The draft plan states that any development in this area must connect to the public sewer. However there is no public sewer on Trondra. SEPA has noted that the accumulation of private foul drainage in this area may be affecting local



water quality. If a public sewer became available in the area prior to the site being developed there should be a requirement to connect. In the absence of a public sewer, the site has potential only for small scale development.

14. Site SM008 – Upper Couster, Easter Quarff This is a fairly large site proposed for housing. The plan presently states that major new (or significant upgrading of) waste water infrastructure will be required in order to accommodate development on this site. SEPA has noted that the accumulation of private foul drainage arrangements may be affecting local water quality. Depending on the scale of development, foul drainage from the site could either be pumped to the nearest existing scheme, or the developer could put in private treatment, to be adopted by Scottish Water. The text in the site notes seems appropriate.

15. Site SM025 – Hamarsenn, Dunrossness There is no public sewer in this area. SEPA has noted that the accumulation of private foul drainage arrangements may be affecting local water quality. However the plan states that this site, which is proposed for housing, has development potential for small scale development. Given that, it seems unnecessary to include the statements, presently in the plan, that any development must connect to the public sewer or that major new (or significant upgrading of) waste water infrastructure will be required in order to accommodate development on this site. However, if a public sewer became available in the area prior to the site being developed there should be a requirement to connect.

16. Sites SM026 – Spiggie, Dunrossness, SM028 – Hall, Easter Quarff and WM005 – Kirkhouse, South Whiteness are proposed for housing. In each case, SEPA has noted that the accumulation of private foul drainage arrangements may be affecting local water quality. However all three sites are fairly small, and could not accommodate more than a few houses. Further, the plan states that site SM026 has development potential for small scale development. Given that, it seems unnecessary to include the statement, presently in the plan, that any development must connect to the public sewer. However, if a public sewer became available in the area prior to the site being developed there should be a requirement to connect.

17. Site WM006 – Breck (not Nesbister as stated in the plan), South Whiteness is proposed for housing. There is no public sewer in this area. Given the small size of the site, it seems unnecessary to include the statement, presently in the plan, that any development must connect to the public sewer. However, if a public sewer became available in the area prior to the site being developed there should be a requirement to connect.

18. SM027 – Upper Kjurkhill, Easter Quarff, is proposed for housing. SEPA has noted that the accumulation of private foul drainage arrangements may be affecting local water quality. Given the small size of the site, there would seem to be no need to preclude development if a public sewer was not available. However, if a public sewer became available in the area prior to the site being developed there should be a requirement to connect.

19. Sites NM004 – Scatsta, NM005 – Sellaness and NM013 – Loch of Haggrister lie in areas with no public sewer. They are proposed for industrial use, and as



SEPA has pointed out, would therefore be unlikely to have a significant sewage load. There would seem to be no need to preclude development if a public sewer was not available. However, if a public sewer became available in the area prior to the site being developed there should be a requirement to connect.

20. Site LK021 – Dales Voe, Lerwick is proposed for industrial use. There is an existing industrial use on at least part of the site. The site forms part of the catchment of the designated EC shellfish growing waters. Despite the sensitivity of the location, SEPA considers that requiring connection to a public sewer may be unreasonable. If a public sewer became available in the area prior to the site being further developed, there should be a requirement to connect. In the absence of a public sewer, I think it would be appropriate to discuss options with SEPA and Scottish Water.

### **Reporter's recommendations:**

I recommend the following modifications be made:

1. Delete the sentence "A buffer will be required around watercourses" from the site notes for the following sites:

CL006 – Northhouse Croft, Burra  
 LK009 (and LK017) – Lower Sound, Lerwick  
 LK010 – Seafield, Lerwick  
 LK013 – Norstane, Lerwick  
 WM007 – Gardens Croft, Sandness

2. Change the site address of site SM024 from "Hamarsenn, Dunrossness" to "Whilligarth, Dunrossness", and insert the site note "A buffer will be required around watercourses."

3. Insert the sentence "Part or all of this site lies beneath the 5m contour." in the site notes for the following sites:

LK010 – Seafield, Lerwick  
 LK020 – Rova Head, Lerwick  
 NI001 – Ulsta, Yell  
 NM001 – The Houllands, Brae  
 SM019 – Scatness, Dunrossness  
 WM002 – Hellister, Weisdale  
 WM008 – Aith Hall

4. Delete the sentence "The site may be at risk of flooding and a catchment based drainage assessment will be required." and substitute "The site may be at risk of flooding and a flood risk assessment (FRA), including a catchment based assessment of drainage, will be required to determine which areas can be developed and to identify the works required." in the site notes for site LK006 – Black Hill Industrial Estate, Lerwick.

5. Insert the sentence "The site may be at risk of flooding and a flood risk

assessment (FRA), including a catchment based assessment of drainage, will be required to determine which areas can be developed and to identify the works required.” in the site notes for site LK019 – Rova Head, Lerwick

6. Insert the sentence “The site may be at risk of flooding and a flood risk assessment (FRA) will be required to determine which areas of the site, if any, can be developed.” in the site notes for site SM008 – Upper Couster, Easter Quarff.

7. Insert the sentence “The site may be at risk of flooding and a flood risk assessment (FRA) or a drainage impact assessment (DIA) will be required to determine which areas of the site, if any, can be developed.” in the site notes for the following sites:

NM002 – Roebreck, Brae  
 NM006 – Firth  
 NM007 – Upper Lea, Firth

8. Delete the words “may be required” and substitute “will be required” in all instances in the site notes where it is stated that a flood risk assessment (FRA) may be required.

9. Insert the sentence “Further guidance on flood risk for this site is provided in the Council’s Strategic Flood Risk Assessment” in the sites notes for the 22 sites assessed in that document.

10. Delete the sentence “Any development in this area must connect to the public sewer.” and substitute “If a public sewer becomes available in this area prior to the site being developed, there would be a requirement to connect. In the absence of a public sewer, the site has potential only for small scale development.” in the site notes for the following sites:

CL008 – Old School Road, Trondra  
 SM028 – Hall, Easter Quarff  
 WM005 – Kirkhouse, South Whiteness

11. Delete the sentences “Any development in this area must connect to the public sewer.” and “Major new (or significant upgrading of) wastewater infrastructure may be required in order to accommodate development on this site.” and substitute “If a public sewer becomes available in this area prior to the site being developed, there would be a requirement to connect.” in the site notes for site SM025 – Hamarsenn, Dunrossness.

12. Delete the sentence “Any development in this area must connect to the public sewer.” and substitute “If a public sewer becomes available in this area prior to the site being developed, there would be a requirement to connect.” in the site notes for the following sites:

SM026 – Spiggie, Dunrossness  
 WM006 – Nesbister\*, South Whiteness

\* In my recommendation on issue S13, I recommended that the site address of site WM006 be changed to “Breck, South Whiteness”.

13. Insert the sentence “If a public sewer becomes available in this area prior to the site being developed, there would be a requirement to connect.” in the site notes for the following sites:

NM013 – Loch of Haggrister

SM027 – Upper Kjurkhill, Easter Quarff

14. Delete the sentence “Any development in this area must connect to the public sewer.” and substitute “If a public sewer becomes available in this area prior to the site being developed, there would be a requirement to connect.” in the site notes for the following sites:

NM004 – Scatsta

NM005 – Sellaness

15. Delete the sentence “Any development in this area must connect to the public sewer.” and substitute “Arrangements for dealing with waste water should be discussed with SEPA and Scottish Water. If a public sewer becomes available in this area prior to the site being developed further, there would be a requirement to connect.” in the site notes for site LK021 – Dales Voe, Lerwick.

<b>Issue S38</b>	Amendments and Comments relating to Potential Development Sites text	
<b>Development plan reference:</b>	Sites with Development Potential	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Scottish Water (071)		
<b>Provision of the development plan to which the issue relates:</b>	Sites with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<ul style="list-style-type: none"> <li>• Additional information on future infrastructure development requirements and planned and initiated works by SW.</li> <li>• See spreadsheet attached to representation for details.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>• None</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>• All additional information noted. It is not appropriate to provide specific detail of future infrastructure works relating to water and waste provision on specific sites, however if the Reporter is minded to make an amendment of standard text from 'Details of water supply availability should be sought from Scottish Water' to 'Details of water supply availability <b>and sewerage infrastructure should be sought from Scottish Water</b>' the Planning Authority will make the appropriate change.</li> <li>• Information relating to the availability of public sewer system in/near/adjacent to the site should be updated in terms of the requirement for the developer to connect to the sewer.</li> <li>• Note initiated and planned upgrades, it would be appropriate to reference these when relevant to other representations.</li> </ul>		

**Reporter's conclusions:**

1. Despite the above comments, it seems clear that Scottish Water is seeking modifications to the plan.

Details to be sought from Scottish Water

2. Many of the site notes for Sites with Development Potential advise that details of water supply availability should be sought from Scottish Water. As Scottish Water has responsibilities for both water supply and sewerage, it would be sensible for prospective developers to seek details not only of water supply availability, but also sewerage infrastructure.

Policy H3 All Housing Development - Indicative house numbers

3. Policy H3 states that new residential development should take place in Allocated Sites, Sites with Development Potential, Areas of Best Fit, on Brownfield Land or on Undeveloped Land within existing settlements in that order of desirability.

4. Scottish Water recommended that consideration be given to providing indicative allocation numbers for housing sites, as this would provide a greater level of certainty when planning investment in water and waste water treatment works. In response, the council stated that Sites with Development Potential are sites where the principle of development has been agreed but little detail has been provided as to the developers' and landowners' intentions. As such the council has been reluctant to publish indicative allocation numbers. The council states that, as part of its implementation of the Action Programme, it will continue to engage with developers to provide more certainty to service providers. Scottish Water has welcomed the council's approach to move towards a more developer led system.

5. Despite the wording of policy H3, there are, as discussed in issue H1, no "housing allocations", or "Allocated Sites" in the proposed plan. Furthermore there is considerable uncertainty about how most of the Sites with Development Potential are likely to be developed, and even more uncertainty about how most other land within Areas of Best Fit is likely to be developed. In these circumstances, I believe that it would be premature to include indicative housing allocation numbers for these sites and locations in the plan.

Scottish Water comments on Sites with Development Potential

6. Scottish Water provided a spreadsheet with comments on most of the proposed Sites with Development Potential in the plan. These comments fall broadly within three topics: existing water and waste water infrastructure, and proposed upgrades; sites with no nearby public sewer; and drainage capacity issues at the south-west end of Lerwick.

7. Much of the information provided on existing and proposed infrastructure is detailed and technical. I agree with the council that it would not generally be appropriate to include this information within the site notes for Sites with Development Potential. The council is however content to include information about

a project to upgrade the Tronafirth sewage treatment works within the site notes for sites CL003 – Strand, Tingwall and CL005 – Veensgarth, Tingwall. I have made recommendations about these matters within issues S6 and S8.

8. The council considers that it would be appropriate, in the site notes relating to sites in areas with no public sewer, to remove the statement “Any development in this area must connect to a public sewer.” and substitute “If a public sewer becomes available in this area prior to the site being developed there would be a requirement to connect.” Scottish Water has confirmed that it considers mandatory connection would be impractical in some locations. In such locations the developer should contact SEPA to discuss whether private treatment would be permitted. I have dealt with this matter, on a site-by site basis, within issue S37.

9. Scottish Water states that there are capacity issues in the drainage network at the (south-west) end of Lerwick potentially affecting three proposed Sites with Development Potential: LK008 – Oxlee, LK010 – Seafield and LK016 – Lerwick Observatory. It states that developers should contact Scottish Water as early as possible. Developers would probably have to undertake site investigations to establish the impact of their development and possible mitigation measures. I consider that it would be appropriate to refer to this in the relevant site notes.

#### **Reporter’s recommendations:**

I recommend the following modifications be made:

1. For all Sites with Development Potential with a site note stating “Details of water supply availability should be sought from Scottish Water.” insert the words “and sewerage infrastructure” after “water supply availability”.

2. Insert the sentence “There are capacity issues in the drainage network at the south-west end of Lerwick potentially affecting this site.” in the site notes for the following sites:

LK008 – Oxlee

LK010 – Seafield

LK016 – Lerwick Observatory

<b>Issue S39</b>	Duplication of Sites LK017 and LK009	
<b>Development plan reference:</b>	Site LK009, Lower Sound, Lerwick – page 100 & Site LK017, Lower Sound, Lerwick – page 108	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Dennis Leask (009) Jonathan Wills (053)		
<b>Provision of the development plan to which the issue relates:</b>	Sites With Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<ul style="list-style-type: none"> <li>Site LK017 appears to be partly duplication as it is already included in Site LK009.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
<ul style="list-style-type: none"> <li>None</li> </ul>		
<b>Summary of responses (including reasons) by planning authority:</b>		
<ul style="list-style-type: none"> <li>Sites LK009 and LK017 are not a duplication of one another. The two sites were submitted separately by the respective land owners. Either site could be developed independently of each other.</li> </ul>		
<b>Reporter's conclusions:</b>		
<p>1. Site LK017 is identified as having potential for housing development. It is a fairly small, roughly triangular garden area, and it forms part of site LK009. I dealt with the large site (LK009) in issue S20 above, and concluded that it should be retained in the plan as a site with potential for housing development.</p> <p>2. It is perhaps rather surprising that the plan has identified site LK017 as a separate site. However, as the council has pointed out, it could be developed independently of the balance of site LK009.</p> <p>3. Given the history of the site, and the considerations already discussed in issue S20, I consider that site LK017 should also be retained in the plan as a site with potential for housing development.</p>		

**Reporter's recommendations:**

No modifications (other than that relating to the buffer around watercourses discussed in issue S38).



<b>Issue S40</b>	Removal of Site NM010	
<b>Development plan reference:</b>	Site NM010 – Braehead, Mossbank – Page 126	<b>Reporter:</b> David Gordon
<b>Body or person(s) submitting a representation raising the issue (including reference number):</b>		
Mary Peterson and Thomas Peterson (046)		
<b>Provision of the development plan to which the issue relates:</b>	Site with Development Potential	
<b>Planning authority's summary of the representation(s):</b>		
<p><u>Mary Peterson and Thomas Peterson (046)</u></p> <ul style="list-style-type: none"> <li>• This ground will not be developed so does not need to go into any plan.</li> </ul>		
<b>Modifications sought by those submitting representations:</b>		
Removal of site NM010		
<b>Summary of responses (including reasons) by planning authority:</b>		
<p>In terms of the process for assessing suitability of Sites with Development Potential, all sites were subject to systematic review of;</p> <ul style="list-style-type: none"> <li>• Accessibility</li> <li>• Water supply and waste water facilities</li> <li>• Biodiversity</li> <li>• Existing settlement pattern</li> <li>• Flooding issues</li> <li>• Possibility of archaeology present.</li> </ul> <ul style="list-style-type: none"> <li>• External review by Scottish Natural Heritage, Scottish Environmental Protection Agency, Scottish Water, Shetland Amenity Trust (Archaeology) and Council's Roads Service was also conducted.</li> <li>• For the planning purposes the ownership of the land is not an issue. Therefore, the Planning Authority is of the opinion that Site NM010 should remain within the Local Development Plan.</li> </ul>		

**Reporter's conclusions:**

1. This site, in Mossbank, is identified as having potential for housing development.
2. The site is close to the centre of the village, and a well designed housing development on the site would fit well with the form of the village. Mossbank is an established settlement, albeit one with fairly few facilities, and it seems to me to be an appropriate place to encourage growth. The site is one of several with potential for housing development in Mossbank identified in the proposed plan.
3. The representees state that the site will not be developed. However, the council Planning Service believes that the site is owned by the council, and it is not aware of any circumstances which would prevent its development.
4. There may be some uncertainty about the site's ownership, but this does not mean that the site has no development potential.

**Reporter's recommendations:**

No modifications (other than that relating to flooding discussed in issue S37).