

ABERDEEN CITY COUNCIL

COMMITTEE	Council
DATE	14 December 2016
DIRECTOR	Pete Leonard
TITLE OF REPORT	Adoption of Aberdeen Local Development Plan 2017
REPORT NUMBER	CHI/16/157
CHECKLIST COMPLETED	Yes

1. PURPOSE OF REPORT

- 1.1 This report presents the Examination Report on the Aberdeen Local Development Plan, the table of modifications arising from the report and the Plan as modified for adoption. In addition, there is an updated Environmental Report and Habitats Regulation Assessment as required by legislation.

2. RECOMMENDATION(S)

- 2.1 It is recommended that Members:
- a) Note the Examination Report on the Aberdeen Local Development Plan;
 - b) approve the modifications made to the Plan, as set out in Appendix 1 and any minor drafting changes;
 - c) notify the Scottish Ministers of the Council's intention to adopt the Aberdeen Local Development Plan as modified, and agree to;
 - d) adopt the Aberdeen Local Development Plan with effect from 17th January 2017 unless directed otherwise by Scottish Ministers and undertake the statutory procedures set out in Appendix 5.

3. FINANCIAL IMPLICATIONS

- 3.1 There are no immediate financial implications arising from this report as the cost of finalising the Aberdeen Local Development Plan, including advertising and printing the Plan, can be met from existing budgets.

4. OTHER IMPLICATIONS

- 4.1 This report brings to a conclusion a major project to deliver a new Local Development Plan for Aberdeen in line with the Aberdeen City and Shire Strategic Development Plan. The Aberdeen Local Development

Plan, through the spatial strategy and planning policies, aims to make Aberdeen an even more attractive, prosperous and sustainable place in which to live, visit and do business.

- 4.2 An adopted Aberdeen Local Development Plan provides a firm foundation for investment within the City and will be the Plan which, once adopted, informs decisions on all planning applications. Where appropriate masterplans will require to be agreed by the planning authority and the land allocations will be subject to planning applications in due course. These processes allow for further scrutiny and community involvement.

5. BACKGROUND / MAIN ISSUES

- 5.1 Scottish Ministers expect local authorities to progress new Local Development Plans to adoption as quickly as possible from the Proposed Plan, which is in the interests of making the planning system more efficient and maintaining up-to-date Development Plans. Progress with the Aberdeen Local Development Plan demonstrates the Council's commitment to meeting these objectives.
- 5.2 The Communities, Housing and Infrastructure Committee agreed the content of the Aberdeen Local Development Plan Proposed Plan on 13th January 2015. Following a period for representations and consideration of those representations, the Committee agreed for the Plan to be submitted to Scottish Ministers for an Examination in Public on 27 October 2015. The Proposed Plan represented the Council's settled view on what the content of the final adopted Plan should be and was a result of extensive assessment and public consultation.
- 5.3 The Local Development Plan contains a spatial strategy which explains the Council's overall view of where development should go and the principles behind that. It identifies future development sites and the scale of development expected on each of the identified sites. As required by the regulations, the Plan conforms to the Strategic Development Plan and makes significant allocations in terms of housing and employment land. It also specifies what developers need to do when designing and delivering development, emphasising the need for masterplans, drawn up with local community involvement, for all the major sites. The policies set out additional requirements for different types of development and explain what uses are acceptable in different areas.

Examination in Public

- 5.4 The Examination in Public commenced on 8th February 2016 and reviewed all of the unresolved representations made on the Aberdeen Local Development Plan. The Examination was undertaken by independent persons appointed by Scottish Ministers called Reporters. The administration of the examination process was undertaken by the Government's Directorate for Planning and Environmental Appeals.

- 5.5 It is for the Reporters to determine how the Examination in Public is carried out and during the examination 19 requests for further information were issued but there were no hearings or inquiries held.

Modifications

- 5.6 The Reporters have now completed their examination of the Plan against the representations and the Council's submissions (as agreed at the CHI meeting on 27 October 2015), and have outlined the modifications to be made to the Proposed Plan. Appendix 1 sets out in detail all of the modifications proposed. It also lists the consequential modifications arising from the Reporters recommendations. The full Examination Report can be viewed here:
http://www.aberdeencity.gov.uk/planning_environment/planning/local_development_plan/pla_aldp2016_examination.asp
- 5.7 The vast majority of the housing and employment land allocations and other proposals in the LDP remain unchanged. The following new opportunity sites have been added;
- Skene Road, Maidencraig (15 Homes)
 - Contlaw Road West, Milltimber (10 homes)
 - Culter House Road, Milltimber (8 homes)
 - Milltimber South (60 homes and 1225sqm employment)
 - 34-40 Abbotswell Road (residential)
 - Froghall Terrace (residential or student housing)
- 5.8 The following sites have been changed or deleted;
- OP3 Findlay Farm (rezoned from B2 Specialist Employment to B1 Business and Industry)
 - OP7 Aberdeen College Gordon Centre (extended)
 - OP59 Loirston (reference made to convenience retailing)
 - OP52 Malcolm Road, Peterculter (reduced from 71 houses to 8 houses)
 - OP108 Mid Anguston (8 house proposal deleted)
 - Land at Heathvale Cove (removed from green belt – rezoned to urban green space)
 - OP66 Manor Walk (removal of privately owned caravan park from the proposal)
 - OP65 Haudagain Triangle (removal of reference to retail and open space)
 - OP102 George Street/Crooked Lane (reference to retaining granite street frontages).
- 5.9 Other changes to sites and proposals are relatively minor and can be seen in Appendix 1. There are some changes and rewording to some of the policies but most remain substantially as approved in the Proposed Plan. That includes policies on affordable housing, infrastructure and developer contributions. The Proposals Map will be subject to modifications to reflect the changes to sites as above and other minor amendments. Any drafting or mapping errors have also been picked up.

5.10 Local authorities are required to follow the recommendations for modification following examination of their Local Development Plans unless one of the grounds for declining to follow recommendations applies (section 19(10) of the Town and Country Planning (Scotland) Act 1997). The Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009 set out the limited grounds that local authorities may depart from the Scottish Ministers' recommendations. These are:

- would have the effect of making the Local Development Plan inconsistent with the National Planning Framework, or with any Strategic Development Plan or national park plan for the same area;
- are incompatible with Part IVA of the Conservation (Natural Habitats etc) Regulations 1994;
- are based on conclusions that could not reasonably have been reached based on the evidence considered at the examination.

5.11 The last point addresses the possibility of clear errors (including factual errors) being made by the reporters. Government guidance (Circular 6/2013 Development Planning paragraph 94) makes it clear that this does not relate to circumstances where the planning authority disagrees with the planning judgement reached by the reporter. An assessment of the modifications against these criteria has been made and it is considered that all modifications are required to be made in order for the Council to adopt the Plan as the Aberdeen Local Development Plan.

5.12 Appendix 1 also list a small number of the consequential modifications required. These are made to rectify any terminological inconsistencies created by the reporter's modifications and must be wholly consequent on them.

5.13 The Plan as modified is attached to this report as Appendix 2. In order to show where the modifications have been made, a tracked changes version has been placed in the Group Rooms, together with a copy of the Proposals Map as modified. Further copies of the Proposals Maps will be put on display at the Council meeting.

Environmental Report and Habitat Regulations Appraisal

5.14 Strategic Environmental Assessment was undertaken to help shape and influence the content of the Local Development Plan. Where the assessment identified significant adverse environmental effects (following consultation with Scottish Natural Heritage, Scottish Environment Protection Agency, Historic Environment Scotland and the public) this lead to amending the Plan or incorporating mitigation measures to minimise identified impacts. An Environmental Report was prepared in support of the Proposed Aberdeen Local Development Plan.

- 5.15 Having considered the Reporters' modifications and updated the Environmental Report (Appendix 3) it is considered that none of the modifications are likely to have significant effects on the environment when considering the overall effects of the Plan. Following adoption of the Local Development Plan a post adoption Strategic Environmental Assessment statement will be published setting out how the findings in the Environmental Assessment were taken into account during the preparation of the Plan. It will also provide consultees with a final opportunity to comment informally on arrangements for monitoring.
- 5.16 The Habitats Regulations Appraisal (HRA) (Appendix 4) is an assessment of the potential impact of the Proposed Plan on protected habitats. Amendments to the Plan have been screened and assessed and it is concluded that the Aberdeen Local Development Plan is not likely to have a significant effect on a protected European Site.
- 5.17 It should be noted that the Environmental Report and HRA also covers the Supplementary Guidance to the Local Development Plan which will be considered in a separate report to this meeting.

Adoption of the Aberdeen Local Development Plan

- 5.18 In order to formally adopt the Plan, a further series of notifications require to be carried out. This includes publishing a press advert, notifying people who made representations and sending the Plan as modified to Scottish Ministers. 28 days after this the Plan can be adopted unless directed not to by Scottish Ministers. The full process that we are required to follow is set out in Appendix 5. Subsequent to adoption there is a 6 week period in which a legal challenge can be made to the Plan.
- 5.19 The adoption of the Local Development Plan will not be the end of the process. There is a requirement to produce an Action Programme within three months of the Plan being adopted. This document will be aimed specifically at the delivery of the proposals and policies contained in the Aberdeen Local Development Plan. The Action Programme will include timescales for the delivery of key infrastructure and will be reviewed regularly taking into account changing circumstances.

6. IMPACT

Improving Customer Experience – The Local Development Plan sets out the planning policies and proposals for the city for up to the next 5 years. In doing so it provides certainty for the public, agencies and development industry.

Improving Staff Experience – The Local Development Plan is the primary means by which the Council determines planning applications. An up to date LDP provides guidance to staff dealing in planning matters and helps to ensure that applications are dealt with in a consistent manner.

Improving our use of Resources – The LDP says that development should be encouraged in the right places, be efficient and make the best use of existing infrastructure capacity. Where that capacity does not exist, developers will be expected to provide the infrastructure, services and facilities which are required as a result of the development.

Corporate - The Local Development Plan will support the Smarter City Vision in helping to make Aberdeen a great place to live, bring up a family, do business and visit. It is ambitious in growing the city and promotes 21st century sustainable living, the city centre, new communications technology and sustainable transport.

Public – Given the wide range of policy areas the Proposed Plan covers, an Equality and Human Rights Impact Assessment was carried out on the Proposed Plan at the time of its approval. It showed that there will be some positive impacts of the Plan on a range of equalities groups. The Equality and Human Rights Impact Assessment can be obtained from the Local Development Plan Team.

The Proposed Local Development Plan has been in the public domain since late 2015 and the Examination Report has been available since September 2016. Some of the changes to the sites are likely to be of interest to those living in their locality.

7. MANAGEMENT OF RISK

- 7.1 Local Development Plans have to be replaced at least every 5 years (the current LDP will be 5 years old on 1st March 2017). They contain policies aimed to improve the quality of development and ensure a consistent approach in deciding planning applications. Not having an up to date Plan in place could lead to a higher risk of planning by appeal, meaning less certainty for developers, agencies and the public in respect of Aberdeen's growth and development, cause deterioration in customer service and the quality of development.
- 7.2 As mentioned from paragraph 5.10, planning authorities must, by law, accept the Reporter's recommendations unless they consider they can be declined under the grounds set out in statute. Declining the Reporter's recommendations carried two risks;
- Scottish Ministers can intervene and prevent the Council adopting the Local Development Plan.
 - Even if Scottish Ministers do not intervene, an aggrieved third party may mount a legal challenge on the basis that the Council acted outwith it's powers in declining to follow the recommendations.
- 7.3 It should be noted that, to our knowledge, no planning authority in Scotland has successfully overturned a Reporter's recommendations under these circumstances since the new legislation came into force in 2009.

8. BACKGROUND PAPERS

- Appendix 1 – Modifications Table
- Appendix 2 – Aberdeen Local Development Plan as modified
- Appendix 3 – Environmental Report
- Appendix 4 – Habitats Regulations Appraisal
- Appendix 5 – Adoption Process

Further Reading:

Aberdeen Local Development Plan – Examination Report

http://www.aberdeencity.gov.uk/planning_environment/planning/local_development_plan/pla_aldp2016_examination.asp

Aberdeen Local Development Plan – Proposed Plan

http://www.aberdeencity.gov.uk/planning_environment/planning/local_development_plan/pla_2016_proposed_plan.asp

Aberdeen Local Development Plan – Proposed Action Programme

<http://www.aberdeencity.gov.uk/nmsruntime/saveasdialog.asp?IID=62528&sID=26036>

Aberdeen City and Shire Strategic Development Planning Authority:
Aberdeen City and Shire Strategic Development Plan 2014

<http://www.aberdeencityandshire-sdpa.gov.uk/nmsruntime/saveasdialog.asp?IID=1111&sID=149>

Planning etc. (Scotland) Act 2006

http://www.legislation.gov.uk/asp/2006/17/pdfs/asp_20060017_en.pdf

Scottish Planning Series: Planning Circular 6/2013: Development Planning

<http://www.gov.scot/Resource/0044/00441577.pdf>

The Town and Country Planning (Development Planning) (Scotland) Regulations 2008

http://www.legislation.gov.uk/ssi/2008/426/pdfs/ssi_20080426_en.pdf

The Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009

http://origin-www.legislation.gov.uk/sdsi/2009/9780111001677/pdfs/sdsi_9780111001677_en.pdf

9. REPORT AUTHOR DETAILS

Andrew Brownrigg

Team Leader Development Plan

abrownrigg@aberdeencity.gov.uk

01224 523317