

## ABERDEEN CITY COUNCIL

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<b>COMMITTEE</b>	Council
<b>DATE</b>	14 December 2022
<b>EXEMPT</b>	No
<b>CONFIDENTIAL</b>	No
<b>REPORT TITLE</b>	Adoption of Aberdeen Local Development Plan 2023
<b>REPORT NUMBER</b>	COM/22/283
<b>DIRECTOR</b>	Gale Beattie
<b>CHIEF OFFICER</b>	David Dunne
<b>REPORT AUTHOR</b>	Andrew Brownrigg
<b>TERMS OF REFERENCE</b>	11. The approval of the Local Development Plan

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### 1. PURPOSE OF REPORT

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

### 2. RECOMMENDATIONS

That Council:-

- 2.1 Approve the modifications made to the Proposed Aberdeen Local Development Plan, as set out in Appendix 1, and any minor drafting changes;
- 2.2 Instruct the Chief Officer - Strategic Place Planning to notify the Scottish Ministers of the Council's intention to adopt the Aberdeen Local Development Plan as modified; and
- 2.3 Agree to adopt the Aberdeen Local Development Plan unless directed otherwise by Scottish Ministers and instruct the Chief Officer – Strategic Place Planning to undertake the statutory procedures set out in Appendix 4.

### 3. CURRENT SITUATION

- 3.1 Full Council agreed the content of the Proposed Aberdeen Local Development Plan on 3 March 2020. Following a period for representations and consideration of those representations, Council agreed for the Proposed Plan to be submitted to Scottish Ministers for an Examination in Public on 21 June 2021. 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.

- 3.2 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 Town and Country Planning (Scotland) Act 1997, the Plan is consistent with 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.
- 3.3 The Examination in Public began in November 2021 and reviewed the unresolved representations made on the Proposed 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 Scottish Government's Directorate for Planning and Environmental Appeals. It is for the Reporters to determine how the Examination in Public is carried out and during the Examination 7 requests for further information were issued and there was one hearing on housing land.
- 3.4 The Reporters have now completed their Examination of the Plan against the representations and the Council's submissions (as agreed at the Council meeting on 21 June 2021) and have outlined the modifications to be made to the Proposed Plan. Appendix 1 sets out in detail all the modifications proposed. The full Examination Report can be viewed here:  
<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=121730&T=74>
- 3.5 Only two changes have been made to the housing land allocations – an allocation for 250 houses at Tillyoch, Peterculter has been deleted. The second is that an allocation of 60 houses, alongside a small retail element, has been included in the Plan at Milltimber South. It should be noted that a planning consent is already in place for Milltimber South and a planning application for housing at Tillyoch was refused in August 2022. All employment land and other proposals in the Plan remain the same.
- 3.6 Other changes to proposals are relatively minor and can be seen in Appendix 1. There are changes and rewording to some of the policies but most remain substantially as approved in the Proposed Plan. The Proposals Map will be subject to modifications to reflect the two changes to sites as above. Any drafting or mapping errors have also been picked up alongside any consequential modifications arising from the reporters' recommendations. These are very minor in nature and generally cover paragraph and table re-numbering. There will also be a number of diagrams re-added to the Plan when it is desk top published. These are illustrative only and contain no policy elements.
- 3.7 It is important to note that 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. 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 because the recommendations:

- 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;
- would not be acceptable having regard to an environmental assessment carried out on the Plan;
- are based on conclusions that could not reasonably have been reached based on the evidence considered at the examination.

3.8 The last point addresses the possibility of clear errors (including factual errors) being made by the Reporters. Scottish 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 there are no grounds to decline to follow the Reporters' recommendations. Therefore, all modifications are required to be made in order for the Council to adopt the Plan as the Aberdeen Local Development Plan.

3.9 The Plan as modified is attached to this report as Appendix 2. Further copies of the modified Proposals Maps will be put on display at the Council meeting.

#### Environmental Report and Habitat Regulations Appraisal – Appendix 3

3.10 A Strategic Environmental Assessment and Habitats Regulations Appraisal (an Environmental Report) were undertaken to help shape and influence the content of the Local Development Plan. Where the assessment identified significant adverse environmental effects (following consultation with NatureScot, Scottish Environment Protection Agency, Historic Environment Scotland and the public) this led to amending the Plan or incorporating mitigation measures to minimise identified impacts.

3.11 Having considered the Reporters' modifications and updated the Environmental Report 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.

3.12 The Habitats Regulations Appraisal (HRA) 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.

- 3.13 It should be noted that the Environmental Report 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

- 3.14 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 the Council is directed not to by Scottish Ministers. The expected date of adoption is therefore likely to be in early 2023, at which point the extant Aberdeen Local Development Plan 2017 will fall. The full process that we are required to follow is set out in Appendix 4. Subsequent to adoption there is a 6 week period in which a legal challenge can be made to the Plan.
- 3.15 The adoption of the Local Development Plan will not be the end of the process. There is a requirement to produce a Delivery 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 Delivery Programme will include timescales for the delivery of key infrastructure and will be reviewed regularly, taking into account changing circumstances. A post adoption Strategic Environment Assessment is also required to be produced within three months of the plan being adopted.

#### **4. FINANCIAL IMPLICATIONS**

- 4.1 There are no direct financial implications arising from this report as the cost of progressing the Aberdeen Local Development Plan can be met from existing budgets.

#### **5. LEGAL IMPLICATIONS**

- 5.1 This Local Development Plan will be prepared under the current planning legislation. The next Local Development Plan will be prepared wholly under the new emerging planning legislation.
- 5.2 As detailed at paragraph 3.7, planning authorities are required to accept the Reporter's recommendations unless they consider the recommendations can be declined under any of the grounds of The Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009). Declining to accept the Reporter's recommendations carries two risks:
- Scottish Ministers may intervene and prevent the Council from adopting the Plan
  - An aggrieved third part may raise a legal challenge on the basis that the Council declined to accept the Reporter's recommendations.

## 6. ENVIRONMENTAL IMPLICATIONS

- 6.1 An up to date Local Development Plan has positive environmental implications by helping to ensure that all new developments in the City are appropriately sited and designed to avoid adverse impacts on the environment. As mentioned from paragraph 3.11, the Local Development Plan been subject to a Strategic Environmental Assessment (SEA) and Habitats Regulations Appraisal in consultation with statutory consultation bodies.

## 7. RISK

- 7.1 The assessment of risk contained within the table below is considered to be consistent with the Council's Risk Appetite Statement.

Category	Risks	Primary Controls/Control Actions to achieve Target Risk Level	*Target Risk Level (L, M or H)  *taking into account controls/control actions	*Does Target Risk Level Match Appetite Set?
<b>Strategic Risk</b>	Ensuring up to date and relevant supporting planning guidance to coincide with adoption of the new Local Development Plan.	Adopt new Local Development Plan as modified. Ensure all statutory requirements and public notices are carried out.	L	<b>Yes</b>
<b>Compliance</b>	Ensuring that current adopted Local Development Plan is replaced to comply with relevant planning legislation.	Adopt new Local Development Plan as modified. Ensure all statutory requirements and public notices are carried out.	L	<b>Yes</b>
<b>Operational</b>	No significant risks identified			
<b>Financial</b>	Not having timely published versions of the Local Development Plan could lead to uncertainty at planning application stage and potentially lead to more staff time being spent processing	Adopt new Local Development Plan as modified. Ensure all statutory requirements and public notices are carried out.	L	<b>Yes</b>

	applications on unsuitable sites and a greater number of planning application appeals.			
<b>Reputational</b>	No significant risks identified.			
<b>Environment / Climate</b>	Ensuring that the Local Development Plan takes into consideration the relevant environmental and climate change legislation at the point of its development and production.	Wide consultation and an examination of the Proposed Local Development Plan was carried out to ensure that the Local Development Plan and supporting documents are up to date and relevant at the date of adoption. A Strategic Environmental Assessment was also carried out.	L	<b>Yes</b>

## 8.0 OUTCOMES

<u><a href="#">COUNCIL DELIVERY PLAN 2022-2023</a></u>	
	<b>Impact of Report</b>
<p><b>Aberdeen City Council Policy Statement</b></p> <p><u><a href="#">Working in Partnership for Aberdeen</a></u></p>	<p>The Aberdeen Local Development Plan will support the delivery of many aspects of the policy statement – primarily under the headings of ‘A City of Opportunity’, ‘A Vibrant City’, ‘Building a Greener and Sustainable City’, ‘Greener Transport, Safer Streets, Real Choices’, ‘Homes for the Future’, ‘An Active City’, and ‘A Prosperous City’. It will particularly support the following aspects of the policy statement:-</p> <ul style="list-style-type: none"> <li>• Review and invest in our school estate, ensuring all of Aberdeen’s schools are fit for the educational needs and the challenges of the 21<sup>st</sup> century</li> <li>• Improving cycle and active transport infrastructure</li> </ul>

	<ul style="list-style-type: none"> <li>• Work with partners to produce a ten-year plan to increase the stock and variety of Council and social housing</li> <li>• Expand Aberdeen's district heating network</li> <li>• Repeal the guidance that exempts student accommodation developers from affordable housing contributions</li> <li>• Back Sport Aberdeen in their efforts to invest in and improve sporting facilities</li> <li>• Work with partners to stimulate sustainable economic development</li> </ul>
<b><u>Aberdeen City Local Outcome Improvement Plan</u></b>	
Prosperous Economy Stretch Outcomes	The Aberdeen Local Development Plan will help to support the Stretch Outcome 'No one will suffer due to poverty by 2026.' The guidance will help to support sustainable economic growth and create a framework for the delivery of new energy efficient homes which will help reduce fuel poverty for residents.
Prosperous Place Stretch Outcomes	The Aberdeen Local Development Plan will support Place Stretch Outcomes 13 – 15 by providing guidance to ensure that new developments within the City are designed to achieve high standards of energy efficiency, encourage sustainable methods of travel, and to achieve net gains for biodiversity wherever possible.
<b>Regional and City Strategies</b>	The Aberdeen Local Development Plan will directly support the Strategic Development Plan and Local Housing Strategy. It supports the Regional Economic Strategy and the Regional Transport Strategy by setting out guidance to help deliver sustainable economic development and to ensure that new developments have proper regard to their impacts on the transport network. Through the proposed Planning Obligations Supplementary Guidance, contributions will also be sought where appropriate from new developments towards infrastructure enhancements such as schools and other community facilities. This will support delivery of the Council's Estates and Assets Strategies.

## 9. IMPACT ASSESSMENTS

Assessment	Outcome
<b>Integrated Impact Assessment</b>	Full impact assessment required.

<b>Data Protection Impact Assessment</b>	A full DPIA has already been carried out and covered the whole LDP production process. A further iteration is not considered necessary.
<b>Other</b>	None

## 10. BACKGROUND PAPERS

- Aberdeen Local Development Plan – Examination Report  
<https://www.dpea.scotland.gov.uk/CaseDetails.aspx?id=121730&T=20>
- Aberdeen Local Development Plan – Proposed Plan  
<https://www.aberdeencity.gov.uk/services/planning-and-building-standards/local-development-plan/aberdeen-local-development-plan/aberdeen-local-development-plan-review#2839>
- Aberdeen Local Development Plan – Proposed Delivery Programme  
<https://www.aberdeencity.gov.uk/sites/default/files/2020-05/DeliveryProgramme.pdf>
- Aberdeen City and Shire Strategic Development Plan 2020  
<http://www.aberdeencityandshire-sdpa.gov.uk/AboutUs/Publications.aspx>
- 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](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  
<https://www.legislation.gov.uk/sds/2009/9780111001677/contents>

## 11. APPENDICES

- Appendix 1 – Modifications Table
- Appendix 2 – Aberdeen Local Development Plan as modified
- Appendix 3 – Environmental Report: Strategic Environmental Assessment and Habitats Regulations Appraisal - **can be accessed [here](#)**
- Appendix 4 – Adoption Process

## 12. REPORT AUTHOR CONTACT DETAILS

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