

ANGUS COUNCIL

ANGUS COUNCIL- 4 AUGUST 2016

ANGUS LOCAL DEVELOPMENT PLAN POST EXAMINATION MODIFICATION AND ADOPTION

REPORT BY VIVIEN SMITH HEAD OF PLANNING AND PLACE

ABSTRACT

This report presents the conclusions and recommended modifications arising out of the Examination of unresolved representations to the Proposed Angus Local Development Plan. The report recommends that the Council accepts all the recommended modifications as set out in the Examination report plus the consequential changes and technical. The report also recommends that the Council agrees to adopt the Plan and sets out the procedures required to do so.

1. RECOMMENDATIONS

It is recommended that the Council:

- (i) Notes the contents of the Examination Report on the Proposed Angus Local Development Plan (**Appendix 1**);
- (ii) Agree the modifications recommended in the Examination Report plus the consequential and technical changes identified by officers (**Appendices 2 and 3**);
- (iii) Authorise the Head of Planning and Place to notify the Scottish Ministers of the Council's intention to adopt the Proposed Angus Local Development Plan as Modified (**Appendix 4**);
- (iv) Agree to the adoption of the Proposed Angus Local Development Plan as Modified following completion of the relevant statutory pre-adoption procedures; and
- (v) Instruct the Head of Planning and Place to report to Angus Council the updated Action Programme and the Strategic Environmental Assessment Post Adoption Statement.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/COPORATE PLAN

2.1 The Angus Local Development Plan will when adopted contribute to the following local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013-2016:

- We have a sustainable economy with good employment opportunities;
- Angus is a good place to live in, work and visit;
- Individuals and families are involved in decisions which affect them;
- Individuals are involved in their communities;
- Our communities are safe, secure and vibrant;
- We have improved the health and wellbeing of our people and inequalities are reduced;
- Individuals are supported in their own communities with good quality services;
- Our communities are developed in a sustainable manner;
- Our natural and built environment is protected and enjoyed; and
- Our carbon footprint is reduced.

2.2 The Angus Local Development Plan sets out the development strategy for the area, and where development should be located. The document has been structured around the Community Planning Partnership's five priorities to demonstrate how the implementation of

the Angus Local Development Plan will contribute towards meeting the vision and outcomes for the Angus area.

3. BACKGROUND

- 3.1 At their meeting of the 11 December 2014, Angus Council approved the Proposed Angus Local Development Plan (ALDP), and agreed to its publication for a nine week period of representation. The Council also approved the draft Environmental Report and Transport Appraisal and agreed to their publication alongside the Proposed Angus Local Development Plan (Report 501/14 refers).
- 3.2 The Development and Enterprise Committee at their meeting of 20 January 2015 agreed a Draft Action Programme, Consultation Statement, Equalities Impact Statement, Strategic Flood Risk Assessment and Draft Habitats Regulations Appraisal Record to be published as supporting documents to the Proposed Angus LDP (Report 33/15 refers).
- 3.3 The documents were formally published on 27 February 2015 with a 9 week period for representation extending to 30 April 2015. An update was brought before Angus Council at the meeting on the 14 May 2015, where the scale of submissions received during the period of representation was noted, and it was agreed to accept late submissions up to 29 May 2015 and make all submissions publicly available on the Council's website (Report 198/15 refers).
- 3.4 At the meeting on the 10 September 2015, Angus Council agreed their response to the representations received and approved the submission of the Proposed Plan, Schedule of Non-Notifiable Modifications and other associated documents together with the unresolved issues to the Scottish Ministers for examination (Report 346/15 refers). At the same meeting, the Head of Planning and Place was instructed to report back on the findings of the Examination in due course.

4. THE EXAMINATION

- 4.1 The Proposed Angus Local Development Plan, Schedule 4 documents, Schedule of Non-Notifiable Modifications and associated documents were submitted to the Scottish Ministers on 6 November 2015 and, following the satisfactory consideration of the Council's Participation Statement, the Examination commenced on the 9 December 2015. The Examination was undertaken by two independent persons (referred to as Reporters) appointed by Scottish Ministers.
- 4.2 During the course of the Examination officers responded to 11 Further Information Requests (FIR's) from the Reporters. There was no requirement to hold a Hearing Session or formal Inquiry Session into any of the unresolved representations.
- 4.3 The Reporters have now completed their Examination of the Proposed Plan against the unresolved representations and the Council's submissions, and have outlined the modifications to be made to the Proposed Plan. A copy of the Examination Report (Appendix 1) has been previously circulated electronically to all Members and a hard copy made available in the Information Hub.
- 4.4 Examination reports are largely binding. Regulation 2 of the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009 sets out authorities may only depart from recommendations that:
 - (a) would have the effect of making the LDP inconsistent with the National Planning Framework, or with any SDP or national park plan for the same area;
 - (b) are incompatible with Part IVA of the Conservation (Natural Habitats etc.) Regulations 1994; or
 - (c) are based on conclusions that could not reasonably have been reached based on the evidence considered at the Examination.
- 4.5 Criterion (c) is intended to relate to the possibility of clear errors (including factual errors) by the Reporter, but not to occasions where the Reporter has reached a different planning judgement from the planning authority.

- 4.5 Departure from the recommendations could result in the Scottish Ministers issuing a direction requiring the relevant modification to be made. The Local Development Plan cannot be adopted until that direction is conformed with or withdrawn.

Key Findings and Modifications

- 4.6 Overall the scale of recommended modifications is limited in nature and extent. Many of the modifications proposed reflect those agreed in the Schedule of Non-Notifiable Modifications previously agreed by Angus Council (Report 346/15 refers).

- 4.7 A summary of notable modifications are highlighted below:

- Identification of Birkhill and Muirhead as Tier 1 settlements in Figure 1: Development Strategy however no change to the strategy for these settlements.
- Policy Clarification: Further detail to be provided on the range and scope of supplementary guidance.
- Housing: Amendment to Policy TC1: Housing Land Supply / Release in relation to triggers for early housing land release.
- Housing: Clarification in Policy TC2: Residential Development for countryside locations to extend the definition of gap sites.
- Employment: Amendment to Policy TC14: Employment Allocations & Existing Employment Areas to ensure that applicants provide evidence to demonstrate that the terms of the policy are met.
- Employment: Clarification in Policy TC15: Employment Development to ensure that proposals over 1,000sqm are considered under a sequential approach.
- Built Environment: Provision included within Policy PV8: Built and Cultural Heritage to account for enabling development to support the preservation of a listed building.
- Heat and Energy Networks: Modification to wind energy text to reflect the changes largely proposed by Angus Council including detail within scope and content of supplementary guidance.
- Resources: Inclusion of a new policy PV21 on Pipeline Consultation Zones.
- Carnoustie: Extension of development boundary to include additional land at Greenlaw Hill as part of opportunity site C4.
- Canoustie: Amendment to development boundary to incorporate the boundaries of the allocated sites C1: Pitskelly, C6: Carlogie and C7: Pitskelly.
- Carnoustie: Requirement for the allocated residential site at C1: Pitskelly to include a phasing plan for the development of the adjacent employment site C7: Pitskelly.
- Forfar: Amendment to the phasing for residential site F3: Turfbeg.
- Kirriemuir: Inclusion of new retail site to reflect the existing retail consent at Pathhead.
- Montrose including Ferryden and Hillside: Inclusion of reference in the supporting text to the Laurencekirk junction and for development proposals in Montrose that are likely to generate significant traffic impacts to submit a transport assessment to establish impact on both the strategic and local road network including the junction.

- 4.8 Officers have examined the full report and identified areas where minor technical or consequential changes were required to improve clarity, correct drafting errors and ensure consistency. A marked up copy of the Proposed Plan is provided in Appendix 3 showing both the modifications and consequential changes. A copy of this document has been circulated electronically to Members and a hard copy made available in the Information Hub.

5. ENVIRONMENTAL REPORT AND HABITAT REGULATIONS APPRAISAL

- 5.1 A Strategic Environmental Assessment (SEA) was undertaken at the Proposed Plan stage; agreed and published alongside the Proposed Plan (Report 501/14 refers). Where the assessment identified significant adverse environmental effects, amendments were made to the Proposed Plan or mitigation measures were incorporated to minimise identified impacts.

- 5.2 Officers have assessed the modifications and the Environmental Report and conclude that none of the modifications are likely to have significant effects on the environment when considering the overall effects of the Proposed Plan. Following adoption of the Angus Local Development Plan, the Environmental Report will be finalised and a post adoption Strategic

Environmental Assessment Statement will be published setting out how the findings in the Environmental Assessment were taken into account.

5.3 The Draft Habitats Regulations Appraisal (HRA) Record was prepared along with the Proposed Plan; agreed and published alongside the Proposed Plan (Report 33/15 refers). The Reporters' modifications to the Proposed Plan have been screened and assessed and it is concluded that these are not likely to have a significant effect on a European Site. Confirmation of this assessment is currently sought from Scottish Natural Heritage.

5.4 There is a requirement to publish an Action Programme within three months of adoption of the Angus Local Development Plan. This document will set out how the proposals and policies contained in the Angus Local Development Plan will be monitored and delivered. The Action Programme will be reviewed regularly taking into account changing circumstances. The draft Action Programme was approved by the Council in January 2015 (Report 33/15 refers). The Action Programme will be updated and reported to a future meeting of Angus Council.

6. ADOPTION OF THE PROPOSED ANGUS LOCAL DEVELOPMENT PLAN

6.1 As well as publishing the list of modifications, the Council is required to prepare a copy of the Proposed Plan as modified. This is contained in Appendix 4 in electronic format. A copy is also available in the Information Hub. This report recommends that Scottish Ministers be notified of Angus Council's intention to adopt the Proposed Plan as modified and agree to adoption of the Plan following completion of the relevant statutory pre-adoption procedures.

6.2 In order to formally adopt the Proposed Plan a series of procedures and notifications require to be carried out. These include:

- Publish and place on deposit the modifications and a copy of the Plan as modified;
- Notifying people who made representations on the Proposed Plan;
- Publishing a Notice of the Intention to Adopt the Plan;
- Send to Scottish ministers the modifications and the Proposed Plan as modified.

6.3 The DPEA submitted their Examination Report to the Council on 3 June 2016. The legislation obliges the Council to publish the modifications to the Proposed ALDP within three months of receipt of the Examination Report. It should be noted that there is no opportunity in the legislation for representations to be submitted in relation to the modifications to the Plan. 28 days after the Plan as modified has been published, the notice of intention to adopt the plan has been published and documents sent to Scottish Ministers, the Proposed Plan can be adopted, unless the Council is directed not to by Scottish Ministers, The Scottish Ministers are only likely to issue a direction where a Planning Authority fails to follow the modifications recommended by the Reporters. Following adoption there is a 6 week period in which a legal challenge can be made to the Plan.

6.4 There are a number post adoption procedures to be completed advising of adoption of the Plan including a statutory advert, publication and notification to those who made representations.

7. FINANCIAL IMPLICATIONS

7.1 The costs of the Examination process (Reporter and DPEA Administration fees) totalled £27,355.20. These were contained within the Planning Revenue Budget. Costs associated with the adoption of the Angus Local Development Plan, including statutory newspaper advertisement and print and publication of the Adopted Local Development Plan, Environmental Report and Habitats Regulations Appraisal are contained within the Planning Revenue Budget for 2016/17.

8. RISKS

8.1 Departure from the recommendations could result in the Scottish Ministers issuing a direction requiring the relevant modification to be made. The Local Development Plan cannot be adopted until that direction is conformed with or withdrawn.

- 8.2 Failure to have an adopted Angus Local Development Plan could result in development decisions in Angus being made on an ad-hoc basis and not plan led, impacting on the delivery of an effective supply of housing and employment land.

NOTE: The background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- Report 501/14 Proposed Angus Local Development Plan, Angus Council, 11 December 2014.
- Report 33/15 Proposed Angus Local Development Plan – Supporting Documents, Development and Enterprise Committee, 20 January 2015.
- Report 113/15 – Angus Development Plan Scheme – 6th Annual Review, Development and Enterprise Committee, 3 March 2015.
- Report 198/15 – Proposed Angus Local Development Plan – Consultation Update, Angus Council, 14 May 2015.
- Angus Development Plan Scheme (Revised March 2016)
- Report 346/15 – Proposed Angus Local Development Plan, Angus Council 10 September 2015.

REPORT AUTHOR: Vivien Smith, Head of Planning and Place

EMAIL DETAILS: CommunititesBusinessSupport@angus.gov.uk

List of Appendices:

- Appendix 1: Proposed Angus Local Development Plan Examination Report (electronic)
Appendix 2: Schedule of Modifications Recommended by Issue (electronic)
Appendix 3: Marked Up Copy of the Proposed Angus Local Development Plan (electronic)
Appendix 4: Proposed Angus Local Development Plan as Modified (electronic)