

**ANGUS COUNCIL**

**SPECIAL MEETING OF ANGUS COUNCIL - 26 APRIL 2016**

**PROPOSED ANGUS LOCAL DEVELOPMENT PLAN DRAFT SUPPLEMENTARY GUIDANCE AND  
ADVICE NOTE**

**REPORT BY VIVIEN SMITH – HEAD OF PLANNING AND PLACE**

**ABSTRACT**

This report seeks approval of three draft Supplementary Guidance documents and one Planning Advice Note as a basis for a six week period for consultation and representation. The draft documents support and further explain Policies within the Proposed Angus Local Development Plan, which is currently the subject of examination by Reporters appointed by Scottish Ministers. Consultation on the draft documents will be undertaken and appropriate amendments made to ensure that the documents can be adopted by the Council as soon as practicable after the adoption of the Proposed Angus Local Development Plan.

**1. RECOMMENDATION(S)**

It is recommended that the Council:

- (i) agree the Draft Design Quality and Placemaking, Developer Contributions and Countryside Housing Supplementary Guidance documents as a basis for a six week period of consultation and representation;
- (ii) agree the Draft Householder Development Planning Advice Note as a basis for a six week period of consultation and representation;
- (iii) authorise the Head of Planning and Place to make changes to the format, appearance, illustrations and technical details of the draft documents prior to their publication;
- (iv) agree the consultation arrangements for the draft documents; and
- (v) instruct the Head of Planning and Place to report the consultation responses received on the draft documents back to the Council.

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

This report does not directly contribute to the local outcomes contained within the Angus Community Plan and Single Outcome Agreement 2013 – 2016. It will however enable Angus Council to continue progress towards adoption of the Angus Local Development and Supplementary Guidance.

This Angus Local Development Plan once adopted will 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.

### 3. BACKGROUND

At their meeting of the 11 December 2014 Angus Council approved the Proposed Angus Local Development Plan and agreed that it would be subject to a nine week period of representation (Report 501/14 refers). At their meeting of 10 September 2015 Angus Council agreed to submit the Proposed Plan alongside unresolved representations to Scottish Ministers for examination (Report 346/15 refers). The examination of the Proposed Plan began on the 9<sup>th</sup> December and is expected to last between six and nine months.

The Proposed ALDP and the accompanying Draft Action Programme set out that a number of documents including Supplementary Guidance and Planning Advice Notes will be prepared to assist the implementation of the Proposed Plan by giving further information and guidance as to how policies within the Proposed Plan will be applied.

### 4. PROPOSALS

The role of Supplementary Guidance is to provide additional detail on specialist (specific areas of policy areas to support implementation and interpretation of the Local Development Plan. This report is seeking approval of three draft Supplementary Guidance documents:

- Design Quality and Placemaking Supplementary Guidance: Written in support of Policy DS3 Design Quality and Placemaking of the Proposed Angus Local Development Plan, the document will set out the principles expected in all development, more detailed guidance on the design aspects of different proposals and how to achieve the qualities set out in Policy DS3. Further details on the type of developments requiring a Design Statement and the issues that should be addressed will also be set out in the document.
- Developer Contributions Supplementary Guidance: Written in support of Policy DS5 Developer Contributions, the document will set out the levels of contribution and methodologies for their calculation, including thresholds, exemptions and viability considerations. The document also sets out that developer contributions may be sought from qualifying developments for affordable housing, education, open space, biodiversity enhancement and green infrastructure, transport infrastructure (including public transport) and community facilities.
- Countryside Housing Supplementary Guidance: Written in support of Policy TC2 Residential Development, the document will set out detailed criteria and requirements with which housing proposed in countryside location must comply.

Supplementary Guidance forms part of the Local Development Plan (once adopted) and therefore has to be produced in accordance with the Planning etc (Scotland) Act 2006 and the Town and Country Planning (Development Planning) Regulations 2008. The Draft Angus Local Development Plan Action Plan sets out that four Supplementary Guidance documents will be produced to support the Plan once adopted. This report considers three of those documents. It is expected that the fourth Supplementary Guidance document, the Renewable and Low Carbon Energy Development Supplementary Guidance, incorporating a Spatial Framework for Wind Energy, will be brought before the Council in June for approval for consultation. The spatial dimension of this document triggers the requirement for Strategic Environmental Assessment and Habitats Regulations Appraisal to be undertaken and published alongside the Draft Supplementary Guidance.

The Council can also prepare and publish non-statutory guidance, which does not have to adhere to such regulations in terms of its preparation. Although this means that such guidance does not benefit from the status of being part of the adopted LDP, it can be reviewed and updated more easily. This report is also seeking to bring forward a Planning Advice Note which will give guidance on householder development:

- Householder Development Planning Advice Note: Written in support of Policy TC4 Householder/Domestic Development this Planning Advice Note brings together and updates advice that currently sits within four separate Advice Notes published by the Council. These Advice Notes will be superseded by this PAN.

As these documents support policies in the Proposed Angus Local Development Plan, they can only be adopted as guidance and advice on the adoption of the Local Development Plan itself. The examination for the Proposed ALDP commenced on the 9<sup>th</sup> December and indications are that the Reporters conclusions from the examination may be published in the summer of 2016. Undertaking consultation and making appropriate amendments to the draft Supplementary Guidance and Planning Advice Notes between May and June 2016 should ensure that the Council is in a position to adopt them at the same time, or as soon as practicable after the Local Development Plan is adopted. The Angus DPS 2016 indicates that it is anticipated the Angus LDP will be adopted in October/November 2016.

Strategic Environmental Assessment (SEA) is a legal requirement under the Environmental Assessment (Scotland) Act 2005 that applies to all qualifying plans, programmes and strategies, including policies. The Supplementary Guidance and Planning Advice Note documents presented in this report were considered under the Environmental Assessment (Scotland) Act 2005 and the required screening has been undertaken on the three draft Supplementary Guidance documents. The screening concluded that the draft Supplementary Guidance will have no significant environmental effects requiring SEA to be undertaken and the SEA Consultation Authorities (HES, SEPA & SNH) are in agreement. Pre-screening has also been undertaken on the Planning Advice Note which concluded that the document was exempt from Strategic Environmental Assessment as its implementation will have no direct or indirect significant environmental effects on the environment of Angus. This view was not challenged by the Consultation Authorities.

Article 6(3) of the EC Habitats Directive requires that any plan (or project), which is not directly connected with or necessary to the management of a European site, but would be likely to have a significant effect on such a site, either individually or in combination with other plans or projects, shall be subject to an 'appropriate assessment' of its implications for the European site in view of the site's conservation objectives. This procedure is applied in Scotland through The Conservation (Natural Habitats, &c.) Regulations 1994 (as amended), and is known as the 'Habitats Regulations Appraisal' of plans.

The policies contained in the Proposed Angus LDP that the Supplementary Guidance and Planning Advice Note seek to support and explain have been the subject of HRA where it was identified that they would have significant effect. It is therefore concluded that further HRA is not required. Screening will be undertaken to ensure Scottish Natural Heritage (SNH) is in agreement with this and no further consideration is required.

## **5. NEXT STEPS AND CONSULTATION ARRANGEMENTS**

Angus Council must publicise the Supplementary Guidance it has drafted, make people who may wish to comment aware of the guidance and give them an opportunity to comment. The timescales to allow comment are not set out by the Town and Country Planning (Development Planning) (Scotland) Regulations 2008, but it is proposed to make the documents available for a six week period of consultation.

The Angus DPS 2016 sets out that interested parties (Angus Councillors and Chief Officers, Community Councils, other community groups, Key Agencies, local and national statutory and non-statutory agencies, private sector organisations and members of the public) will be notified that Draft Supplementary Guidance and Planning Advice have been published, where the documents can be inspected and how long they have to make a representation.

The draft documents will be made available on the Council's website, and in paper form at all Council Libraries, ACCESS Offices and at Planning Reception County Buildings, Forfar. Once the consultation period has closed, the Council will consider any consultation responses and appropriate amendments will be made to the documents before they are brought back in their final form to Angus Council for agreement. The authority is then required to send Scottish Ministers a copy of the agreed finalised document as well as a statement setting out the publicity measures undertaken, the comments received and an explanation of how these comments have been taken into account in the final documents.

As the principle of the policy or proposal that the Supplementary Guidance seeks to support has already been established, scrutiny by Scottish Ministers is likely to focus on ensuring that the principles of good public involvement and a proper connection with the LDP have been achieved. After 28 days have elapsed, the authority may adopt the Supplementary Guidance

unless the Scottish Ministers have directed otherwise. As set out earlier, Supplementary Guidance can only be adopted once the Local Development Plan to which it relates has been adopted.

Whilst the same publication, consultation and submission requirements do not apply to Planning Advice Notes (as they are defined as non-statutory guidance), in this instance it is considered to be appropriate to subject all four documents to the same level of consultation as part of their preparation.

## **6. FINANCIAL IMPLICATIONS**

The publication of the Supplementary Guidance and Planning Advice Note documents will incur costs associated with postage, printing, advertising and publishing. These costs are all contained within the Planning Revenue Budget.

## **7. OTHER IMPLICATIONS**

### **Risks**

Angus Council has a statutory requirement, as planning authority, to prepare and regularly review the Development Plan. Section 16 of the Planning etc. (Scotland) Act 2006 requires that planning authorities should prepare a Local Development Plan as soon as practicable after the coming into force of the Act and should review such plans at intervals of no more than five years or whenever required to do so by the Scottish Ministers.

The Angus Local Plan Review is now over five years old. Scottish Planning Policy (SPP) (2014) states the Scottish Ministers expect the planning service to be plan-led, with plans being up-to-date and relevant. SPP further sets out that where relevant policies in a development plan are out-of-date, the presumption in favour of development that contributes to sustainable decision making will be a significant material consideration. Whilst the SPP is clear that development plans or their policies should not be considered out-of-date solely on the grounds that they were adopted prior to the publication of the SPP, it is clear that the longer it takes to progress a new Angus Local Development Plan to adoption, the greater the risk of weakening the Council's ability to influence how much new development should be planned for, and where new development should be focussed.

Any delay in the adoption of the Angus Local Development Plan and Supplementary Guidance could mean that development decisions in Angus would be made on an ad-hoc basis and not be plan led. It is therefore in the wider public interest to ensure that timely progression of the Angus Local Development Plan is maintained.

There is also a risk that examination of the Proposed Angus Local Development Plan could result in Reporters recommending changes to Policies within the Proposed Plan, including those that are supported by the draft Supplementary Guidance and Planning Advice Note documents considered in this report. The Supplementary Guidance and Planning Advice Note documents may need to be amended before adoption as a result.

The Supplementary Guidance and Planning Advice Note documents support and provide further explanation as to how the policies of the Proposed Angus Local Development Plan will be implemented. Delay in their production could mean that Angus Council is not in a position to adopt the documents as soon as practicable following the adoption of the Angus Local Development Plan. This could result in a lack of clarity in application of the Policies contained within the Plan and may result in unsustainable development being promoted throughout the County.

**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 to Angus Council 11 December 2014
- Report 346/15 Proposed Angus Local Development Plan to Angus Council 10 September 2015

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List of Appendices:

- Appendix 1 – Draft Design Quality and Placemaking Supplementary Guidance
- Appendix 2 – Draft Developer Contributions Supplementary Guidance
- Appendix 3 – Draft Countryside Housing Supplementary Guidance
- Appendix 4 – Draft Householder Development Planning Advice Note