

REPORT TO: CITY DEVELOPMENT COMMITTEE - 28 OCTOBER 2013

REPORT ON: ADOPTION OF DUNDEE LOCAL DEVELOPMENT PLAN

REPORT BY: DIRECTOR OF CITY DEVELOPMENT

REPORT NO: 403-2013

1 PURPOSE OF REPORT

- 1.1 This report presents the Examination Report on the Proposed Dundee Local Development Plan 2013, the modifications recommended in the Examination Report and the Proposed Local Development Plan as modified for adoption. In addition, it presents the updated Environmental Report, Habitats Regulation Appraisal Record and Action Programme which take into account the modifications made to the Proposed Dundee Local Development Plan.
- 1.2 The modifications recommended in the Examination Report are attached in Appendix 1. All other associated documents, including the Proposed Dundee Local Development Plan, as modified for adoption, have been circulated to Group Leaders, Bailies Scott and Borthwick and Councillor Macpherson.

2 RECOMMENDATIONS

- 2.1 It is recommended that Committee:
- a notes the contents of the Examination Report on the Proposed Dundee Local Development Plan;
 - b makes the modifications recommended in the Examination Report to the Proposed Dundee Local Development Plan, as set out in Appendix 1;
 - c adopts the updated Environmental Report and Habitats Regulation Appraisal record;
 - d approves the updated Action Programme and agree to its publication on the adoption of the Dundee Local Development Plan;
 - e remits the Director of City Development to notify the Scottish Ministers of the Council's intention to adopt the Proposed Dundee Local Development Plan as modified; and
 - f agrees to the adoption of the Proposed Dundee Local Development Plan following completion of the relevant pre-adoption statutory procedures as set out in Appendix 2.

3 FINANCIAL IMPLICATIONS

- 3.1 The financial implications arising from this report are contained within the City Development Department budget.

4 BACKGROUND

- 4.1 The Proposed Dundee Local Development Plan set out the strategy to guide future land use and development within the city for a period of 5 years from 2014-2019 and provided a broad indication up to 2024. The Proposed Plan contained policies and proposals covering the principal land use issues in the city and set out where new development should or should not happen. When adopted, the Dundee Local Development Plan will replace the Dundee Local Plan Review 2005.
- 4.2 The City Development Committee approved the Proposed Dundee Local Development Plan at its meeting on the 29 October 2012 (Report 370-2012 refers) for a 6 week period of representation during November and December 2012. Following on from this the representations received were considered and those representations that remained unresolved were reported to the City Development Committee along with the Proposed Local Development Plan at its meeting on the 25 March 2013 (Report 59-2013 refers). The Committee agreed that the Proposed Plan along with the unresolved representations be submitted to Scottish Ministers for Examination on the 2 April 2013.

5 EXAMINATION

- 5.1 The Examination commenced on 17 May 2013 and reviewed all of the unresolved representations made on the Proposed Dundee Local Development Plan. The Examination was undertaken by two independent persons (referred to as Reporters) appointed by Scottish Ministers with the administration of the examination process undertaken by the Government's Directorate for Planning and Environmental Appeals.

Reporters' Conclusions and Recommendations

- 5.2 The Reporters have now completed their Examination of the Proposed Plan against the unresolved representations and the Council's submissions (as agreed at the Council meeting on 25 March 2013), and have outlined the modifications to be made to the Proposed Plan. Appendix 1 sets out in detail all of the modifications proposed by the Reporters.
- 5.3 The Reporters in their Examination of the Proposed Plan considered all of the 26 issues arising from the unresolved representations. Having taken into account of all the information submitted to them they have set out their conclusions and recommendations in relation to each of the issues in their Examination Report of 30 August 2013.
- 5.4 The Examination process included a series of unaccompanied sites inspections. Additional information was requested for 2 of the unresolved representations. One sought clarification on the position of a site boundary and the other sought the inclusion of Supplementary Guidance on developer contributions. There was no requirement to hold a hearing or formal inquiry session into any of the unresolved representations.
- 5.5 Modifications to the Proposed Plan are recommended to 17 of the 26 unresolved representations. The majority of these modifications are minor wording changes to the text of the Proposed Plan. No changes are proposed to the Strategy of the

Proposed Plan and the majority of the policies remain as approved by the City Development Committee.

- 5.6 The more significant modifications set out in the Examination Report are set out below:
- 1 The designation of land at the eastern end of Strathyre Avenue for 26 houses.
 - 2 The designation of land at Pitkerro Mill for housing, but excluding Drumsturdy Pond.
 - 3 The rewording of the text in relation to the Policy 19 Funding of On and Off Site Infrastructure Provision to include more detail and a requirement for Supplementary Guidance.
 - 4 Introduce a new Policy and preamble relating to Gardens and Designed Landscapes.
- 5.7 While the Reporters provided the number of units for the housing site at Strathyre they advised that the Council should provide the number for the site at Pitkerro Mill. In line with a previous planning permission for housing at this site a capacity of up to 6 units is proposed.
- 5.8 The Modifications in relation to 3) and 4) are considered to be acceptable and will provide additional guidance within the Proposed Plan. The inclusion of two additional sites for housing does not raise any significant concerns with regard to the spatial strategy of the Plan given the number of units involved and the location of the sites.
- 5.9 Overall the scale of the modifications to the Proposed Plan is limited in nature and extent. It is considered that all of the modifications to the Proposed Plan are acceptable.
- 5.10 According to the Regulations, the Reporters' modifications are required to be made to the Proposed Plan before it can be adopted, unless the modifications fall within any one of the following criteria:
- a 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;
 - 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.
- 5.11 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 Proposed Plan as the Dundee Local Development Plan. The Proposed Plan as modified is attached to this report.

Environmental Report and Habitat Regulations Appraisal

- 5.12 A Strategic Environmental Assessment was undertaken to help shape and influence the content of the Proposed Local Development Plan. Where the assessment identified significant adverse environmental effects (following consultation with Scottish Natural Heritage, Scottish Environment Protection Agency, Historic Scotland and the public) this led to amendments to the Proposed Plan or mitigation measures being incorporated to minimise identified impacts. An Environmental Report was prepared in support of the Proposed Dundee Local Development Plan.
- 5.13 Having considered the Reporters' modifications and updated the Environmental Report, it is considered that no modifications are likely to have significant effects on the environment when considering the overall effects of the Proposed Plan. Following adoption of the 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 during the preparation of the Proposed Plan.
- 5.14 The Draft Habitats Regulations Appraisal (HRA) Record was approved by the City Development Committee along with the Proposed Plan. 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. Scottish Natural Heritage has been consulted on this assessment and is in agreement with the conclusion reached.

Adoption of the Proposed Dundee Local Development Plan

- 5.15 In order to formally adopt the Proposed Plan, a further series of procedures and notifications require to be carried out. These include publishing a press advert, notifying people who made representations and sending the Proposed Plan as modified to Scottish Ministers. After 28 days the Proposed Plan can be adopted, unless the Council is directed not to by Scottish Ministers. The full process is set out in Appendix 2. Subsequent to adoption there is a 6 week period in which a legal challenge can be made to the Plan.

Action Programme

- 5.16 There is a requirement to publish an Action Programme within three months of the Proposed Plan being constituted and adopted. This document will set out how the proposals and policies contained in the Dundee Local Development Plan will be monitored and delivered. The Action Programme includes timescales for the delivery of key infrastructure and will be reviewed regularly taking into account changing circumstances. The draft Action Programme was approved by the City Development Committee along with the Proposed Plan. The Action Programme has been updated to take into account the Reporter's modifications to the Proposed Plan and will be published on adoption of the Local Development Plan.

6 POLICY IMPLICATIONS

- 6.1 This Report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti-Poverty, Equality Impact Assessment and Risk Management. A "Rapid Equality Impact Assessment" has been undertaken and no negative impacts have been identified.

7 CONSULTATIONS

- 7.1 The Chief Executive, the Director of Corporate Services and Head of Democratic and Legal Services have been consulted and are in agreement with the contents of this report.

8 BACKGROUND PAPERS

- 8.1 The following documents have been produced and taken into account when producing the Proposed Dundee Local Development Plan.

- Proposed Dundee Local Development Plan, as modified for adoption.
- Environmental Report.
- Habitats Regulations Appraisal Record.
- Action Programme.
- Report to Dundee City Council-Local Development Plan Examination of Proposed Dundee Local Development Plan - 30 August 2013.
- Dundee Local Development Plan – Proposals Map.
- Circular 1/2009 – Development Planning and Appendix 1 (The Habitats Regulations).
- Planning Advice Note 1/2010 – Strategic Environmental Assessment of Development Plans.

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15 October 2013

Dundee City Council
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APPENDIX 1**PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN EXAMINATION****REPORT TO DUNDEE CITY COUNCIL – 30 AUGUST 2013****RECOMMENDATIONS BY ISSUE NUMBER**

ISSUE	RECOMMENDATION	REPORT PAGE NO
1 Strategy	No modifications.	1
2 Economic Development	<p>1 In paragraph 5.31, after “the Waterfront Project” insert the words: “for which a master plan has been prepared,” The sentence should read: “The Waterfront Project, for which a master plan has been prepared, and the establishment of the V & A at Dundee will significantly boost the tourist and business appeal of the City and bring major benefits to the local economy.”</p> <p>2 In the final sentence of Policy 1, after “Port of Dundee” insert the words: “Principle Economic Development Area”. The sentence should read: “Any development at the Port of Dundee Principal Economic Development Area should not have an adverse affect, either alone or in combination with other proposals or projects, on the integrity of any Natura Site.”</p> <p>3 In paragraph 5.10 delete the first sentence and replace with: “The Scottish Government’s National Renewables Infrastructure Plan Stage 2 Report identifies the Port of Dundee as a potential location for the manufacturing, installation and maintenance of offshore renewable energy devices and supporting infrastructure.”</p>	2

ISSUE	RECOMMENDATION	REPORT PAGE NO
3 Leisure and Visitor Accommodation	<p>The following modifications be made.</p> <p>1 In the final sentence of Policy 5 insert the words “in the City Centre” after the words “Any development”.</p> <p>The sentence should read: “Any development in the City Centre should not have an adverse effect, either alone or in combination with other proposals or projects, on the integrity of any Natura site.”</p> <p>2 In the final sentence of Policy 6 insert the words “in the City Centre” after the words “Any development”.</p> <p>The sentence should read: “Any development in the City Centre should not have an adverse effect, either alone or in combination with other proposals or projects, on the integrity of any Natura site.”</p>	16
4 Design	<p>Criterion 2 of Policy 7 be modified by replacing the word “Create” with the words “Contribute to”.</p> <p>The criterion should now read: “Contribute to a sense of identity by developing a coherent structure of streets, spaces and buildings that are safely accessible, respecting existing building lines where appropriate.”</p>	20
5 Housing Land Release	No modifications.	25
6 Housing Land Allowances	No modifications.	33
7 Proposed Housing Sites	<p>The following modifications.</p> <p>1 Site H60: Lochee Primary School: remove the former janitor’s house from within the designated area of the site.</p> <p>2 Site H65: Charleston Primary School: remove the former janitor’s house from within the designated area of the site.</p>	38

ISSUE	RECOMMENDATION	REPORT PAGE NO
8 Housing Land Release - Proposed Housing Sites H55 and H56 Mill O'Mains	No modifications.	58
9 Additional Housing Sites	<p>The following recommendations:</p> <ol style="list-style-type: none"> 1 Designate land at the eastern end of Strathyre Avenue for 26 houses, as indicated in the plans attached to representation 48. 2 Designate site H68A of the Adopted Local Plan Review for housing, but excluding Drumsturdy Pond. The exact site boundaries to take into account the existing planning permission 06/00892/FUL, as approved under appeal reference P/PPA/180/217, excluding the pond. 	64
10 Design of New Housing	<p>The following modification</p> <ol style="list-style-type: none"> 1 Additional wording to be added to the key of the proposals map to include Central Broughty Ferry in the descriptor for the red-lined inner city/suburban boundary. 	74
11 Other Housing Development	<p>The following changes:</p> <ol style="list-style-type: none"> 1 In Policy 10 Criteria 3 and 4 delete "affect" and replace with "effect". The criteria now read: "Criterion 3 does not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing and overlooking"; and "Criterion 4 does not have a significant adverse effect on the existing level of parking provision." 2 In Policy 10 add a new final Criterion 5 to read: "the development is consistent with all other policies of the Plan." 3 In Policy 11 Criterion 3 delete "affect" and replace with "effect". The criterion now reads: "it will not have a detrimental effect on the environmental quality enjoyed by existing residents." 	83

ISSUE	RECOMMENDATION	REPORT PAGE NO
	<p>4 In Policy 11 Criterion 2 delete “would” and replace with “will”. The criterion now reads: “all new dwellings created will have a quality surrounding environment..”</p> <p>5 In Policy 11 Criterion 4 delete “where” at the beginning. The criterion now reads: “the change of use is consistent with other policies of the Plan.”</p> <p>6 In Policy 12 Criterion 1 insert “proposed” between “the” and “new”. The criterion now reads: “the proposed new house/s meet/s the requirements for the design.”</p> <p>7 In Policy 12 add a new Criterion 5 to read: “the development will not have a detrimental effect on the neighbouring properties in terms of physical impact, overshadowing or overlooking; and”</p>	
12 Facilities in Residential Areas	<p>The following modifications:</p> <p>1 In paragraph 7.29 add a new final sentence as follows: “Supplementary planning guidance will be prepared to ensure land owners, developers and the local authority have certainty about the likely level of developer contributions and the nature of requirements for sites from the outset.”</p> <p>2 In Policy 19 add to the policy: “Supplementary planning guidance will be prepared to ensure land owners, developers and the local authority have certainty about the likely level of developer contributions and the nature of requirements for sites from the outset. The principles that guide the preparation of the Developer Contributions: Supplementary Guidance are:</p> <ul style="list-style-type: none"> • fair and proportionate developer contributions for all developments on sites allocated in either the Dundee Local Development Plan or in terms of windfall development; 	91

ISSUE	RECOMMENDATION	REPORT PAGE NO
	<ul style="list-style-type: none"> • developer contributions will be sought where a need for new or improved services, facilities or infrastructure has been identified that relates directly to the proposed development; • flexibility in approach to ensure that development can be brought forward in difficult economic circumstances while ensuring that the development has no net detriment; and • facilitate informed decision making by those involved in the development process, allowing potential financial implications to be factored into development appraisals prior to commercial decisions and actions being undertaken.” <p>3 In the first sentence of paragraph 7.28, between “open” and “space” add “green and”. The sentence should read: “Infrastructure provision, for example, roads, schools, open and green space, street lighting and drainage.....”</p>	
13 City Centre Retail	No modifications.	97
14 New Retail Proposals	No modifications.	103
15 Goods Range Restrictions	<p>The following modification:</p> <p>1 Insert a new subheading immediately above paragraph 8.23 to read “Major Food Stores”.</p>	111
16 Out of Centre Retail - Class 2	No modifications.	119
17 Alternative Energy	<p>That the proposed plan be modified as follows:</p> <p>1 Introduce a paragraph break in Policy 30 before the words “Development may be acceptable where...”</p>	124
18 Nature Conservation	No modifications.	129

ISSUE	RECOMMENDATION	REPORT PAGE NO
19 Open Space	<p>The following modifications:</p> <ol style="list-style-type: none"> 1 At the end of paragraph 9.14 add a new sentence as follows: “Large development areas will be covered by master plans or site planning briefs which will develop the open space requirements for that development.” 2 Rename Policy 36 as follows: “Policy 36: Open Space and Green Networks.” 3 At the end of Policy 36 add a new paragraph as follows: “There will be a presumption that new development should contribute to the enhancement and connectivity of open space and habitats, where appropriate, as part of the wider green network.” 	132
20 Waste	<p>The policy be modified by:</p> <ol style="list-style-type: none"> 1 In the policy title and first sentence, delete “major”. The policy now reads: “Policy 39: Waste Management Facilities New waste management facilities should be located....” 2 At the end of paragraph 9.18 add a new sentence as follows: “Further advice is available on the Council’s website under “Planning Advice. Waste Management”.” 	138
21 Water and Flooding	<p>The following modification:</p> <ol style="list-style-type: none"> 1 Amend Policy 41 to include another criterion: “Criterion 4 the finalised scheme does not result in a land use which is more vulnerable to flooding.” 	141

ISSUE	RECOMMENDATION	REPORT PAGE NO
22 Environmental Protection	<p>The following modification:</p> <p>1 In Policy 46 insert the words “or the environment” between “people” and “is likely”.</p> <p>The policy now reads: “The siting of new or extensions to existing hazard sites or sites which operate under Scottish Environment Protection Agency authorisation will not be permitted in close proximity to residential areas and or area of public use or interest, where the risk to people or the environment is likely to be significantly increased.”</p>	145
23 Telecommunications	<p>The following modification:</p> <p>1 Delete Criterion 4 and replace with: “an assessment of the cumulative impact of individual proposals where other telecommunications developments are present nearby or are proposed to be located nearby should describe how the cumulative effects were considered and any negative visual impact minimised.”</p> <p>2 Delete Criteria 3 and 5 and replace with a new Criterion 3 as follows: “if proposing a new free standing mast or other equipment, it should be demonstrated that the applicant has explored the possibility of erecting apparatus on existing buildings, including sharing masts or other structures. Such evidence, including any reasons for rejection, should accompany any application made to the local planning authority.”</p>	149
24 Transportation	<p>The following modifications:</p> <p>1 That the descriptor on the proposals map “Policy 55: Dundee Airport” be removed and replaced by “Dundee Airport: Runway Safety Zone”.</p> <p>2 At Policy 55, remove the words “A runway safety zone is identified on the proposals map and will include” and replace with “Within the runway safety zone identified on the proposals map there will be”.</p>	153

ISSUE	RECOMMENDATION	REPORT PAGE NO
25 Transport Interchange	No modifications.	160
26 Other Issues	<p>A new policy, and preamble as follows, with relevant numbering, in association with other protected sites policies:</p> <p>“(New preamble) Gardens and designed landscapes are important features for the city. There are three designed landscapes within the Plan area: Camperdown Park, Baxter Park and Balgay Park, all of which are under the direct control of Dundee City Council.</p> <p>(New policy) Development affecting gardens and designed landscapes shall protect, preserve and enhance such places and shall not impact adversely upon their character, upon important views to, from and within them, or upon the site or setting of component features which contribute to their value”.</p>	165

PROPOSED DUNDEE LOCAL DEVELOPMENT PLAN EXAMINATION

REPORT TO DUNDEE CITY COUNCIL – 30 AUGUST 2013

RECOMMENDATIONS BY ISSUE NUMBER - ADDENDUM

ISSUE	RECOMMENDATION
Issue 2 - Economic development	Typographic error - “affect” should read “effect”.
Issue 9 - Additional housing sites	Designated site boundary should exclude the two small overlapping areas of the Locally Important Nature Conservation Site Wildlife Corridor.
Issue 11 - Other Housing Development	In Policy 12 add a new final criterion 7 to read: “the development is consistent with all other policies of the Plan.”
Issue 12 - Facilities in residential areas	Should read “supplementary guidance”, not “supplementary planning guidance”. To avoid duplication with paragraph 7.29 in the preamble delete first sentence of policy addition.
Issue 24 -Transportation	To clarify that the policy applies only within the Dundee City Council Boundary show the Policy 55 area on the proposals map.

APPENDIX 2

ADOPTION OF THE DUNDEE LOCAL DEVELOPMENT PLAN

Pre-adoption	<p>Following the Committee's decision to progress with the adoption of the Proposed Local Development Plan, with modifications, the Council will:</p> <ul style="list-style-type: none"> • Publish a notice in one or more local newspapers stating: <ul style="list-style-type: none"> • the Council's intention to adopt the Proposed Plan (as modified); • that the Proposed Plan has been modified following the examination; and • where and when the Proposed Plan (as modified) and the table of modifications may be inspected. • Make copies of the Proposed Plan (as modified) and the table of modifications available to inspect at the planning office, in all public libraries and on the internet. • Notify people who made representations on the Proposed Plan prior to the examination that the Proposed Plan has been published in the form in which the Council propose to adopt it (ie as modified), and where and when it can be viewed. • Within 3 months of receiving the Examination Report, section 19(12) of the Act requires the Council to send to the Scottish Ministers: <ul style="list-style-type: none"> • the modifications made following receipt of the Examination Report; • the Proposed Plan the Council wish to adopt; • the report of the examination; • the advertisement of the intention to adopt the Proposed Plan (as modified); and • the environmental assessment carried out into the Proposed Plan (as modified).
Adoption of the Plan	28 days after sending the Plan to Scottish Ministers the Council can adopt the Local Development Plan unless directed not to by the Scottish Ministers.
Post-adoption	<p>Following adoption of the Plan the Council will:</p> <ul style="list-style-type: none"> • send two copies to the Scottish Ministers; • publish it, including electronically; • place copies in public libraries; • notify people who made representations on the Proposed Plan of its publication and its availability in public libraries; and • advertise its publication and availability in a local newspaper.