

PROPOSED ABERDEENSHIRE LOCAL DEVELOPMENT PLAN 2020 RESPONSE FORM

As part of the production of the Local Development Plan, a 'Main Issues Report' was published in January 2019. The responses from these consultations have helped to inform the content of the Proposed Local Development Plan ("the Proposed Plan").

The Aberdeenshire Local Development Plan will direct decision-making on land-use planning issues and planning applications in Aberdeenshire for the 10-year period from 2021 to 2031. The Proposed Plan was agreed by Aberdeenshire Council in March 2020 as the settled view of the Council. However, the Proposed Plan will be subjected to an independent examination and is now open for public comment.

This is your opportunity to tell us if anything should be changed in the Proposed Plan, and why.

When writing a response to the Proposed Plan it is important to specifically state the modification(s) that you would wish to see to the Plan.

This is the only remaining opportunity to comment on the Proposed Plan. The reasons for any requested changes will be analysed and reported to Scottish Ministers. They will then appoint a person known as a Reporter to conduct a public examination of the Proposed Plan, focusing particularly on any unresolved issues and the changes sought.

Ministers expect representations (or responses) to be concise (no more than 2000 words) and accompanied by limited supporting documents. It is important to ensure that all of the information that you wish to be considered is submitted during this consultation period as there is no further opportunity to provide information, unless specifically asked.

Please email comments to ldp@aberdeenshire.gov.uk or send this form to reach us by 31 July 2020*.

We recommend that you keep a copy of your representation for your own records.

**UPDATE 16 June 2020: Consultation period was extended from 17 July 2020 for a further two-week period.*



ACCESSIBILITY

If you need information from this document in an alternative language or in a Large Print, Easy Read, Braille or BSL, please telephone 01467 536230.

Jeigu pageidaujate šio dokumento kita kalba arba atspausdinto stambiu šriftu, supaprastinta kalba, parašyta Brailio raštu arba britų gestų kalba, prašome skambinti 01467 536230.

Dacă aveți nevoie de informații din acest document într-o altă limbă sau într-un format cu scrisul mare, ușor de citit, tipar pentru nevăzători sau în limbajul semnelor, vă rugăm să telefonați la 01467 536230.

Jeśli potrzebowali będą Państwo informacji z niniejszego dokumentu w innym języku, pisanych dużą czcionką, w wersji łatwej do czytania, w alfabecie Braille'a lub w brytyjskim języku migowym, proszę o telefoniczny kontakt na numer 01467 536230.

Ja jums nepieciešama šai dokumentā sniegtā informācija kādā citā valodā vai lielā drukā, viegli lasāmā tekstā, Braila rakstā vai BSL (britu zīmju valodā), lūdzu, zvaniet uz 01467 536230.

Aberdeenshire Local Development Plan
Woodhill House, Westburn Road, Aberdeen, AB16 5GB

Tel: 01467 536230
Email: ldp@aberdeenshire.gov.uk
Web: www.aberdeenshire.gov.uk/ldp
Follow us on Twitter @ShireLDP

If you wish to contact one of the area planning offices, please call 01467 534333 and ask for the relevant planning office or email planning@aberdeenshire.gov.uk.



Please use this form to make comments on the Proposed Aberdeenshire Local Development Plan 2020. If you are making comments about more than one topic it would be very helpful if you could fill in a **separate response form for each issue you wish to raise**.

Please email or send the form to reach us by 31 July 2020 at the following address:

Post: Planning Policy Team, Infrastructures Services
Aberdeenshire Council, Woodhill House, Westburn Road, ABERDEEN, AB16 5GB

Email: ldp@aberdeenshire.gov.uk

Please refer to our **Privacy Notice** at the end of this form for details of your rights under the Data Protection Act.

YOUR DETAILS

Title:	Mr
First Name:	Iain
Surname:	Robertson
Date:	23/07/20
Postal Address:	████████████████████
Postcode:	██████
Telephone Number:	██████████
Email:	████████████████████

Are you happy to receive future correspondence only by email? **Yes** No

Are you responding on behalf of another person? Yes No

If yes who are you representing?

Tick the box if you would like to subscribe to the Aberdeenshire LDP eNewsletter:

An acknowledgement will be sent to this address soon after the close of consultation.

YOUR COMMENTS

Please provide us with your comments below. We will summarise comments and in our analysis will consider every point that is made. Once we have done this we will write back to you with Aberdeenshire Council's views on the submissions made. We will publish your name as the author of the comment, but will not make your address public.

Modification that you wish to see (please make specific reference to the section of the Proposed Plan you wish to see modified if possible, for example Section 9, paragraph E1.1):

Section 11 'The Historic Environment' - various policies and associated text.

Policies should be amended to ensure consistency with SPP and to ensure there is no conflict across various HE policies.

Reason for change:

Policy HE1 'Protecting Listed Buildings, Scheduled Monuments and Archaeological Sites (Including other historic buildings)

Policy HE1 applies to various forms of the historic environment as noted above.

Policy HE1.1 introduces a very strict protection measure stating that the Council will not allow development that would have a negative effect upon the identified heritage resources. There is no scenario under which Policy HE1.1 would permit the Council to approve a development that has a negative effect (no matter how minor in EIA terms) upon identified resources. This is inconsistent with some elements of SPP.

Firstly, it is considered to be inconsistent with SPP paragraph 145 which notes, in the case of Scheduled Monuments, that where there are 'exceptional circumstances' permission may be granted for development where it affects a Scheduled Monument or the integrity of its setting.

Secondly, the prohibition on any development that has a negative effect on a listed building is also considered to be inconsistent with SPP, paragraph 141. This part of SPP makes it clear that 'special regard' is to be had to the importance of preserving and enhancing a listed building and its setting in the decision-making process. There may be a scenario where, on balance, works to or in the vicinity of a listed building may have a negative effect upon the special character or setting, but these works are deemed acceptable e.g. to ensure the retention of the building itself or save it from demolition or to repair following damage. The planning balance may conclude that, while having 'special regard' to the characteristics of the listed building, it is acceptable to allow the development to proceed. This could not happen under Policy HE1.1 as currently worded.

Policy HE1.1 should therefore be amended to introduce reference to 'exceptional circumstances' to bring it in line with SPP paragraph 145 and also amended to ensure it is consistent with SPP as regards listed buildings.

Policy HE1.1 is not considered to be consistent with SPP, paragraph 145, as it relates to Scheduled Monuments for a second reason. SPP, paragraph 145, states that where there is the potential for 'an adverse effect on a scheduled monument or on the integrity of its setting, permission should only be granted where there are exceptional circumstances'. The underlined section is important because as currently drafted policy HE1.1 states that the Council will not allow a development that has a negative effect upon the character, integrity or setting of a Scheduled Monument. This is again different from SPP (underlining added).

'Setting' and 'integrity of setting' are two separate matters and it is important that policy HE1.1 is amended to recognise this and reflect SPP. With regards to Scheduled Monuments, SPP states that it is the 'integrity of its setting' that is important. It is therefore entirely possible that a development may have an adverse effect upon the setting of a Scheduled Monument, but this impact would not affect the 'integrity of its setting'. In such a scenario, there would be not conflict with SPP, but there would be a conflict with policy HE1.1. Policy HE1.1 therefore needs to be changed to bring it into line with SPP on Scheduled Monuments.

One option would be to possibly delete Policy HE1.1 entirely. There are stand-alone policies that deal with the historic assets protected by this policy (such as HE1.3 and HE1.5 etc) and the need for a further general policy, broader in scope, such as HE1.1 is unclear. This is particularly so given the SPP inconsistencies discussed above and also the inconsistencies between policy HE1.1 and other policies, see below.

Policies HE1.5 and 1.6 'Scheduled Monuments and Archaeological Sites'

These policies relate directly to Scheduled Monuments. As such both these and Policy HE1.1 are therefore relevant to the assessment of applications affecting these assets. If the Council is to retain policy HE1.1, it is imperative that it and other policies dealing with specific named assets are consistent. The main issue with Policy HE1.5 is that there is no reference to 'integrity of setting', and as such the draft policy is inconsistent with SPP. As noted above, 'setting' and 'integrity of setting' are two different matters and Policy HE1.5 does not recognise this difference. It simply states that development that impacts on the setting of Scheduled Monuments will only be allowed if there are imperative reasons of overriding public interest.

While there are inconsistencies with SPP, this policy is more closely aligned with SPP, in terms of Scheduled Monuments, than Policy HE1.1 because it notes circumstances where development may be permitted (despite adverse impacts upon a Scheduled Monument), 'if there are imperative reasons of overriding public interest'. This language is different from SPP, paragraph 145, but it is more closely aligned with SPP paragraph 145 than policy HE1.1. This therefore means that there is an inconsistency between policies HE1.1 and HE1.5. Any development that has a negative effect 'on the character, integrity or setting' of a Scheduled Monument is not to be permitted under the terms of policy HE1.1. However, the same development with the same range of potentially negative effects could be permitted under the terms of policy HE1.5 if 'there are imperative reasons of overriding public interest'.

To ensure consistency across policies, both HE1.1 and HE1.5 need to be amended (or HE1.1 deleted entirely) and to also bring them into line with SPP. This would provide much needed clarity for developers, the Council and other stakeholders about which policies apply, how they are to be applied and would avoid potential confusion in planning application submissions and/or at planning appeals.

PRIVACY NOTICE

LOCAL DEVELOPMENT PLAN PUBLIC COMMENT

The Data Controller of the information being collected is Aberdeenshire Council.

The Data Protection Officer can be contacted at Town House, 34 Low Street, Banff, AB45 1AY.

Email: dataprotection@aberdeenshire.gov.uk

Your information is being collected to use for the following purposes:

- To provide public comment on the Aberdeenshire Local Development Plan. The data on the form will be used to inform Scottish Ministers and individual(s) appointed to examine the Proposed Local Development Plan 2020. It will inform the content of the Aberdeenshire Local Development Plan 2021.

Your information is:

Being collected by Aberdeenshire Council	X
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The Legal Basis for collecting the information is:

Personal Data	
Legal Obligations	X

Where the Legal Basis for processing is either Performance of a Contract or Legal Obligation, please note the following consequences of failure to provide the information:

It is a Statutory Obligation under Section 18 of the Town and Country (Scotland) Act 1997, as amended, for Aberdeenshire Council to prepare and publish a Proposed Local Development plan on which representations must be made to the planning authority within a prescribed period of time. Failure to provide details requested in the 'Your Details' section of this form will result in Aberdeenshire Council being unable to accept your representation.

Your information will be shared with the following recipients or categories of recipient:

Members of the public are being given this final opportunity to comment on the Proposed Aberdeenshire Local Development Plan. The reasons for any changes that the Council receives will be analysed and reported to Scottish Ministers. They will then appoint a person to conduct a public examination of the Proposed Plan, focusing particularly on the unresolved issues raised and the changes sought.

Your name and respondent identification number (provided to you by Aberdeenshire Council on receipt of your

submission) will be published alongside a copy of your completed response on the Proposed Local Development Plan website (contact details and information that is deemed commercially sensitive will not be made available to the public).

In accordance with Regulation 22 of the Town and Country (Development Planning) (Scotland) Regulations 2008 where the appointed person determines that further representations should be made or further information should be provided by any person in connection with the examination of the Proposed Plan the appointed person may by notice request that person to make such further representations or to provide such further information.

Your information will be transferred to or stored in the following countries and the following safeguards are in place:

Not applicable.

The retention period for the data is:

Aberdeenshire Council will only keep your personal data for as long as is needed. Aberdeenshire Council will retain your response and personal data for a retention period of 5 years from the date upon which it was collected. After 5 years Aberdeenshire Council will review whether it is necessary to continue to retain your information for a longer period. A redacted copy of your submission will be retained for 5 years beyond the life of the Local Development Plan 2021, possibly until 2037.

The following automated decision-making, including profiling, will be undertaken:

Not applicable.

Please note that you have the following rights:

- to withdraw consent at any time, where the Legal Basis specified above is Consent;
- to lodge a complaint with the Information Commissioner's Office (after raising the issue with the Data Protection Officer first);
- to request access to your personal data;
- to data portability, where the legal basis specified above is:
 - (i) Consent; or
 - (ii) Performance of a Contract;
- to request rectification or erasure of your personal data, as so far as the legislation permits.

