



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:	HARRY
Surname:	McNAB
Date:	JULY 2020
Postal Address:	[REDACTED]
Postcode:	[REDACTED]
Telephone Number:	[REDACTED]
Email:	[REDACTED]

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?

NORTH BANCHORY COY.

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):

*Objection to Proposal R3 in Banchoy Proposals Maps & accompanying text. Failure of the Delivery Schedule to address this site.
See attached Statement of Case*

Reason for change:

See enclosed Statement of Case.

Aberdeenshire Council Transcription

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YOUR DETAILS

Title:	Mr.
First Name:	Harry
Surname:	McNab
Date:	
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? North Banchory Coy.

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

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Objection to proposal R3 in Banchory Proposals Maps of accompanying text. Failure of the Delivery Schedule to address this site.

See attached statement of case.

Reason for change:

See enclosed statement of case.

LDP 2022

OBJECTION IN RESPECT OF R3 SITE

Introduction

This serviced site has been reserved for educational use in both the 2012 and 2017 versions of the ALDP. However, Aberdeenshire Council has made no move to acquire the site over the last 8 years. The Council now propose to continue the allocation for another 10 years in the Proposed LDP 2022. This would effectively sterilise an expensively serviced site for a 20 year period, as it appears the Council have no plans to acquire the site in the next LDP period.

Unfortunately there is nothing in the text of the Proposed LDP which clarifies the matter, or gives any indication of the Council's intentions as regards acquisition of the site. The reasonableness of continuing with the allocation of the site in the forthcoming LDP Review is accordingly highly questionable.

NBC Ltd, the site owners, accordingly object to the continued reservation of the site for education in the LDP, and request that the zoning of the site should revert back to residential.

History

This Site was originally zoned for c.200 houses (Sites fh1 and fh2) in the 2006 Aberdeenshire Local Plan. In pursuance of that LDP allocation, various planning consents were obtained for the site.

In particular Phase 3 of the Hill of Banchory (HoB) development included consent for 17 homes. The Phase 3 consent also included a hammerhead for a link to further development of the site northwards, into what is now zoned as the R3 Site.

However, as only 16 of the approved houses have been built, the consent for the final house accordingly remains 'live'.

Similarly, consents were obtained for Phase 12 of the Hill of Banchory (HoB) development. In particular, consent ref APP/2008/5031 granted consent for 44 houses on the whole Phase 12 site. This was subsequently adjusted in terms of variation consent APP/2011/0656, which allowed for 30 houses on the east-most part of the site, and these houses have been built. Having been partly implemented, the 2008 consent accordingly remains live, and there remains 'live' consent to build a further 17 houses.

Taking account of these two 'live' consents, the current position is therefore that 46 houses (30 on Phase 12 and 16 on Phase 3) have been built along the south and the eastern half of the R3 Site, which was previously land zoned for 200 homes. This leaves unbuilt capacity for 154 new homes.

It was on the basis of these consents, and particularly the established wider zoning of the R3 Site for residential use, that a decision was taken by NBC to proceed with the construction of the Energy Centre and District Heating Network (DHN) at HoB. This multi million pound expenditure was in addition to the significant advance servicing of the whole zoned area. All this work was undertaken at substantial initial capital cost, and requires significant ongoing financial servicing. It should be noted here that the consequential delay of the anticipated biomass heat connections (from the R3 Site) has had a serious effect on the efficient operation of the Energy Centre and DHN.

When the 2012 LDP Review commenced, it was suggested that a site required to be identified for a replacement Banchory Academy, and the R3 site was put forward by the Council. We did not object to this re-allocation (despite the short term impact on the viability of the HoB Energy Centre and District Heating Network) as the LPA were proposing to allocate an alternative site on NBC land at Lochside (for 200 units – although increased to 345 by the Reporter). These new sites were of course un-serviced, but NBC had the belief (based on precedent) that the re-zoning of the R3 site would lead to its acquisition within the new LDP plan period.

The R3 zoning was continued in the 2017 LDP Review, again without challenge from NBC. However, the LPA has unfortunately shown no interest in

progressing the development of the site.

At the end of the 2017 LDP plan period (2022) therefore, the land will have been zoned for educational use for 10 years, without any move by the LPA to acquire the site for development.

Current Position

In 2015 / 16 Banchory Community Council (BCC) developed a Community Action Plan for Banchory (BCAP). The most important project identified by the local community was the improvement of local educational facilities, and in particular, the replacement of Banchory Academy.

In pursuance of this BCAP project, a meeting was held between community representatives

and Aberdeenshire education staff in October 2017. The minute of that meeting reveals that at that time the Council had no plans to build a new academy in Banchory, and no expenditure on a new Academy was included in their Capital Plan.

The minute further makes clear that their sole focus was on refurbishing the existing academy, with circa £600k being spent on converting the existing swimming pool in the building into a multi-multi-purpose 'educational plaza'.

This content of this minute has been reported in the press, and is openly acknowledged by 'Shire officials and councillors.

The lack of any commitment to a new academy led to the Community Council questioning whether the R3 Site would be retained in the next LDP Review, and correspondence with the Head of Education at that time suggested that *"the Planning Service will need to ensure there is an evidence base to support the continued need to reserve a site"*. The Head of Education further added that *"Demonstration of commitment to the reserved site, and its likely progression, will be required, even if identified as a long term aspiration"*. However, today, 2 years on from that exchange of correspondence, no such commitment has been given.

Without such commitment to acquire and develop, should the zoning be continued into the 2022 LDP (which will be a 10 year plan) then the land will have been reserved for 20 years without being progressed by the LPA. Given that the land is already part developed and serviced, and there remains a 'live' consent to develop about a third of the site, this would amount to 'planning blight'.

In such circumstances, NBC submit that for the Council to proceed without that commitment, and blight the site for a further 10 years would be both unjustifiable, and clearly unreasonable.

Indeed, for the Council to proceed with the R3 Site, they would need to acquire it at residential value – either through negotiation, or by way of the CAAD process. Either way the cost to the Council would be substantial. In times of severe public spending constraint, and year on year budget cuts, such an extravagant approach is difficult to justify.

This is particularly the case where the Council already have sufficient well situated land within their ownership in Banchory, to construct a new academy, without resorting to expensive land acquisition.

For example : They could **A)** build a new school on the current academy playing fields at Tillybrake, and then demolish the existing school, to provide a site for replacement playing fields. This approach was recently adopted by Aberdeen City Council at Cults Academy. Alternatively they would **B)** have the option to allocate a new Primary School site (on land of lesser value, on the western side of the town) to replace the ailing Banchory P.S. which adjoins the academy campus. The demolition of the existing Banchory P.S. allied to the existing P.S. playing fields, would create room to replace it with a new academy, without

resorting to building on the school playing fields at Tillybrake. This alternative approach to address potential future educational needs, was suggested to the Council in our response to the MIR ([See attached plan which sets out the suggested alternative educational development strategy.](#)), but it does not appear to have been investigated at all.

Recent Developments

Since we responded to the MIR, the 2019 School Roll Forecasts have been produced for Aberdeenshire schools. Banchory Academy has always had a fairly stable roll, accommodating new pupils from circa 75 – 90 new homes being built annually in its catchment. Currently, the 2019 forecast predicts a capacity of 90 % in 2020, moving to close to 100% next year, but thereafter steadily falling back to 80% capacity in 2027. It is understood that this projection does not take account of the additional capacity which will be created by the ‘learning plaza’ redevelopment (of the redundant school swimming pool) which has been completed this year.

In addition, it should also be noted that in terms of maintaining a healthy school roll, the Proposed LDP does not allocate any significant new housing to bolster the Academy roll. The Academy is fed by primary pupils from Banchory, Crathes, Durris, Drumoak, and Strachan. Whereas the 2017 LDP allocated 490 new houses in these settlements, (provision of c. 90 units per year) the 2022 Plan as currently proposed allocates no new houses - apart from a 40 house site at Glen O Dee, which is known to be unviable, and a 5 unit extension to a site in Durris (provision of 4.5 units per year). One can therefore see that with new houses in the catchment being constrained over the next 10 years, the Academy school roll is likely to fall further beyond 2027. In the light of these factors, there seems little pressing incentive, in terms of capacity, for the Council to bring forward any new plans for a replacement school.

As regards the quality of the school fabric, the current assessment is that the overall rating is C (poor). A December 2019 Report on Suitability noted that although teaching spaces were performing well, internal and external social spaces were performing less optimally. However this is likely to improve next year in the light of the just completed work both inside and outside the school. In particular, work on the ‘learning plaza’, which was directed at addressing the shortcomings as regards social spaces and facilities.

Against this background, the Council already have firm plans in place to build a succession of new secondary schools (Inverurie, Peterhead, and Fraserburgh) where both capacity and quality issues are seen to be more pressing than at Banchory. With the education budget under continued financial pressure, it seems highly unlikely that plans for a replacement Banchory Academy will emerge as a result of any future review in the proposed plan period. In the light of this additional information, it is unlikely that the Council’s current lack of firm commitment to the site will change.

That notwithstanding, as noted above, they have at least 2 alternative development opportunities (which would be less expensive to acquire) where they can accommodate a new secondary school.

It should particularly be noted that one of the main reasons which the MIR gave for rejecting reversion of the zoning back to residential, is the presence of plantation woodland on the site. However, this is actually a crop of coniferous trees, which are under rotational thinning and management as part of The Leys Estate Forestry Management Plan 2015-35, which has been agreed with Forestry Scotland. (See attached Certificate of Felling Approval) Notwithstanding that, the MIR noted that the presence of this woodland 'adds weight to the rationale for retaining the site for education or other community or amenity use'.

In support of this, the Council refer to the advice in Paras 216 and 218 of SPP. However, **Para 216** mainly focuses on the need to protect 'ancient semi-natural woodland', which does not apply to this site. It continues to advocate the use of TPOs to protect particularly important specimens, and groups of trees considered important for their amenity or landscape impact – which can hardly be applied to this plantation woodland.

Para 218 does include a more general presumption in favour of protecting woodland, and notes that removal should only be permitted where a clearly defined public benefit can be achieved. However, it does not say that the public benefit needs to be the provision of public infrastructure, it could equally be the provision of much needed housing capacity and choice. Further, **Para 218** continues to note that where trees are to be removed, they should be replaced elsewhere nearby. However the Council do not have access to land to facilitate that (whereas the objectors have) and could not build a school on the site while complying with this para of SPP. Having regard to the full terms of SPP, it should be clear that the loss of this plantation woodland would have little impact on local amenity. Indeed any such negative impact (from failure to replace woodland) would apply more to use of the site for education, rather than to residential development.

The reality is that this monoculture plantation is being rotationally felled, and this will continue, irrespective of zoning. As such, it is not accepted that the bulk of the existing trees on the R3 Site have any significant value as a recreational resource. Rather the more significant amenity value lies in the trees along the core path, lying to the north of the site on the border with the LNCS and protected by the P7 and P9 designations.

A further reason why the site should not revert to amenity woodland is that it is serviced land. As noted above, services have been brought to the site at considerable cost. Para 29 of SPP notes that 'policy decisions should be guided by ... making efficient use of existing capacities of land, buildings, and infrastructure'. To waste that investment would be the antithesis of sound planning, and certainly **not sustainable** – since it does not make the best use of established resources, and infrastructure.

Deliverability as a Housing Site

Banchory is a key settlement in the Local Growth and Diversification Area, and despite an uncertain market conditions, has remained a popular location. However, the Proposed 10 year Plan currently only allocates 40 new houses to meet local needs in Banchory in the 2022 – 2032 plan period. This contrast dramatically with the previous 5 year plan period allocation of 440 new homes. While there remains some as yet undeveloped zoned land in Banchory, all the sites are considered 'effective' in terms of the current Housing Land Audit, and are either progressing on site, or through the planning system. Clearly therefore, if local needs for housing are to be met over the coming 10 years, then the current single allocation need to be supplemented.

Importantly, in terms of the guidance in SPP, all such allocations will require to be readily deliverable. Generally, assembled under a single ownership, with developer involvement, and unconstrained in terms of servicing. As also noted above, the R3 site has already been largely serviced, and is within a single ownership. It is 'shovel ready' and would be an ideal location for early delivery of the housing allowances which the Strategic Development Plan (SDP) requires both to sustain local growth across Aberdeenshire, and to meet community needs in the Banchory Area.

By way of contrast, The Delivery Programme (2020) published with the Proposed Plan, makes no mention of when, or by whom the school site will be delivered. This is despite the fact that Section 21 of the Act requires the Programme to be regularly updated, and the accompanying Regulations stipulate that the Programme should set out all actions required to deliver the plan's proposals, along with the responsibility for, and timetable for their delivery.

Reasonableness as regards Value

Having considered all the foregoing, were the Council nevertheless not minded to return the site immediately to its former residential use, the following approach is suggested.

Hopefully it is accepted that over many years, NBC has always been sympathetic to the wish of Aberdeenshire Council to provide what is in the best interests of the Community. The Hill of Banchory has progressed largely as a holistic development, incorporating a variety of community uses, including a primary school and leisure centre. As noted above, it was planned from the outset with very considerable financial contributions by the developer, towards both infrastructure and substantial planning gains.

Phases 12 and 13 (now Site R3) were included in that plan to be built out as residential development, and are the ultimate benefit for the developer in respect of that infrastructure investment.

If therefore Aberdeenshire Council wish to reserve the right to require the R3 Site for educational purpose, in the interest of equity, surely residential use value should be applicable. In such

circumstances, and given the 10 year timeline of the new LDP, would it not be reasonable to prescribe that A) should the LPA take up the land option, then residential value would be paid, and B) that should the LPA not take up the option within the life of the plan, then the preferred use of the site should revert back to residential use in the next review.

Summary

In consideration of all the foregoing, it should be noted that :

The site was historically allocated for residential use, and it has been serviced for such use. Indeed it is argued that part of the site still enjoys the benefit of residential consents. There should be no doubt that as a residential allocation the site meets the test of 'deliverability' as set out in SPP.

By contrast, the LPA has shown no pressing need to reserve the site for education. The replacement of Banchory Academy is not in the Council's Capital Plan, and is not in the Delivery Programme published with the LDP. Rather, it is the case that significant investment has just been made to improve the fabric of the existing building. Additionally, with no new housing allocations being proposed for the school catchment area, no need for a replacement on the basis of capacity is likely.

Referring back to the note (in The Current Position section above), where it was noted that the Head of Education at that time suggested that "*the Planning Service will need to ensure there is an evidence base to support the continued need to reserve a site*". And further added that "*Demonstration of commitment to the reserved site, and its likely progression, will be required, even if identified as a long term aspiration*". It is submitted that no such evidence base has been proffered, and no commitment given to justify its retention, even as a long term aspiration.

In such circumstances it is submitted that the land should be returned to residential use. Failing which the alternative approach outlined under 'Reasonableness as Regards Value', should be included as a rider to the proposed continued educational allocation.

Certificate of Approval for Tree Felling

This is to certify that tree felling under

**Forest Plan ref. 3831945
Leys Estate Forest Plan - Phase 1 & 2**

*has been approved by the Forestry Commission
Scotland as being in accordance with Government
policy for the sound management of a renewable
resource.*

*This certificate is valid for the felling
done under felling licence number 1,
issued for the above Forest Plan.*

Signed



Forestry Commission Scotland Officer

Date

7th SEPTEMBER 2015

LDP OBJECTION.
SITE R3, BANCHORY.

BANCHORY : Distribution of Education Facilities

