

PP1273

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

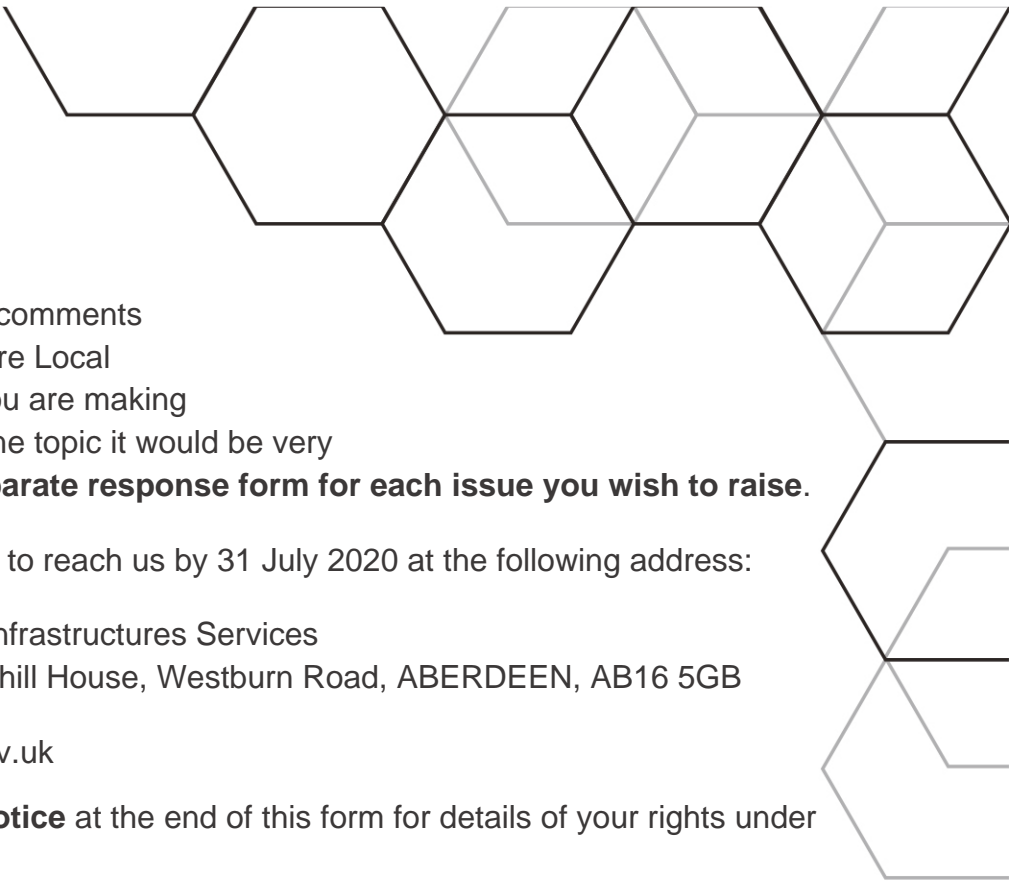
Tel: 01467 536230

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:	Ms
First Name:	Jenny
Surname:	Weston
Date:	30 July 2020
Postal Address:	RSPB Scotland, [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?

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):

Natural Heritage and Landscape. Section 10, page 57, Policy E1, Nature Conservation Sites, E1.1 and E1.2

PROPOSED LDP TEXT:

E1.1 We will not allow new development where it may have an unacceptable adverse effect on a nature conservation site designated for its biodiversity or geodiversity importance, except where the following circumstances apply

E1.2 In the case of an internationally designated nature conservation site, we will not allow development which may have an adverse effect on its integrity, except where there are imperative reasons of overriding public importance and there is no alternative solution. In all cases, an appropriate assessment of the site is required, and suitable compensatory measures must be implemented.

MODIFICATION: We wish to see the following alteration, with additional text highlighted in bold and text we believe should be removed struck through:

“E1.1 We will not allow new development where it may have an unacceptable adverse effect on a nature conservation site designated for its biodiversity, **species, habitat** or geodiversity importance, except where the following circumstances apply.

E1.2 In the case of an internationally designated nature conservation site (**Special Protection Areas (SPAs), Special Areas of Conservation (SACs), proposed SACs and SPAs and Ramsar sites**) we will not allow development which may have an adverse effect on ~~the site's~~ integrity, except where there are **no alternative solutions and there are** imperative reasons of overriding public ~~interest importance and there is no alternative solution.~~ In all cases, **where there is a likely significant effect on a site, The Council will carry out** an appropriate assessment **and the applicant must supply sufficient information to inform this”** ~~of the site will be required and suitable compensatory measures must be implemented.~~

Alternatively, suggested wording for the last sentence is:

In all cases **where there may be an effect on an internationally designated nature conservation site, The Council will carry out a Habitat Regulations Appraisal and the applicant must supply sufficient information to inform this.** ~~of the site will be required and suitable compensatory measures must be implemented.~~

Reason for change:

Although we welcome a policy which seeks to protect international wildlife sites, we believe that a number of changes are needed to the wording to ensure it is clear and accurate and complies with existing legislation. It is crucial that the text is clear for developers, planning officers, elected members and the public.

A similar policy is within the Cairngorms National Park Authority Proposed LDP, policy 4.1 International Designations, which may be a useful reference.

The sentence in policy E1.1 refers to “nature conservation site designated for its biodiversity or geodiversity importance”. Although SACs/SPAs and Ramsar sites contribute to the biodiversity in general, they may not be designated for the biodiversity on the site. As a site may be designated for just a single species, we suggest that ‘species and habitat’ is used in addition to “biodiversity”.

We believe that Section E1.2 of this policy needs to specify what is being referred to by the term “internationally designated nature conservation site”. We note that this term is not included in the Glossary. We believe it must be clear in the body of the policy text what is meant by this.

International designations are defined in Scottish Planning Policy paragraphs (207 to 211) as Natura 2000 Sites, Sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and Ramsar sites. Paragraph 210 of SPP clarifies that “Authorities should afford the same level of protection to proposed SACs and SPAs (i.e. sites which have been approved by Scottish Ministers for formal consultation but which have not yet been designated) as they do to sites which have been designated”. We believe that the list of international sites must be included in the LDP to give clarity to all those using the document. Alternatively, the sites could be defined in a footnote to section E1.2. This will avoid ambiguity and give clarity to developers and the public.

In addition, we believe that the wording of the second part of this paragraph should be altered to reflect the requirement of the Conservation (National Habitats etc) Regulations 1994 known as the Habitats Regulations. We believe that the criteria should be listed in the order they appear in the Habitats Regulations and in which they must be following. That is, in instances where there is an adverse effect on site integrity the first test is whether there is an alternative solution. This must be considered before any case is put forward for proceeding with the proposal for imperative reasons of overriding public interest. Therefore, it should be the first in the list, only then followed by the ‘imperative reasons of public interest’ (IROPI) test. Compensatory measures are only to be considered if it has been decided that the IROPI test has been met.

The last sentence currently states that “In all cases, an appropriate assessment of the site is required, and suitable compensatory measures must be implemented. However, it is not clear whether this refers to all proposals, all proposals affecting international sites or all proposal that would have an adverse impact on international sites. Given this is not clear two alternative wordings are suggested. We believe that the last sentence as written is inaccurate or at least unclear as an Appropriate Assessment is required if it has already been ascertained that there would be a likely significant effect on a designated site (therefore not in all cases). An Appropriate Assessment is part of the wider Habitat Regulations Appraisal that is required in all cases where there may be effects on an international site, and there may be some confusion over these terms.

In addition, it is an appropriate assessment is of the proposal, on its own and in combination with other plans or projects, not and an appropriate assessment of the 'site' that is required. Therefore, we believe the wording must be altered to clarify this.

The Habitat Regulations do not require that “compensatory measures” are required in all cases, only if there are adverse effects, there are no alternative and in the rare cases where the IROPI test is met. As always, the mitigation hierarchy should be followed; avoiding and mitigating impacts first before compensatory measures are considered. Therefore, we believe the reference to compensatory measures in this last sentence is confusing

Lastly, the current wording does not make it clear who is required to carry out the appropriate assessment and the Habitat Regulations Appraisal. We believe that it should be made clear that is the Council as competent authority that is required to undertake the HRA/AA but that the applicant must supply the information to inform this. We hope that the suggested wording helps to clarify the legal requirements, more guidance is provided on SNH’s website, for instance their document on ‘Natura Casework Guidance – How to Consider plans and projects affecting SACs and SPAs’. <https://www.nature.scot/natura-casework-guidance-how-consider-plans-and-projects-affecting-special-areas-conservation-sacs>

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.

