

Proposed Aberdeen Local Development Plan 2015 Representation Form

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Name	Mr <input checked="" type="radio"/> Mrs <input type="radio"/> Miss <input type="radio"/> Ms <input type="radio"/> Blair Melville
Organisation	Homes for Scotland
On behalf of (if relevant)	
Address	5 New Mart Place Edinburgh
Postcode	EH14 1RW
Telephone	[REDACTED]
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	Proposed Supplementary Guidance	<input type="checkbox"/>	
	Proposed Action Programme	<input type="checkbox"/>	
	Strategic Environmental Assessment Environmental Report	<input type="checkbox"/>	
Policy/Site/Issue	Community Facilities	Paragraph(s)	Paragraphs 3.89 - 3.93 and Appendix 3

What would you like to say about the issue?

Paragraph 3.91 is unreasonable and potentially beyond the powers and abilities of a planning authority to implement. The situation with healthcare is not analogous to other sorts of infrastructure..

Healthcare is a statutory requirement, funded through UK general taxation. Services are not typically delivered by Councils. Healthcare is not governed by requirements around the location of services, and the tendency in healthcare has been centralisation and specialisation. There is no immediate and automatic relationship between new development and the provision of new local facilities. The decisions on if and where to provide new facilities are taken by Health Boards and local bodies such as Primary Healthcare Trusts, or even by GP/dentist surgeries themselves. Therefore it is unclear what evidence the Council can produce of service deficiencies, pressures placed on services by new development, or programmes of new provision.

Without that evidence, a planning authority could not make any developer obligation meet the 5 tests of Circular 1/2013. It would be unable to demonstrate need or detriment, and would be unable to say what planning purpose was being met by an obligation. In any event, even if such detriment could be shown, making a proposal acceptable in land-use planning terms would involve ensuring that land was identified for any necessary facility.

A planning appeal decision in England addressed these issues of healthcare very well, and the principles established in that case are relevant here too (Planning Inspectorate Ref. 2157515: Moat House Farm, Elmdon Road).

Firstly, the planning authority argued that existing GP services were under stress and could not cope with new development. The Inspector rightly concluded that no developer can be expected to fund improvements needed as a result of existing developments and pressures.

She then noted crucially:

“Beyond facilitating the provision of a site, the planning system cannot be held responsible for the expansion of the existing healthcare infrastructure; that is a matter for the GPs and the Primary Healthcare Trust. But the planning system can and should be held responsible for providing sufficient quantities of housing. The PCT, in turn, has a statutory duty to provide the population with access to healthcare.” (Paragraph 55)

The second key principle was the purpose to which any developer contribution would be put. At the time of the appeal, the GP surgery was arguing that it needed to expand, but it could not say where that expansion might take place, when it might happen and whether funding from the Trust was available. The Inspector concluded, therefore, that a developer contribution would be inappropriate “since the use to which such a financial contribution would be put is currently unknown”. (Paragraph 56)

In the Aberdeen case, the Proposed LDP gives no indication of where and when health service infrastructure might be needed. The proposed supplementary guidance would have to contain clear and firm proposals from the NHS as to what it intended to provide, where and when. Since that is clearly an operational matter for the NHS rather than the Council it is not clear that the Council will be able to produce SG which would meet the tests of Circular 1/2013.

Developer contributions to infrastructure are typically provided through planning conditions or agreements. They are paid to the Council and held in clearly-differentiated accounts with the provision for repayment if unused within their anticipated timescales. No such arrangements are in place with the NHS, notwithstanding Homes for Scotland’s view that it is inappropriate for developers to be replacing/supplementing UK taxation expenditure. Accountability and control of funds would be a significant issue.

Homes for Scotland is clear that the Inspector at Moat Farm identified the key issues around healthcare – that provision is a matter for the healthcare authorities, funded through general taxation, and that planning’s role is to ensure that land is available as and when new facilities are brought forward.

Generally, the Plan does not include some policy matters contained in Supplementary Guidance, notably around periods for which the Council will retain monies and mechanisms for holding and accounting for monies. There is also no justification in the SG for the costings for facilities.

Appendix 3 sets out obligations for master plan areas. These are all sites allocated in the 2012 plan, but the developer requirements have changed and increased since 2012, which is unacceptable in a context where landowners and developers are well-advanced with master plans and Section 75 negotiations.

What change would you like to see made?

Remove all references in the Community Facilities section and Appendix 3 to developers making financial contributions to healthcare facilities.

Master Plan areas - revert to the developer requirements set out in the current adopted Plan.

The Reporters are requested to scrutinise all Supplementary Guidance to ensure that policy requirements are included in the Plan.

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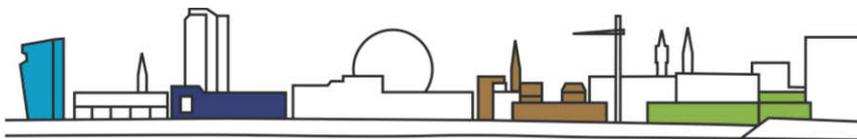
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Policy/Site/Issue	Policy H4 Housing Mix	Paragraph(s)	

What would you like to say about the issue?

Paragraph 3.78 reflects SPP in discussing the need for mixed and inclusive communities, an aspect of which is a range and choice of house types and sizes. Homes for Scotland would agree with this at the level of whole cities/towns, or distinct areas/neighbourhoods within towns. "Communities" is an over-used term which defies any clear definition either spatially or functionally.

However, the policy itself then applies the requirement for mix and diversity to any major housing development i.e. of 50 houses or more. This is far too small a scale at which to consider mix and diversity. A development of 50 houses is more likely to be aimed at a particular market segment, not a number of different segments, but in combination with other nearby developments aimed at different parts of the market will contribute to diversity. A larger definition of "community" or "neighbourhood" is needed within which to seek diversity.

It is not appropriate for a planning authority to try to direct or predict demand for different property sizes in the market. Customers will determine how many bedrooms they are seeking and house builders will respond to the market demand. Nor is it appropriate to try to direct or predict demand for housing for particular age groups. The Building Standards already ensure that all new homes are built to be fully-adaptable for whole-life occupation, by including disabled access and sufficient ground floor space to incorporate wheelchair access, space for adding downstairs toilets/shower rooms and so on.

What change would you like to see made?

It is suggested that the policy is amended as follows:

Line 2 – replace “achieve” with “contribute to”

Line 3 after “sizes” add “within the wider community or neighbourhood”

Line 8 replace “smaller 1 and 2 bedroom units” with “a range of house sizes”

Alternatively, the corresponding Policy in the adopted Plan works satisfactorily and could simply be retained.

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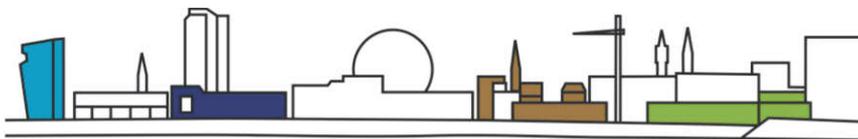
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Policy/Site/Issue	Policy H5 Affordable Housing	Paragraph(s)	

What would you like to say about the issue?

This Policy does not conform to Scottish Planning Policy 2014. There is now no reference in SPP to a “benchmark” (paragraph 3.82). Nor is there encouragement in SPP to exceed an affordable housing requirement of 25%. SPP states that “the level of affordable housing required as a contribution within a market site should generally be no more than 25% of the total number of houses”. Paragraph 3.82 of the Plan rightly notes that the “provision of affordable housing should not jeopardise the delivery of housing, as this would be counter-productive, would increase affordability constraints and have other knock-on effects on the local economy.” Paragraph 3.83 notes that the delivery of affordable housing is significantly reliant on funding from Scottish Government and privately sourced by RSLs, and that such funding is becoming more difficult to obtain.

Aberdeen Council has a target for affordable housing provision, principally social-rented housing, which in reality cannot be delivered with likely available resources. Negotiations on existing planning applications are proving difficult in terms of resolving a realistic and deliverable level of affordable housing now; there is no reason to suppose this will become any easier.

A policy which seeks “no less than 25%” affordable housing flies in the face of SPP, of the reality of available resources and of the Plan’s own statements in paragraphs 2.82 – 2.83.

The Policy notes that Supplementary Guidance sets out further detail on the provision of affordable housing. In reality, there are a number of policy issues hidden away in the Guidance. For instance, the Council proposes a sequential approach to type and tenure of affordable housing, which should be clear in the policy and Plan text. Likewise, it takes a view on the acceptability or otherwise of off-site provision, which is a policy choice. The Council has recently revised its approach to commuted sums and, against all advice from the housing industry (including RSLs) is seeking levels of commuted sum payments which are unviable and which will, in the terms of paragraph 3.82 of the Plan, “jeopardise the delivery of housing”. Again, this change in approach should be made clear in policy. The Guidance also refers to an annual review of commuted sums, which should also be reflected in policy.

What change would you like to see made?

It is proposed that the first sentence of Policy H5 be re-written as follows:

“On housing developments of five units or more, a target of 25% of the total number of units should be affordable housing.”

The Council should revert to the previous approach on commuted sums of a commuted sum based on transaction evidence in the market, as this represents the values which both developers and RSLs find practical and viable.

The Reporters are requested to examine the Supplementary Guidance on affordable housing to determine which elements of the SG are in fact policy and therefore which should be included in the Plan itself.

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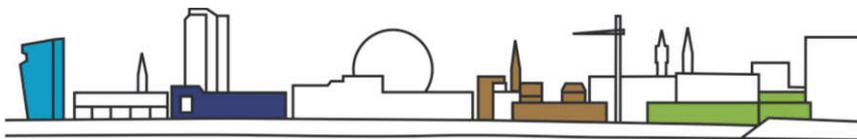
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Policy/Site/Issue	Policy LR1 Land Release Policy	Paragraph(s)	

What would you like to say about the issue?

Notwithstanding Homes for Scotland's proposal to allocate additional sites to ensure range, choice and further generosity as set out in the representation to the Spatial Strategy, the Plan would benefit from a policy which sets out how the Council will respond in the event that a minimum 5-year effective housing land supply, as required by Scottish Planning Policy paragraphs 119 and 120.

Policy LR1 would therefore benefit from an additional Part C setting out the Council's response in the event that a 5-year effective land supply is not maintained.

What change would you like to see made?

Add Part C to the policy as follows:

Part C - Maintaining a minimum 5-year effective land supply

The council will monitor and update the effective housing land supply figures annually to make sure that a minimum five year supply is maintained at all times. If the Housing Land Audit process identifies a shortfall in the effective land supply, the council will consider supporting sustainable development proposals that are effective, in the following order of preference:

Urban Capacity sites

Additional brownfield sites

Sustainable greenfield sites

In doing so, account will be taken of other local development plan policies and of any adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal.

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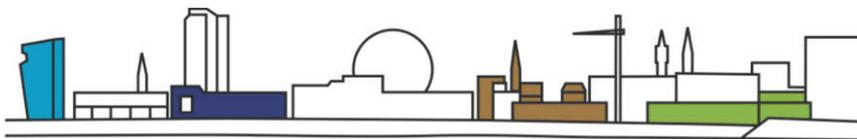
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Policy/Site/Issue	Policy R7 Low and Zero Carbon Buildings	Paragraph(s)	

What would you like to say about the issue?

The supporting text to this policy at paragraphs 3.136 – 3.140 sets out a fair summary of the Climate Change Act provisions and their relationship to planning and Building Regulations. However, the policy wording itself is ambiguous and potentially at odds with the text.

The Scottish Government has recently published its Fifth Annual Report on the Operation of the Climate Change (Scotland) Act 2009, and this helpfully clarifies many aspects of the relationship between legislation, national policy, development plan policy and Building Standards (<http://www.gov.scot/Resource/0047/00474640.pdf>).

Government emissions reductions targets are tied to the levels achieved under the 1990 Building Standards. However, it is clear that the successive reduction targets are tied to the Sullivan Report routemap towards low/zero carbon emissions, which in turn is tied to the planned successive changes to Building Standards. The required levels of reduction are enshrined in the Building Standards. Conformity with the current standards in force at the time of application is therefore all that is needed.

The Policy is justified in seeking a rising proportion of reductions from low and zero-carbon technologies under the terms of the Climate Change Act. Homes for Scotland agrees with the Plan's interpretation at paragraph 3.136 that these reductions comprise “a specified and rising proportion of the projected greenhouse gas emissions arising from their use.” The emissions reductions required are specified in the Building Standards. We also believe that the Climate Change Act and planning policy allow scope for applicants to demonstrate that it is possible to achieve the reductions through energy efficiency measures. Most builders can in fact achieve the 2010 Building Standards without using micro-technologies and it is important that planning authorities recognise that this is often a more cost-effective solution. It is accepted that future editions of the Building Standards are likely to require more use of micro-technologies to meet higher reduction targets, but their use should not be prescriptive, a point also made in paragraph 5.12 of the Fifth Report.

Many Councils are confused about whether the specified proportion of emissions reductions sought is a part of, or an addition to, the standards prevailing at any given time in the Building Standards. The Fifth Report paragraph 5.12 makes it quite clear:

“Further review of building standards in Scotland will consider both the potential of a ‘net zero carbon standard’ for new buildings and must deliver requirements for ‘nearly zero energy’ new buildings. In this context, the need for the current planning system requirement for greenhouse gas emissions beyond current mandatory targets and prescription on how abatement should be achieved is neither needed nor beneficial for the delivery of sustainable, low carbon development.”

Paragraphs 8.13 and 8.14 also clarify this matter:

“In previous annual reports on the operation of Section 72 of the Climate Change (Scotland) Act 2009, the Scottish Government had identified the two theoretical types of policy response that planning authorities could make to Section 3F. The first would be an approach that requires the proposed building to meet Scottish building standards target emissions rate in part through the use of low and zero-carbon generating technologies. The second would be a requirement for low and zero-carbon generating technologies to be used to reduce emissions beyond the Scottish building standards target emissions rate.

Section 3F does not require that emissions savings are additional to the target emissions rate set by Scottish building standards.”

In that context, the first sentence of the policy is ambiguous, as it reads as requiring emissions reductions additional to targets specified by Building Standards. This sentence should be modified to reflect the provisions of the Act and Section 3F.

The Policy would also benefit from a statement clarifying that the process of verifying the energy performance of buildings will be carried out through the Building Warrant process. The Fifth Report clarifies that it is through the Building Warrant application process that a developer will produce the detailed technical designs and specifications which determine if the building meets energy-efficiency requirements. It must be accepted that it may not be reasonable or possible to produce this information as part of a planning application.

What change would you like to see made?

Policy R7 first sentence delete “must install low and zero-carbon generating technology (LZCGT) to reduce the predicted carbon dioxide emissions by at least 20% below that ...” Replace with:
“must meet at least 20% of the carbon dioxide emissions reduction target....”.

Extend first sentence by adding “by installing low and zero-carbon generating technology (LZCGT).”

Add an additional sentence to the policy:

“Planning conditions may be used to deliver this policy while the detailed design and technical matters are being considered through the Building Standards process.”

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HOMES FOR SCOTLAND

REPRESENTATIONS TO ABERDEEN CITY PROPOSED LOCAL DEVELOPMENT PLAN

Section 2 Spatial Strategy

This Section seeks to deliver the overall strategy of the Aberdeen City and Shire Strategic Development Plan (March 2014) as it applies to Aberdeen City. Paragraph 2.4 notes that Aberdeen will “accommodate around half of the new housing and employment land needed to meet the strategic needs of the North East over the next 20 years...”. The Proposed LDP largely continues land allocations and preferred areas of growth identified in the 2012 LDP.

The Plan identifies that the SDP sets housing land allowances of 10500 brownfield and 21000 greenfield to 2035 (summarised in Table 1 page 4). For the LDP period to 2026, the relevant allowances are:

	Existing to 2016	2017 - 2026	LDP Period
Brownfield	4500	3000	7500
Greenfield	12000	5000	17000
Total	16500	8000	24500

However, it is important to understand the full Strategic Plan context. The above figures are housing land allowances, they are not the housing requirement identified in the SDP. That is found in the SDP Figure 10 and is expressed by Housing Market Area:

	2011 - 2016	2017 - 2026	2027 - 2035	Total
Ab'deen HMA	9965	15017	13506	38488
Rural HMA	4237	6411	4836	15484
Total	14202	21428	18342	53972

SDP Schedule 1 shows land allowances intended to deliver the above requirements and achieve the development rates to which the plan aspires – 2500 houses p.a. by 2016, and 3000 p.a. by 2020. The SDP notes that the allowances will not all be deliverable within the plan periods, but they give flexibility and create scope to respond to higher demand in the future if it arises.

The SDP anticipates that around half of all housing will be delivered in the city, half in the Shire over the whole SDP period to 2035. However, it does not set out the requirement by City/Shire as a specific figure, nor does it do so by each plan period. Nonetheless, this principle can be used as a guide to whether the Aberdeen LDP

identifies enough deliverable land to meet a requirement to 2026 of approximately 17800 houses (half of 14202 plus 21428).

There are, therefore, two tests of the housing component of the LDP:

1. Does the Plan identify housing land in line with Schedule 1 of the SDP
2. Does the land identified meet the tests of Scottish Planning Policy in paragraphs 113 – 122, specifically that the land identified should be capable of delivering the housing target or requirement. Sites must be effective or expected to be effective, there must be robust evidence of this effectiveness and delivery, and there should be a range of sites available to ensure delivery.

Land Allocations

Paragraphs 2.8 – 2.3 discuss the brownfield site allowance of 7500 to 2026. They note a range of sites identified in Appendix 1 Tables 1 and 2 which are considered to have potential for up to 7287 houses. In addition there are a range of opportunity sites in Appendix 2 some of which have housing potential. In addition, there will be windfall over the period to 2026, though this cannot be quantified. The Council clearly considers that these provisions meet the allowances to 2026. Given that the allowance is not a build target, and that a significant element of uncertainty surrounds future brownfield land, then it is probably fair to say that the Plan meets the requirements of SDP Schedule 1.

Paragraphs 2.14 – 2.25 discuss the greenfield site allowance of 17000 to 2026. Table 2 summarises the allocations made in the Plan, and show that they are very close to matching the Schedule 1 allowances. Given that the allowances are significantly above the actual requirements, then this minor mismatch is of no significance, and again it can be accepted that the LDP meets the SDP requirements for identifying land allocations.

Delivering the Housing Requirement

Scottish Planning Policy is clear that plans must now seek to deliver housing requirements/targets, and must provide evidence that the land allocations made in the plan can in fact deliver. There is no systematic evidence provided in the Plan or supporting documents. The main assumption appears to be that the housing land audit shows both a substantial output from effective sites and a large number of potential but currently-constrained sites which together should deliver the requirement. The Action Programme identifies what would be required to turn constrained sites into effective.

Analysis of the housing land audit casts some doubt on this approach. Homes for Scotland members have reviewed the 2014 Audit (the last published audit) to address some significant issues of delay, complex planning and infrastructure problems, and land ownerships which affect a number of the large strategic sites. A more realistic programming has been applied to a number of sites. For comparison,

the figures from the draft 2015 Audit can also be used to test delivery (new sites in the 2015 draft have been added to HFS' figures for consistency).

	2011 - 2016	2017 - 2026	LDP Period
SDP requirement (50% of total)	7100	10700	17800
HFS View			
Audit programme	5319	11887	17206
Small sites 68 p.a.	340	680	1020
Total	5659	12567	18226
Variation	-1441	1867	426
2015 Draft Audit			
Programme	5471	12250	17721
Small sites 68 p.a.	340	680	1020
Total	5811	12930	18741
Variation	-1289	2230	941

In addition, there are a range of constrained sites which are not yet agreed as having potential to deliver in the Plan period. Nonetheless, the projected programming shows a failure to deliver the housing requirement in the recent past and up to 2016. While the programming 2017 – 2026 suggests that the overall requirement may be delivered, the margin of error over a 10-year period is very small and subject to a range of uncertainties.

There are several factors introducing uncertainty. Most of the land allocations are in the form of large greenfield releases from the 2012 Plan, as set out in Tables 3 – 8. Many of these have experienced significant delays in implementation for a variety of reasons, including land ownership, masterplan development, complex S 75 negotiations and problems with other Council services, notably Roads. As other parties have shown clearly (Bancon Homes representations for instance), there remain substantial uncertainties over many of the sites allocated and further significant programming slippage seems very likely.

Aberdeen Council is one of the worst-performing Councils in the Scottish Government's Planning Performance Statistics in terms of the time taken to determine major planning applications. In 2012/13 it averaged 53.7 weeks to decide on major applications, and was the forth-slowest Council. In 2013/14 it took on average 45.9 weeks, and was the sixth-slowest. The industry therefore has little confidence either in the audit programming for larger sites or in the action programme as it relates to delivery of large housing sites.

The housing industry has been clear across the whole country that a strategy which relies heavily on a limited number of larger housing sites is vulnerable to delays,

slippage or unforeseen market issues. SPP is clear that range and choice of housing sites and types remains the preferred way to encourage higher rates of delivery, and the industry agrees with this. At a time when output on individual sites remains constrained by lender caution and infrastructure costs in particular, then having a range of smaller effective sites in the supply would increase the likelihood of delivering the housing requirements. It would also increase competition amongst builders on price and type of property.