
Report to Council

Date of Meeting: 24th October 2013

**Subject: Proposed Clackmannanshire Local Development Plan,
Open Space Strategy and associated documents**

Report by: Director of Services to Communities

1.0 Purpose

- 1.1. The Planning etc (Scotland) Act 2006 introduced the requirement on planning authorities to produce a new style of development plans to replace the previous Structure and Local Plans. For Clackmannanshire, this means that the Clackmannanshire and Stirling Structure Plan and the Clackmannanshire Local Plan will be replaced by a single tier Clackmannanshire Local Development Plan (LDP).
- 1.2. This report is to seek approval to publish the Proposed Plan for representations. It describes the process undertaken to date and what will happen once the Proposed LDP is agreed by Council.
- 1.3. A 'Committee Draft' of the Proposed LDP was prepared and presented to the following committees:
 - 28th March Enterprise and Environment
 - 11th April Planning
 - 25th April Education, Sport and Leisure
 - 23rd May Housing, Health and Care
- 1.4. A consolidated Proposed LDP has now been prepared, including some changes to wording as a result of the Committee meetings, further input from key agencies such as SEPA and SNH, changes required by an Environmental Assessment of the LDP and any required updates. This Proposed LDP includes supporting text, policies, proposals and mapping and is being reported to Council to seek approval to commence the period for representations. An Open Space Audit and Strategy has also been produced in tandem with the LDP and this has also been made available to Members. The associated documents identified in paragraph 3.40 accompany the LDP and will be consulted on, along with the Proposed LDP.
- 1.5. After the Council agree the recommendations in this report, there will be an 8 week representation period during which comments may be made on the content of the LDP and its associated Supplementary Guidance. Consultation on the Open Space Strategy, Muckhart Conservation Area Appraisal and the Environmental Reports will also be carried out over the same 8 week period.

- 1.6. The Council will then need to take a view on each of the representations. The issues and proposed responses will be reported to Council for approval and 'Schedule 4' responses will be completed for each issue and forwarded to a Reporter appointed by the Scottish Government. The Reporter will then consider the issues and issue a report, the findings of which will be binding on the Council, except in very limited exceptional circumstances. The Council will then have to amend the LDP in accordance with the Reporter's findings and proceed to adopt it.
- 1.7. The main changes between the Committee Draft and the Proposed LDP are summarised in paragraphs 3.11-3.39 below.

2.0 Recommendations

- 2.1. It is recommended that the Council:
 - (a) Approve the Proposed Local Development Plan and accompanying documents to be published for an 8 week period for representations.
 - (b) Approve the Open Space Strategy and Muckhart Conservation Area Appraisal to be published for an 8 week period for consultation.
 - (c) Approve the Environmental Reports on the Local Development Plan and Open Space Strategy to be published for an 8 week period for consultation.

All of which have been provided separately to Members.

3.0 Considerations

Background

- 3.1. The Planning etc (Scotland) Act 2006 requires the preparation of Local Development Plans to provide a robust, plan-led approach to development, setting out a clear, concise, long-term vision for the future development of the area and providing relevant and up to date policy guidance.
- 3.2. LDPs should look to guide the future use and development of land in the area for the next 20 years, and require to be reviewed at least every 5 years.

The Main Issues Report

- 3.3. The Main Issues Report (MIR) was consulted on between January and March 2011. Alongside the Main Issues Report, the Council also consulted on an Open Space Framework.
- 3.4. A Local Development Plan newsletter was published in June 2011 summarising what happened during the MIR process.

The Proposed Local Development Plan

- 3.5. The publication of the Proposed LDP is the second significant stage in the Development Plan process and represents the Council's position in terms of

the policies it wishes to adopt and the sites and projects it wishes to promote and support. It therefore sets out the Council's view of what the adopted Plan should be.

- 3.6. The Proposed LDP and supporting documents have been prepared following research and consultation with internal and external partners including statutory consultees, key agencies, local communities, developers, landowners, businesses and Elected Members.

Supplementary Guidance

- 3.7. Supplementary Guidance can be adopted and issued in connection with the LDP and will form part of the development plan. Topics covered by supplementary guidance must be specifically identified in the LDP and the guidance must be limited to the provision of further information or detail in respect of the policies contained within the LDP.
- 3.8. Supplementary Guidance produced along with the Proposed LDP and its associated documents for representations are:
- SG1 - Developer Contributions
 - SG2 - Onshore Wind Energy
 - SG3 - Placemaking
 - SG4 - Water
 - SG5 - Affordable Housing
 - SG6 - Green Infrastructure
 - SG7 - Energy Efficiency and Low Carbon Development
- 3.9. Future Supplementary Guidance is expected to include Minerals, Woodlands and Forestry and Domestic Developments.

Open Space Strategy and Audit

- 3.10. An **Open Space Audit and Strategy** has been developed in order to provide a coordinated, strategic and long term approach to the provision and management of high quality, accessible open spaces. The Open Space Strategy and the LDP are closely linked in a number of areas and have therefore been progressed concurrently, and both documents will be published for comments and consultation at the same time. Comments received will be considered in preparing the finalised Strategy which will be reported back to Council for final approval. A **Strategic Environmental Assessment** (SEA) has also been produced which considers the likely environmental impacts of the Open Space Strategy; and recommends measures to address them. A description of the SEA activity undertaken so far can be found in the background papers.

Main Changes Between the Committee Draft and the Proposed LDP

General

- 3.11. Following each policy, a brief description of the "Environmental Implications" of the policy has been included. This has been informed by the Environmental Assessment of the policies. This approach was previously used in the MIR and commended by the Scottish Government, SNH and SEPA.

- 3.12. A Habitats Regulations Appraisal on the potential effects of the policies and proposals of the LDP on the Firth of Forth Special Protection Area, and other protected habitats outwith, but close to, Clackmannanshire has been carried out. Wording has been added to some policies and proposals to ensure that any detailed proposals are prepared in such a way that they do not have any adverse effects on the integrity of the designated areas or qualifying species.

Vision and Objectives

- 3.13. Greater emphasis has been placed in the Vision on the shift to a low carbon economy and the reduction of carbon emissions.
- 3.14. The objective to increase community growing of food has been added to the Vision.

Creating Sustainable Communities

- 3.15. Further information has been included on Affordable Housing, including reference to the Scottish Planning Policy benchmark figure of 25% of a housing site contributing to affordable housing. Further detail can be found in the Affordable Housing Supplementary Guidance.
- 3.16. New reference to non-residential developments has been included in the Policy on "Energy Efficiency and Low Carbon Development" and further detail on this will be included in the Energy Efficiency and Low Carbon Development Supplementary Guidance. The requirement to demonstrate high standards of energy efficiency and water efficiency has also been included in the Domestic Developments Policy.
- 3.17. The wording of the Developer Contributions Policy has been updated to include reference to the different strategies and policies which will be considered when establishing Developer Contributions, and now also includes libraries, health centres and community halls and facilities as areas where contributions may be sought.
- 3.18. The 'Spatial Framework for Wind Energy Development', which was prepared for wind turbine developments taller than 51 metres has been complemented by a spatial framework for small turbines of 20-50 metres in height, including a map of Clackmannanshire which identifies some areas of search for turbines within that height range. Further detail can be found in the accompanying Supplementary Guidance.
- 3.19. Further information on ecology and improving the water environment has been added to the policy on 'Hydro-Electricity Development'. The policy has also been amended to encourage the re-use of existing in-stream structures that are not presently in use.

Employment and Prosperity

- 3.20. Policy EP1 'Strategic Land for Business' has been revised to combine Pavilions and Orchard Farm into one strategic site (also including Alloa West) and re-naming Castlebridge 'Bridge Business Park' to reflect the owner's re-naming and marketing efforts.

- 3.21. Policies EP2 'Business Proposals' and EP3 'Alternative Employment Generating Uses on Allocated Sites' have been combined and refined to a single, shorter and more easily understood policy, EP2 'Existing Business Sites'.
- 3.22. The 'Retail and Town Centres' section of the chapter has been reworked and re-ordered to give a far higher profile to town centres and town centre regeneration. Wording has been added to the supporting text and Policy to support town centre health checks and the development of town centre strategies. There is also a recognition that Policy may require to be updated following the publication of the National Town Centres Review and Town Centre Action Plan, and emphasising the partnership approach which should be followed when considering town centres, including Clackmannanshire BIDs and local communities/Community Councils.
- 3.23. There is an increased emphasis on the importance of good quality design and layout and reference to the 'Village and Small Town Centre Initiative' has been included.
- 3.24. The Policy promoting town centre regeneration has been moved from the end of the retail policies to nearer the start, immediately following the Policy on 'Retail Network Centre and Hierarchy'.

Environmental Assets

- 3.25. The supporting information relating to the Central Scotland Green Network has been revised to improve the explanation of its principles and function, and to clarify its key role in supporting the coherent delivery of a number of key Plan objectives, including climate change mitigation and adaptation, recreational and biodiversity objectives, and creation of favourable conditions for improved quality of life and economic development. The Clackmannanshire Green Network Policy (EA1) has also been amended in order to ensure that all relevant development contributes to the Green Network principles. A new Green Network map has also been produced.
- 3.26. Policy EA3 'Protection of Designated Sites and Protected Species' has been amended to ensure compliance with the relevant regulations, in accordance with a request from SNH.
- 3.27. Some text has been added to Policy EA9 'Managing Flood Risk' to further protect development from flood risk and to improve the clarity of the policy.

Schedule of Sites

- 3.28. The layout of the Schedule of Sites has been slightly altered to resolve potential misunderstandings of what is and is not required as part of a Development Brief/Masterplan or Design Statement.
- 3.29. Where deficiencies had been addressed in the Open Space Strategy which could potentially be addressed by developer contributions from development sites, either on-site or off-site, these have been identified against each site.
- 3.30. An area of land to the west of Alva, north and south of the A91, was identified in the Committee Draft as 'white land', i.e. land within the settlement boundary, but not currently allocated for development. This was to give an

indication of where future development in Alva would be directed. This area has now been allocated as a housing Proposal (H41) and is accompanied by detailed information in relation to the potential development of the site. The inclusion of this site as a proposal will assist the Council in progressing towards the housing requirement to 2034 identified in the LDP.

- 3.31. The settlement boundary at Muckhart has also been amended to exclude an area previously brought within the settlement boundary adjacent to the proposed allocated housing site, but not allocated for development, as an area for any future development.
- 3.32. A new category of site has been introduced titled "Mixed Use". These are sites where a mix of uses will be supported. Sites included under this new description include the Co-op buildings and The Shore in Alloa and the former Tullis site at Alloa Road, Tullibody. These sites were identified in the Committee Draft LDP, however they were under housing proposals. It is considered that the introduction of this new "Mixed Use" category more accurately represents the nature of the proposals for each site.
- 3.33. Greenfield has also been added to the schedule of sites as a mixed use site to reflect that it will soon be available for re-use.
- 3.34. SEPA have recommended removal of four sites from the LDP on flooding concern grounds, as their inclusion in the LDP would not comply with new legislation. If they remained in the Plan, SEPA would be required to object. The sites are:
- | | |
|----------------|---|
| Business Sites | B10 – Dumyat Business Park (Phase 2), Tullibody |
| | B18 – Alva Industrial Estate |
| Housing Sites | H32 – Burnside, Clackmannan |
| | H46 – Dollar Road, Tillicoultry |
- 3.35. Council officers met with SEPA to discuss their concerns and SEPA presented more detailed flood evidence for the sites in question, including photographs of flood events. This, along with changes in legislation since the sites were first allocated, or considered for allocation, would form SEPA's evidence in objecting to the sites at any examination. Based on this, it is considered that the sites should be removed from the Proposed LDP as specific allocations. In the case of Alva Industrial Estate, Burnside and Dollar Road, they would revert to being 'white land' within the settlement boundary. SEPA's objections are to the uses proposed in the LDP, however, future proposals for development of a different type or scale on these sites may be acceptable provided they comply with development plan policies and are acceptable in flood risk terms. Parts of the Burnside site in particular may be able to be developed without objections from SEPA. Future applications would be considered against the general policies of the LDP, and advice would be sought from SEPA.
- 3.36. Dumyat Business Park (Phase 2) would need to remain in the countryside, outwith the settlement boundary.
- 3.37. A site at Midtown (B13) has been identified as a business site likely to serve any expansion needs of the surrounding land uses.

- 3.38. The Habitats Regulations Appraisal concluded that it could not be stated that development on 4 business sites, close to the Firth of Forth Special Protection Area (SPA), would definitely not adversely affect the integrity of the protected site. This was because the development of the sites would result in the loss of land which comprises part of the habitat of the birds associated with the SPA. There is inadequate data available to conclude for certain that the birds do not use these areas, therefore a precautionary approach is required. SNH have suggested wording which could be added to the LDP which would allow these sites to remain in the plan, allowing for future work to be undertaken to determine whether or not the sites would be able to be developed without affecting the SPA. The wording has therefore been added to the following business sites:

B03 - Alloa West

B04 - Alloa West (Orchard Farm)

*sites B03 and B04 have been combined with site B02 in the Proposed LDP to form a single, larger site.

B14 - Garvel Farm, Blackgrange

B13 - Midtown (new site)

It should be noted that should the further work on these sites conclude that if any of them could not be developed without adversely impacting on the SPA, their status would be reconsidered during the next review of the LDP.

- 3.39. The proposed cycle route between Dollar and Muckhart has been reduced in length and now runs from Dollar to Vicar's Bridge.

Associated Documents

- 3.40. The associated documents below require to be produced along with the LDP and consulted on.

An **Action Programme**, which sets out how the Council proposes to implement the Plan, including the identification of responsible persons or organisations and timescales. The Action Programme will be reviewed after two years.

A **Strategic Environmental Assessment** (SEA) which considers the likely environmental impacts of the LDP; and recommends measures to address them. A description of the SEA activity undertaken so far can be found in the background papers. The environmental implications of each policy, and any relevant mitigation measures proposed, are described after each policy in the Plan.

A **Habitat Regulations Appraisal** (HRA) which considers what implications the Plan may have on Natura sites. The LDP can only be adopted once the HRA and appropriate assessment have demonstrated that the Plan will not adversely affect the integrity of any of the sites assessed.

Supplementary Guidance which will be adopted as statutory guidance, as it will be consulted on in as part of the LDP, as described in paragraphs 3.8-3.10 above.

The **Muckhart Conservation Area Appraisal** identifies enhancements and will be used to inform development proposals. It will form the basis of Appraisals of all of the other Conservation Areas, which will be undertaken during the period of the LDP.

Publication of the Proposed Local Development Plan

- 3.41. When the Proposed LDP is to be published, a public notice will be placed in local newspapers with details of where and when the Plan and associated documents can be viewed, contact details where questions about the Plan or the process should be directed and information on how representations to the Proposed Plan can be made. It is proposed to hold an 8 week period for representations. This is longer than the statutory 6 week period, but allows for the Christmas and New Year periods and the cycles of Community Council meetings to be better accommodated.
- 3.42. Copies of the Proposed Local Development Plan will be placed in local libraries, at the main Council offices and circulated to Community Councils, as well as Scottish Ministers and the Key Agencies.
- 3.43. It is proposed to run two events to promote the LDP during the consultation period, and staff will be available to attend meetings on request. Separate meetings with Community Councils will be offered.
- 3.44. All of the information, including copies of all of the documents will be available to view online on the Council's website, and will also be able to be downloaded.

Representations on the Proposed Local Development Plan

- 3.45. When the Proposed Local Development Plan is published the Council must consult the Scottish Ministers, the Key Agencies and anyone who commented on the Main Issues Report.
- 3.46. Additionally, all owners, lessees or occupiers of sites identified as proposals within the Proposed Plan as well as owners, lessees or occupiers of land neighbouring the sites included within the Proposed Plan require to be notified in writing.
- 3.47. The latest Development Plan Scheme, which is updated every year, tracks the progress of the LDP and includes a Participation Statement highlighting the consultation carried out to date, and detailing the consultation proposed for the Proposed Local Development Plan.
- 3.48. During the representations period, comments can be made on any aspect of the LDP, including the Proposed Local Development Plan, Proposed Supplementary Guidance, the Environmental Report, the Habitat Regulations Appraisal, the Action Programme and the Background Report.
- 3.49. Officers will consider all of the representations submitted and report back to the Council, along with recommendations on each. Along with the summary of unresolved issues, the Council will be asked to consider and approve a 'Report of Conformity' with the steps set out in the Participation Statement. These will then be submitted to the Scottish Ministers who will appoint a Reporter from the DPEA to hold an examination into the unresolved objections.

Pre-Examination modifications

- 3.50. Having received and considered the representations to the LDP, the Council may make Pre-examination Modifications to the Plan before submitting it to Scottish Ministers, however doing so can cause significant delay to the Plan process and it should only be undertaken where the Council is proposing to make significant changes to the LDP. Should the Council wish to make significant Pre-examination Modifications to the Plan, these will require to be consulted upon (6 weeks minimum) and owners and neighbours of proposed sites be notified. If it is the case that the proposed modifications change the underlying aims or strategy of the Proposed Local Development Plan, the Council will be required to prepare and publish a new Proposed Local Development Plan which would significantly delay the adoption of the Plan.

Examination of the Proposed Local Development Plan

- 3.51. Any outstanding representations to the Proposed Local Development Plan which cannot be resolved will require to be considered through an Examination of the Local Development Plan. Responsibility for arranging and conducting any such Examination falls to the Directorate for Planning and Environmental Appeals (DPEA) and would be likely to take place in 2014. The DPEA will appoint a Reporter who will lead the Examination and they will determine how representations will be considered, either through written submissions, hearings, inquiry sessions, or a combination of these methods.
- 3.52. Once the Examination is complete, the Reporter will prepare a report setting out their findings and giving reasons for their conclusions. In a change to the previous Inquiry process, where planning authorities could choose not to accept a Reporter's recommendation if they felt there was good reason, Examination reports are now binding on the planning authority in all but a very limited number of exceptional cases.

Modified Local Development Plan and Adoption

- 3.53. Should the Reporter recommend changes to the Proposed Local Development Plan following the Examination, the Council will be required to modify the Plan and publish it. It will also be necessary to publish public notices advertising the Council's intention to adopt the Modified Plan.
- 3.54. Within 4 weeks of publishing the Modified Plan, the Council is required to adopt the Plan and publish a post-adoption Strategic Environmental Assessment Statement.

4.0 Sustainability Implications

- 4.1. The Planning etc (Scotland) Act 2006 requires planning authorities to carry out their development planning functions with the objective of contributing to sustainable development. The Policies within the Proposed Plan, and the Supplementary Guidance support the promotion of sustainability in development proposals, including green travel, encouraging improved biodiversity, the siting and layout of new development, energy efficiency, renewable energy, encouraging development of brownfield land and avoiding areas of known flood risk.

- 4.2. The Proposed LDP has been subject to a Strategic Environment Assessment and Habitat Regulations Appraisal, see 3.40 above.

5.0 Resource Implications

- 5.1. The resources for preparing, publishing and consulting on the Proposed Local Development Plan are already provided for in the Development Services budget.
- 5.2. Finance have been consulted and have agreed the financial implications as set out in the report. Yes ☒
- 5.3. No additional staff resources would be required from Services to Communities and Support Services.

6.0 Exempt Reports

- 6.1. Is this report exempt? Yes ☐ (please detail the reasons for exemption below) No ☒

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

- (1) **Our Priorities** (Please double click on the check box ☒)

The area has a positive image and attracts people and businesses	<input checked="" type="checkbox"/>
Our communities are more cohesive and inclusive	<input checked="" type="checkbox"/>
People are better skilled, trained and ready for learning and employment	<input type="checkbox"/>
Our communities are safer	<input checked="" type="checkbox"/>
Vulnerable people and families are supported	<input type="checkbox"/>
Substance misuse and its effects are reduced	<input type="checkbox"/>
Health is improving and health inequalities are reducing	<input type="checkbox"/>
The environment is protected and enhanced for all	<input checked="" type="checkbox"/>
The Council is effective, efficient and recognised for excellence	<input checked="" type="checkbox"/>

- (2) **Council Policies** (Please detail)

The Proposed Local Development Plan accords with and supports the Council's key strategies including, the Single Outcome Agreement, the Local Housing Strategy, Local Transport Strategies, Open Space Strategy and the Sustainability and Climate Change Strategy.

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes ☒ No ☐

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes ☒

10.0 Appendices

10.1 Please list any appendices attached to this report.

None

11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes ☒ (please list the documents below) No ☐

- Local Development Plan Main Issues Report (January 2011)
- Equalities Impact Assessment
- Local Development Plan Main Issues Report Information Pack (January 2011)
- Report to Council dated 16th December 2010 – Clackmannanshire Local Development Plan Main Issues Report and Open Space Framework
- Report to Enterprise and Environment Committee dated 28th March 2013 – Proposed Clackmannanshire Local Development Plan
- Report to Planning Committee dated 11th April 2013 – Proposed Clackmannanshire Local Development Plan
- Report to Education, Sport and Leisure Committee dated 25th April 2013 – Proposed Clackmannanshire Local Development Plan
- Report to Housing, Health and Care Committee dated 23rd May 2013 – Proposed Clackmannanshire Local Development Plan
- Development Plan Scheme and Participation Statement (2013).
(Copies available in the Members' Rooms)

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Approved by

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