



Aberdeen Local Development Plan Review

Main Issues Report Response Form 2019

Aberdeen City Council has published a Main Issues Report (MIR) which is part of the process of preparing a new Local Development Plan. It is designed to gather views on specific proposals and sets out options for dealing with the key planning matters facing Aberdeen over the next 20 years such as the location of new housing and employment development, the future of retailing and the City Centre, housing needs and tackling climate change. It also includes a number of potential new policies which would be used in the determination of planning applications.

The MIR has been published alongside a Monitoring Statement and Environmental Report. Copies are available to view at Marischal College, Broad Street, Aberdeen. These, and other supporting documents, are available at: - www.aberdeencity.gov.uk/alp2022

Everyone now has the chance to comment on the report and associated documents. All comments received will be considered and used to inform the preparation of the Proposed Aberdeen City Local Development Plan. There will be a further opportunity to comment on the Proposed Plan when it is published in early 2020.

The consultation runs from 4 March 2019 to 13 May 2019.

Responses to the published documents can be:

- made online at:- <http://consultation.aberdeencity.gov.uk/planning/mir2019>;
- emailed to:- ldp@aberdeencity.gov.uk; or
- by post to:- Local Development Plan Team, Strategic Place Planning, Aberdeen City Council, Business Hub 4, Ground Floor North, Marischal College, Broad Street, Aberdeen, AB10 1AB.

Completed response forms should be with us no later than 13 May 2019.



YOUR DETAILS

Name	SCOTT LEITCH
Organisation (if relevant)	HALLIDAY FRASER MUNRO
On behalf of (if relevant)	GSS DEVELOPMENTS LTD
Address	
Postcode	
Telephone	
E-mail	

Thank you for taking the time to complete this response form. If you wish to be added to the LDP e-mailing list to be kept informed of our progress in producing the next Local Development Plan, please tick here



If yes, please provide an e-mail address

PRIVACY STATEMENT

As part of the review of the Local Development Plan, Aberdeen City Council (ACC) will offer you several opportunities to submit your views and comments. These opportunities will range from the current consultation stage, the Main Issues Report, where we will ask you to comment on specific proposals and alternatives to the Proposed Plan stage where the set view of ACC has been established.

ACC are legally required to consult at this stage and at Proposed Plan stage. This is set out in the Town and Country Planning (Scotland) Act 1997 (as amended) and supporting regulations. The Environmental Assessment (Scotland) Act 2005 also requires us to consult on a Strategic Environmental Assessment Environmental Report.

By submitting a response to the consultation, you understand that ACC can use the information provided in this form, including personal data, as part of the review of the Aberdeen City Local Development Plan. ACC will not share or disclose any personal data about you to any organization or person unless it is authorized or required to do so by law.

The data controller for this information is ACC. We understand our legal basis for processing this information as Article 6(1)(c) of the General Data Protection Regulation as this is an activity we are legally required to carry out under the Town and Country Planning (Scotland) Act 1997 (as amended) and supporting regulations and The Environmental Assessment (Scotland) Act 2005. The data on the form will be used to inform the preparation of the Proposed Aberdeen City Local Development Plan 2022. At the end of the consultation, where contact details have been provided, the Local Development Plan team will provide you with a respondent number. You may also be contacted about the comments you have made and, as obliged by the Town and Country Planning (Scotland) Act 1997 (as amended) and supporting regulations, the Local Development Plan team will contact you to inform you of the publication of the proposed Aberdeen Local Development Plan in early 2020. If you chose not to provide your contact details, your comments will still be valid but we will not be able to contact you in the future.

Responses will be collated, redacted, summarised and stored electronically or in locked cabinets in Marischal College. All redacted responses will be published, alongside the respondents name (if provided), on the Aberdeen City Local Development Plan website. Contact details will not be made public, but your name and respondent number will be published.

Aberdeen City Council will only keep your personal data for as long as is needed. Data will be kept until the emerging Local Development Plan is itself replaced – this is likely to be around 5 years following its adoption in 2022 – so 2027. Following this, data will be disposed of in a secure manner.

YOUR DATA, YOUR RIGHTS

You've got legal rights about the way ACC handles and uses your data, which include the right to ask for a copy of it, and to ask us to stop doing something with your data. Please contact the Council's Data Protection Officer by e-mailing DataProtectionOfficer@aberdeencity.gov.uk or writing to Data Protection Officer, Aberdeen City Council, Governance, Level 1 South, Marischal College, Broad Street, Aberdeen, AB10 1AB. More information is available at: - <https://www.aberdeencity.gov.uk/your-data>

YOUR COMMENTS

<p>Which document(s) are you commenting on?</p>	<ul style="list-style-type: none">• Main Issues Report• Strategic Environmental Assessment Environmental Report• Monitoring Statement	<input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
---	---	---

Please indicate the document and the specific Issue, Question, Site, Policy, Map or Table you are commenting on. Please provide your comments below and explain your reason for supporting, opposing or commenting on this specific part of the document.

Please find attached response to the Main Issues Report in respect of 'Question 17 Natural Environment Policies.'

YOUR COMMENTS CONTINUED



HALLIDAY FRASER MUNRO

CHARTERED ARCHITECTS & PLANNING CONSULTANTS

11606

10th May 2019

**LOCAL DEVELOPMENT PLAN TEAM
ABERDEEN CITY COUNCIL
BUSINESS HUB 4
MARISCHAL COLLEGE
BROAD STREET
ABERDEEN
AB10 1AB**

by email to ldp@aberdeencity.gov.uk

Dear Sir / Madam

**ABERDEEN CITY LOCAL DEVELOPMENT PLAN
MAIN ISSUES REPORT CONSULTATION**

QUESTION 17 – NATURAL ENVIRONMENT PLANNING POLICIES

FOR GSS DEVELOPMENTS LTD

We refer to the above consultation in respect of the Aberdeen City Local Development Plan Main Issues Report 2019 (MIR).

We make this submission on behalf of our client, GSS Developments Ltd, an established, highly successful Aberdeen based developer.

Whilst being generally supportive of the LDP Natural Environment policies and appreciative of their role, we are aware of, and indeed have been directly involved in regular examples of a tension between development and Policy NE5 Trees and Woodlands and the associated Supplementary Guidance.

This has applied to proposals on allocated and non-allocated development sites, often where development principles have been agreed through development frameworks and masterplans. Only at the detailed planning application (FPP or MSC) stage is the concept of the trees' 'Zone of Influence' (ZoI) raised, an assessment requested by the planning authority and the resulting developable area dramatically reduced to the extent that a development may become unviable due to the loss of units.

We are concerned that the Zone of Influence was added to Policy NE5 Trees and Woodlands current supplementary guidance without adequate stakeholder or public consultation and is

also specific to Aberdeen City. It is therefore vital that the detail of any updated tree / woodland policy and supplementary guidance, assumed to be within the proposed policy NE3 'Protecting our Natural Assets' is provided at an early stage and adequately consulted on. In principle, our client is supportive of the consolidation of natural environment policies, however reserves the right to comment on the detail of the policies.

The existing policy NE5 'Trees and Woodlands' and its associated Supplementary Guidance (SG) seeks to over-protect trees at the expense of development without justification for doing so. Trees and development need to co-exist, the two do not need to be mutually exclusive. The current policy approach using the 'Zone of Influence' seems to be seeking to remove trees within any distance of development for fear of a potential future impact where trees may fall.

What is required is a more flexible and pragmatic approach to tree management that can enable trees and development to co-exist, such as was in place prior to the 'Zone of Influence' being introduced.

The issues with the existing policy NE5 and its associated Supplementary Guidance are outlined in more detail below.

NE5 'Trees and Woodlands' and 'Trees and Woodland Supplementary Guidance'

Policy NE5 presumes against any development that results in a *'loss or damage to trees that contribute to nature conservation, landscape character, local amenity or climate change adaptation and mitigation.'*

There is no additional clarification supplied within the associated SG on these types of trees. This policy therefore goes over and above the requirements of Scottish Planning Policy (SPP) which seeks to protect and enhance semi-natural woodland, native or long-established woods, hedgerows and individual trees with high nature conservation or landscape value.

There is no clarification in SG on what a tree that contributes to 'climate change adaptation and mitigation' would constitute. This could be said to be all trees and hence the policy is not compliant with SPP.

The aim of the Trees and Woodlands Supplementary Guidance which requires to be read along with Policy NE5 (hereafter referred to as the SG) is to 'inform' developers on 'incorporating' existing trees and woodlands within new developments, and outline the information required to smooth the planning process. The SG also suggests that a competent professional arboriculturalist should be hired as integral part of the design team, and notes that 'the guidance is not a substitute for the knowledge and expertise of a professional arboriculturalist'.

This is, on paper, completely reasonable and sensible, however, in our direct experience through planning applications, this rather blunt guidance has been used in spite of professional survey advice from qualified arboriculturalists. The planning authority's Environment Team has not been willing to engage in pragmatic discussion to secure the best future for trees on development sites. This approach results in entrenched positions at the outset of the planning process, which is not preferable.

Section 8 of the SG outlines the requirements for surveys, plans and assessments under the following headings:

- Land survey (topographical survey)
- Tree survey (including reference, species, height, stem diameter, crown spread, crown clearance, age, class, physiological condition, management recommendations, estimated remaining contribution and category grading)
- Tree Constraints Plan (TCP) – to inform proposed layout of the development (including constraints above and below ground)
- Arboricultural Impact Assessment (written statement to accompany TCP)
- Construction within RPA – structure should be outwith RPA unless overriding justification
- Proximity of Structures and Infrastructure to Trees – this section refers to section 5.3 of BS 5837: 2012 and suggests that the ultimate height, canopy spread and rooting environment of existing and proposed trees needs to be considered. Section 8.4.2 suggests **that buildings and associated infrastructure including garden ground should be outwith the 'zone of influence' of existing and proposed trees (ZOI is the distance from the bottom of the tree equal to the mature height of the tree).**
- Tree Protection Plan and Method Statement (protection of trees during construction).
- The SG finally notes that conditions may be used to control the development in relation to trees.

The majority of this SG is in line with best practice as contained within BS5837:2012. However, section 8.4.2 of the report relates to the 'Zone of Influence' (ZOI) which has introduced a policy requirement that is restricting a significant amount of development in the City on a variety of development sites, including greenfield allocations or urban brownfield opportunities.

The 'Zone of Influence' is defined as 'generally the distance from the bottom of a tree that is equal to the mature height of an existing or proposed tree'. This policy therefore has the potential to sterilise a development site that meets all other policy requirements. Professional advice from a number of arboriculturalists has suggested that the Council's 'ZOI' is not one recognised by industry standards, is individual to Aberdeen City Council and goes above and beyond the requirements of the BS5837:2012 standard.

The practical application of this ZOI *guidance*, in the absence of a pragmatic approach will at best sterilise development sites and at worst result in the pre-emptive felling of unprotected

trees due to perceived impacts, an entirely negative environmental result that is the opposite of what policy NE5 is trying to achieve.

The current situation in relation to trees and development is untenable. There are numerous examples within the city where developments are being refused or sterilised due to impact, or perceived impact on trees. While our clients accept the impact on trees is an important consideration in planning applications, it is not the only consideration and requires to be balanced along with many other factors.

There are a number of recent planning applications which have been considered at appeal in which Policy NE5 Trees and Woodlands (and the associated SG) was a reason for refusal. In a number of cases, the Scottish Government Reporter has not supported the Council's position on trees and woodlands:

- PPA-100-2075 – impact on trees not considered significant enough to warrant refusal of the application on its own;
- PPA-100-2079 – the Reporter attached more weight to the experience of the arboriculturalist rather than the Council and agreed there would be no impact on the trees;
- PPA-100-2093 – the potential future impact on trees was not significant, the Reporter stating that “I do not agree with the council's view that the proximity of houses and gardens would be subject to “significant” overshadowing throughout the year, thereby causing “poor levels of outdoor amenity for residents”, even though the trees are located to the south of the properties and would be in leaf for much of the year.”
- PPA-100-2092 – loss of trees would not have an adverse impact on protected area and local amenity of the area.

The above appeal decisions confirm the unnecessary delay and expense caused to both applicants and the Council to have a Reporter tell the Council that the 'Zol' concept set out in the current SG and its inflexible practical application is untenable. The drafting of the new Policy NE3 Protecting Our Natural Assets provides the opportunity to correct the current situation summarised above and we would urge the Council to do so.

Our client supports a more pragmatic approach to trees in development, and welcomes the review of Policy NE5 and associated SG. We would however request that this is undertaken with input from a professional arboriculturalist and fully consulted on with stakeholders.

We trust this submission is of use and will be taken into account in the preparation of the Policies for the forthcoming Proposed LDP and would be grateful if you would confirm receipt. Please do not hesitate to get in touch should you wish to discuss any aspect of this further.

Yours Faithfully

A black rectangular redaction box covering the signature of Scott Leitch.

**SCOTT LEITCH
ASSOCIATE PLANNING CONSULTANT
FOR AND ON BEHALF OF HALLIDAY FRASER MUNRO**

cc. GSS Developments Ltd