

REPORT TO KINCARDINE AND MEARNS AREA COMMITTEE – 24 SEPTEMBER 2019

ABERDEENSHIRE LOCAL DEVELOPMENT PLAN 2021 – ANALYSIS OF MAIN ISSUES REPORT

1 Recommendations

The Committee is recommended to:

- 1.1 Note the issue raised regarding the information provided to the Committee at its meeting on 20 August 2019 as narrated in this report;
- 1.2 Note that bid KN063 includes studio space; and
- 1.3 Agree that the decision of this Committee of 21st August 2019 regarding the settlement at Luthermuir does not require to be revisited.

2 Background/Discussion

- 2.1 This report seeks to clarify an issue arising from the meeting of the Kincardine and Mearns Area Committee of 21st August 2019 where analysis of the responses to the Main Issues Report was considered.
- 2.2 On 20th and 21st August 2019 the Committee considered a report detailing a report analysing the responses received to the Main Issues Report for the Aberdeenshire Local Development Plan 2021.
- 2.3 An issue has since arisen regarding the information provided at the meeting in relation to a bid for the Luthermuir settlement. The Committee is therefore asked to note the issue raised but agree that it does not necessitate the Committee revisiting its decision of 21st August 2019.
- 2.4 This report has been written following consultation with the Planning and Environment and Legal and Governance Services.
- 2.5 At its meeting on 21st August 2019 the Committee considered a bid for a site in Luthermuir. The relevant excerpt from the Committee report is as follows:-

Bid KN063

The development proposal has been revised since the original bid in March 2018, and now proposes a reduced scale of development. As such initial concerns are no longer valid. The proposed altered development proposal now meets the Council's aspirations for sustainable economic development and offers a new opportunity for food and drink tourism development. Several elements of the proposal have been removed, with the site reduced in size and avoiding prime agricultural land (917).

Bid KN063

One respondent has suggested they have amended their proposals to try to address matters stemming from the refused planning application (APP/2017/1366) and the dismissed appeal. Certain elements have been removed, the site reduced, with the proposal now seeking allocation for studio space, farm shop/retail and a café with ancillary toilet facilities. The reduction in scale of proposal does not address the locational concerns, particularly with the site (for tourist facilities) not being well related to a settlement, with visitors relying on the private car to access the site, and road safety concerns would remain due to intensification of use of the access with the A90."

The full Committee report can be found at

<http://committeesinternal.aberdeenshire.gov.uk/committees.aspx?commid=8&meetid=19491>.

- 2.6 The excerpt of the draft minute of the meeting is attached as **Appendix 1**. The decision of the Committee was to agree with the officer recommendations for Luthermuir, which did not include inclusion of the bid site KN063.
- 2.7 The agent for the bidder has since raised concerns that the advice given at the meeting on 21st August 2019 was that the bid did not include studio space. Whilst this does not accord with the recollection of officers and full details of the bid was included in the committee report, it is considered appropriate to raise the issue with Members in order to obtain clarity for the Local Development Plan process going forward.
- 2.8 The Committee is therefore requested to note that the bid did include studio space as set out in the report. However as the information regarding studio space was not considered material to the reasons for the decision by Committee regarding the Luthermuir settlement it is the view of officers that there is no requirement to revisit the decision.
- 2.9 If the Committee is minded to revisit the decision, Standing Order 7.2 would require to be suspended.
- 2.10 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

3 Scheme of Governance

- 3.1 The Committee is able to consider this item in terms of Section B.1.2 of the List of Committee Powers in Part 2A of the Scheme of Governance to consider, comment on, make recommendations to Services and any other appropriate Committee on any matter or policy which impacts its Area.
- 3.2 Standing Order 7.2 provides that no motion which seeks to alter or revoke a previous decision of Full Council or a Committee or has that effect will be considered within a period of 6 months of the original decision, unless:

a. Notice has been given on the agenda by virtue of a Notice of Motion submitted in terms of Standing Order 4.2, that the previous decision may be altered or revoked, and the Chair on the advice of the Monitoring Officer or their representative is satisfied that the previous decision can no longer be implemented or its effect has been substantially altered by subsequent circumstances, or,

b. It is detailed in the terms of a report submitted to the Council or Committee by an officer that the previous decision can no longer be implemented or its effect has been substantially altered by subsequent circumstances and the Monitoring Officer or their representative agrees that this is the case.

3.3 It is the view of officers that neither 7.2a nor 7.2b apply in this case. Therefore, if the Committee wishes to revisit the decision of 21st August 2019 it would require to suspend Standing Order 7.2 in order to do so. Standing Order 8.1 provides that a motion to suspend standing orders must be seconded and must be supported by two thirds of those present and voting.

4 Implications and Risk

4.1 An Equality Impact Assessment is not required because the Area Committee is making no decisions on the Proposed Local Development Plan at this meeting that may have a differential impact on any people with protected characteristics. These decisions will be taken by Aberdeenshire Council.

4.2 There are no staffing or financial implications arising from this report.

4.3 The following Risks have been identified as relevant to this matter on a Corporate Level:
Risk ID ACORP006: Reputation management (including social media) in so far as Aberdeenshire Council must be able to demonstrate that it has considered all submissions made to the Main Issues Report prior to finalising the Proposed Local Development Plan.

Stephen Archer
Director of Infrastructure Services

Report prepared by Bruce Stewart, Acting Area Manager, Kincardine and Mearns and Mairi Stewart, Planning Service Manager.
11 September 2019

APPENDIX 1

Excerpt of the Draft Minute – 20.08.19

138. LUTHERMUIR

Councillor Wallace seconded by Councillor Pike moved against officer recommendation to allocate development on bid KN063, as there was merit in the development.

As an amendment, Councillor Evison seconded by Councillor Agnew, moved with Officers recommendation.

The Committee voted:

For the motion	(5)	Councillors Carr, Howatson, Pike, Wallace and Wilson.
For the amendment	(6)	Councillors Agnew, Dickinson, Evison, Hutchison, Mollison and Robertson.

The amendment was carried and the Committee **agreed**:

1. that the Vision be modified within the Settlement Statement to reflect the aspirations as expressed in early consultation by local stakeholders, including the Community Council. The reference to the need for a small retail facility in the vision for Luthermuir, as this will likely be unviable be removed,
2. that the description of Protected Land P1 be amended to reflect the site is green space, to avoid potentially misleading interpretation as public open space,
3. an increased allocation at OP1 to 31 homes, and removed reference to small scale retail and employment land. Highlighted that access should be taken via the site to the south, and an emergency access will be required when the cumulative total of dwellings from the single point of access in the site to the south reaches 50 homes. The need for a buffer strip to the minor watercourse should be highlighted (see below), and tree removal should be minimised. Connectivity and affordable housing should also be delivered,
4. that text in the Draft Proposed LDP be amended within the allocation summary for OP1 to state: "There will be no built development over the active culvert nor any additional culverting", and that a buffer strip is required adjacent to the watercourse on the boundary which should be integrated positively into the development, with enhancement of the straightened watercourse through renaturalisation and removal of any redundant features to be investigated,
5. the existing site OP2 be removed,
6. that land subject to APP/2016/2326 be allocated, for 25 homes, and excluded previous references to small-scale retail and employment land. The site should take access from School Road, and provide access to site OP1, and ensure maintenance of the existing core path. Affordable housing should be integrated into the design, and a further recommendation
7. *That bid KN125 be allocated in the proposed Local Development Plan.*