

**FALKIRK COUNCIL**

**Subject: FALKIRK LOCAL DEVELOPMENT PLAN  
EXAMINATION REPORT AND MODIFICATIONS**  
**Meeting: FALKIRK COUNCIL**  
**Date: 13 MAY 2015**  
**Author: DIRECTOR OF DEVELOPMENT SERVICES**

**1. INTRODUCTION**

- 1.1 The Council is preparing a single Local Development Plan (LDP) for its area, which will replace both the existing Falkirk Council Structure Plan (approved in 2007) and the Falkirk Council Local Plan (adopted in 2010). The LDP will set out both the broad vision and strategy for the area for a 20 year period (2014-2034) and detailed, site-specific policies and proposals which will guide development for the first 10 years.
- 1.2 Following extensive consultation on the Main Issues Report (MIR) over winter 2011/2012, the Council considered the comments received and approved the Proposed Falkirk Local Development Plan on 6 March 2013. The Proposed Plan was then subject to a six week period for representations from 26 April to 7 June 2013, during which a large number of submissions were received. Representations seeking changes to the Proposed Plan were organised into a number of issues. These were considered by the Council on 12 February 2014, and it was decided to make no amendments.
- 1.3 On 20 February 2014, the Council submitted the Proposed Plan to Scottish Ministers, and requested the appointment of a Reporter or Reporters to examine the plan, and the issues raised by representations. The Council also prepared a Summary of Unresolved Issues, which contained its response to the unresolved representations.
- 1.4 The LDP Examination has now been completed, and the Examination Report was published by the Directorate for Planning and Environmental Appeals (DPEA) on 6 March 2015. This contains the Reporters' recommendations in relation to each of the issues. The Council must now make modifications to the plan in accordance with the recommendations, and commence final procedures to adopt the plan.
- 1.5 This report summarises the outcome of the Examination and seeks approval for a set of modifications and a Modified Plan. Approval is also sought to commence final adoption procedures for the plan.

**2. EXAMINATION REPORT**

- 2.1 The LDP Examination was conducted by one lead Reporter from the DPEA, with assistance from four other reporters. The Examination process, which has taken just over a year to complete, has involved a number of further information requests from reporters to the Council and other parties. There have been no inquiry sessions or hearings.

- 2.2 The Examination Report presents the Reporters' conclusions and recommendations on each of the 29 unresolved issues raised by representations to the plan. It is important to note that only policies and sites which were subject to objections have been considered by the Examination and feature in the Examination Report. Other elements will simply carry through into the adopted version of the plan.
- 2.3 In terms of housing issues, the reporters have generally supported the Council's approach to strategic housing land targets, distribution of growth, generosity of land supply and site effectiveness. They have concluded that there is no need for the allocation of additional housing sites. They have, however, recommended additional policy wording to deal with the situation should a housing land shortfall occur during the life of the plan. There have been relatively few recommendations to change allocated housing sites. Three sites have been recommended for removal from the plan: Wood Street, Grangemouth; Duke Street, and Nethermain Road, Denny. One small site has been added at Pretoria Road, Larbert.
- 2.4 In terms of economic development issues, two sites at Lochlands, Larbert and Firs Park, Falkirk have been recommended for removal. Changes have been recommended to reflect the new National Developments in National Planning Framework (NPF) 3, including a proposal for carbon capture and storage which is to be identified schematically to the north east of Grangemouth Docks, and a renaming of the Grangemouth Freight Hub as the Grangemouth Investment Zone.
- 2.5 Various wording changes have been recommended to policies, including those on major hazards, town centres, renewable energy and minerals. A number of these are to take account of the new Scottish Planning Policy. The preparation of supplementary guidance on renewable energy technologies other than wind is also recommended. Policies for the provision of community infrastructure and affordable housing, and the infrastructure proposals in the plan, have been supported

### **3. MODIFICATIONS**

- 3.1 Following the coming into force of the Planning etc (Scotland) Act 2006, the recommendations contained in the Examination Report are largely binding on the Council as planning authority. Planning authorities may depart from the recommendations only in specific defined circumstances. These circumstances are where the recommendation(s):
- would have the effect of making the LDP inconsistent with the National Planning Framework.
  - is incompatible with Part IV of the Conservation (Natural Habitats etc) Regulations 1994, i.e. would have an adverse impact on the integrity of a European protected nature conservation site.
  - would not be acceptable having regard to an environmental assessment carried out by the planning authority on the plan following modification in response to recommendations.
  - are based on conclusions that could not reasonably have been reached based on the evidence considered at the Examination.

- 3.2 By way of clarification, Circular 6/2013 on ‘Development Planning’ explains that the last of these criteria is intended to address the possibility of clear errors (including factual errors) having been made by the Reporter. It does not relate to circumstances where the planning authority disagrees with the planning judgement reached by the Reporter.
- 3.3 It is not considered that these circumstances apply to any of the recommendations and therefore there is no justification for departing from them.
- 3.4 The Council is now required to make the modifications recommended in the Examination Report, and any other requisite modifications. Such requisite modifications are ones which are wholly consequent on the Reporters’ recommendations and are needed to ensure that the plan as a whole is internally consistent and reflects the terms of the modifications. The Council is not permitted to make any unconnected modifications.
- 3.5 The proposed modifications are set out in Appendix 1. This contains the amendments specifically identified by the Reporters and the other requisite amendments which follow on from them.
- 3.6 The Modified Plan itself is contained in Appendix 2. This incorporates all the changes identified in Appendix 1, together with other minor typographical and factual corrections.

#### **4. STRATEGIC ENVIRONMENTAL ASSESSMENT AND HABITATS REGULATIONS APPRAISAL**

- 4.1 The Council has carried out Strategic Environmental Assessment (SEA) of the LDP. An Environmental Report was prepared in association with the Main Issues Report, and revised at the Proposed Plan stage. There is a requirement to consider the potential environmental impacts of the modifications. Accordingly, the Council has carried out a screening exercise on the modifications, and has demonstrated that the changes proposed have either been subject to SEA already in the process, or are not likely to have significant environmental effects.
- 4.2 The LDP must be accompanied by a Habitats Regulations Appraisal (HRA) which demonstrates that the plan will not adversely affect the integrity of European nature conservation sites. The HRA has been updated to take account of the modifications.

#### **5. ADOPTION PROCEDURES**

- 5.1 The final steps towards adoption of the LDP are for the Council to publish its intention to adopt the Modified Plan, and to send it to Scottish Ministers. Legislation requires that this takes place within 3 months of the receipt of the Examination Report (i.e. by 5 June 2015). At this stage, if it appears to them that the plan is unsatisfactory, Scottish Ministers may issue a direction to the Council requiring further modifications to be made. However, if no direction is issued, the Council may adopt the LDP 28 days after submission.

## **6. ACTION PROGRAMME**

- 6.1 The LDP is accompanied by an Action Programme, which details the actions required to deliver the plan's policies and proposals, along with timescales and responsible agencies. This has been subject to consultation and amendment alongside the LDP, but is not considered at the Examination. Consequential changes have been made to the Action Programme to reflect the modifications to the LDP, and the final version is attached as Appendix 3. The Council is required adopt and publish the Action Programme within 3 months of the adoption of the plan itself.

## **7. IMPLICATIONS**

- 7.1 Legal: The requirements and procedures for the preparation of LDPs are set out in the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning, etc (Scotland) Act 2006) and the Town and Country Planning (Development Planning) (Scotland) Regulations 2008. The circumstances in which planning authorities may depart from recommendations in Examination Reports are contained in the Town and Country Planning (Grounds for declining to follow recommendations) (Scotland) Regulations 2009. Explanation of the legal provisions are contained in Circular 6/2013 'Development Planning'.
- 7.2 Financial: None
- 7.3 Personnel: None.
- 7.4 Policy: The Falkirk LDP, once adopted, will constitute the statutory Development Plan for the area, replacing the Falkirk Council Structure Plan and the Falkirk Council Local Plan.

## **8. RECOMMENDATION**

### **8.1 That the Council:**

- (a) approves the proposed modifications to the Proposed Falkirk Local Development Plan, as contained in Appendix 1;**
- (b) agrees to publish its intention to adopt the Modified Falkirk Local Development Plan, as contained in Appendix 2, and submits it to Scottish Ministers;**
- (c) agrees that the Modified Plan be adopted 28 days after submission to Scottish Ministers, unless Scottish Ministers direct otherwise; and**
- (d) approves the final Action Programme, as contained in Appendix 3, and authorises its publication within 3 months of the adoption of the Local Development Plan.**



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**Director of Development Services**

Date: 30 March 2014

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### **APPENDICES**

1. Falkirk Local Development Plan, Modifications to the Proposed Plan
2. Modified Falkirk Local Development Plan
3. Falkirk Local Development Plan, Action Programme

### **LIST OF BACKGROUND PAPERS**

1. Falkirk Local Development Plan – Proposed Plan, April 2013
2. Falkirk Local Development Plan Revised Environmental Report.
3. Falkirk Local Development Plan Habitats Regulations Appraisal Record.
4. Falkirk Local Development Plan Technical Reports.
5. Falkirk Development Plan Scheme (5<sup>th</sup> Revision), May 2014
6. Falkirk Local Development Plan Examination Report

Any person wishing to inspect the above background papers should contact Alistair Shaw on 01324 504739