
Report To: Environment and Regeneration Committee Date: 17 June 2014

**Report By: Corporate Director, Environment,
Regeneration and Resources**

**Report No: E&R/14/06-04/
SJ/FJM**

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**Subject: Inverclyde Local Development Plan: Proposed Modifications and
Adoption**

1.0 PURPOSE

1.1 The purpose of this report is to bring the modifications arising out of the Examination held on the Inverclyde Local Development Plan: Proposed Plan before Committee, and seek approval for the modified Plan to be advertised indicating the Council's intention to adopt it. The Examination was conducted by Scottish Government appointed reporters from the Department of Planning and Environmental Appeals.

2.0 SUMMARY

2.1 Members will be aware that the Inverclyde Local Development Plan has gone through a number of prescribed stages and the final stage, the Examination by Scottish Government appointed reporters, has been giving consideration to representations made on the Plan that were unable to be resolved following public consultation, since January 2014.

**Min Ref:
31.10.13,
para 667**

2.2 The Examination has now concluded and the Reporters' Examination Report (refer to Background Report) including their recommendations were received on 11th June, outlining eleven modifications to the Proposed Plan, of which only two are considered significant. The modifications are attached as Annex 1, all of which are now recommended to be made to the Plan.

2.3 This is a very small number of modifications and demonstrates that the Council's settled view for the future development of Inverclyde expressed in the Proposed Plan has been endorsed almost completely by the three reporters appointed to examine the Plan.

2.4 The Reporters' modifications to the Proposed Plan are presented to Committee for approval, to become the first Inverclyde Local Development Plan, and further to be placed before the full Council to formally endorse the decision of this Committee to approve its intention to advertise and adopt this Plan.

3.0 RECOMMENDATIONS

3.1 That Committee:

- (a) welcome the conclusions of the Examination held on the LDP: Proposed Plan;
- (b) approve the modifications recommended by the Reporters to the Local Development Plan (Annex 1);
- (c) remit to the Council to agree to advertise the Plan and its intention for it to be adopted, and submit it to Scottish Ministers; and
- (d) delegate to the Head of Regeneration and Planning to undertake the statutory requirements consequent upon the above decisions (refer Section 8.0).

Aubrey Fawcett, Corporate Director, Environment, Regeneration and Resources

4.0 BACKGROUND

- 4.1 Members will recall approving in May 2013 the publication of the Inverclyde Local Development Plan: Proposed Plan for public consultation and of representations received on the Plan, reported to Committee in October 2013. **Min Ref: 02.05.13, para 319**
- 4.2 At the October Committee, Members also approved a report submitting Schedule 4s (the Council's response to those representations made to the Proposed Plan, grouped as issues that were unable to be resolved) for Examination, by a Scottish Government independent reporter. The Schedule 4 documentation was submitted to the Department for Planning and Environmental Appeals (DPEA) on 29th November 2013 and the Examination formally commenced at the beginning of January 2014, with three reporters appointed and expected to last for up to six to nine months. **Min Ref: 31.10.13, para 667**
- 4.3 The Reporters' Examination Report was received on 11th June 2014, taking over six months to conclude, this despite not having a requirement for a public hearing on any of the 27 issues under examination.

The Examination Report and Recommended Modifications to the Plan

- 4.4 The Reporters' recommendations in the Examination Report (refer to Background Report, *available in Members' Lounge*), relate to 8 of the 27 issues examined, making only nine relatively minor modifications to the Proposed Plan and two which are considered significant. The modifications are attached as Annex 1, representing the changes now recommended to the Plan. **Annex 1**

Modifications to Plan

- 4.5 The two most significant modifications are:
- (a) the removal of the Council-owned residential development opportunity identified on the former Holy Cross primary school site, Lyle Road, Greenock and its re-designation as 'open space'; and
 - (b) deletion of all reference to Enabling Development in Policy HER7 'Gardens and Designed Landscapes', referring only to the protection of this designation, and the introduction of a new Policy HER6, dealing solely with 'Enabling Development' in relation to listed buildings.
- 4.6 In relation to the housing site (ref. 'r39' in Schedule 6.1), it is worth noting that in the 2005 Local Plan this area was designated as part of the wider area of open space of Lyle Hill, but was identified as a housing opportunity to augment the land supply and assist in the regeneration and repopulation of Inverclyde.
- 4.7 The modification made to introduce a new enabling policy in the Plan removes the direct link with the three designated 'Gardens and Designed Landscapes' in Inverclyde and makes it relevant to the restoration of all listed buildings, in accordance with Scottish Planning Policy (SPP). The new policy also includes the instruction to prepare and adopt supplementary guidance to set out the criteria that will be used to assess individual proposals.
- 4.8 The other modifications are relatively minor and limited in scope, involving mainly changes to the text to assist clarity of policy intent, i.e.
- (i) Policy SDS4 'Green Network' and in addition clarification regarding the Coastal Access Route under Policy ENV3.
 - (ii) Policy RES7 'Residential Development in the Green Belt and Countryside', to distinguish between the two types of development concerned, 'single or small groups of dwellings not adjoining the urban area' and 'redundant non-residential buildings', and the categories of development that could be

carried out under the policy. The Supplementary Guidance on such developments remains unchanged.

- (iii) Policy ENV1 'Designated Environmental Resources (b) Strategic and Local Designations', in order to make specific reference to Clyde Muirshiel Regional Park.
- (iv) Policy INF1 'Renewable Energy Developments', so as to account more for any adverse effects upon the environment by supporting proposals for the generation of energy from renewable sources.
- (v) Policy INF2 'Energy Efficiency', in order to align this policy better with Scottish Government targets for reducing carbon emissions from new buildings.

Endorsement of Plan

4.9 The principle message to take from the Examination however, is the limited nature of the modifications. The Reporters have fully endorsed almost the entire Plan after having considered the evidence submitted by the objectors on the unresolved issues, including in some cases requests for further information. Fully endorsed are:

- 1) The Sustainable Spatial Strategy (the 'Big Picture' for the planning and development of Inverclyde).
- 2) The Housing Development Strategy and the preference for development on urban brownfield sites.
- 3) The Housing Land Supply and Residential Development Opportunities (with the exception of one of 65 sites) – this is always a contentious issue at Examination, but the Reporters are satisfied by the approach of the Council, taking into account the prevailing unusual depressed economic and housing market conditions and the "unusually comprehensive assessments" of Private and Affordable Housing Sector requirements over the effective and established timeframes of the Plan.
- 4) The new Affordable Housing Policy and supporting Supplementary Guidance, stating that they are satisfied that the local requirements justify the use of the 'benchmark approach' rather than the SPP maximum figure of 25%.
- 5) All but one of the housing opportunity sites, and worth highlighting the Reporters fully support the level of land provision made in Kilmacolm and Quarrier's Village, including Smithy Brae (the subject of most representations), and their view that no additional Green Belt releases are required.
- 6) The Town Centre policy and in particular, the review of the Greenock town centre boundary and retention of the two main sub-divisions into a Central (predominantly shopping) Area and an Outer (more mixed use) Area.
- 7) The three proposed conservation areas, at the Cross, Kilmacolm and the two in central Gourock.

Legislative Requirements

4.10 In accordance with The Planning (Scotland) Act 2006 and Planning Circular 6/2013 'Development Planning', local authorities have little discretion over Reporters' recommendations following Examination. The Circular (paragraph 92) states, "recommendations contained in Examination Reports are largely binding on planning authorities. Planning authorities may depart from the recommendations only in specific circumstances." These are set out in Regulation 2 of the Town and Country Planning (Grounds for declining to follow recommendations) (Scotland) Regulations 2009 and Section 19(11) of the Act.

4.11 The circumstances where authorities may depart from recommendations are where the recommendation(s):

- (a) would have the effect of making the LDP inconsistent with the National Planning Framework, or with any SDP or national park plan for the same area;
- (b) is incompatible with Part IVA of the Conservation (Natural Habitats, etc.) Regulations 1994;

- (c) 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; and
- (d) are based on conclusions that could not reasonably have been reached based on the evidence considered at the Examination.

4.12 Criterion (d) above addresses the possibility of clear errors (indicating 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.

5.0 PROPOSALS

5.1 Given the above and having satisfied that criteria (a) - (d) does not apply, it is recommended that the 11 modifications made by the Reporters (outlined in Annex 1) are incorporated in the Inverclyde LDP for adoption.

5.2 The Conclusions (Section 8.0) outline in more detail the next stages the Council has to fulfil to meet its statutory requirements. This would include formal endorsement by the full Council of this Committee's decision to adopt the Inverclyde Local Development Plan. Following this decision, it is proposed that the Head of Service be delegated responsibility to fulfil these statutory requirements.

6.0 IMPLICATIONS

6.1 **Legal:** there are no direct implications arising from this report. However, should a legal challenge to the LDP be made within six weeks of adoption, there will be a requirement for support from the Head of Legal and Property Services.

6.2 **Finance:** there are no direct implications arising from this report.

Financial implications – one-off costs

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
n/a	n/a	n/a	n/a	n/a	n/a

Financial implications – annually recurring costs/(savings)

Cost Centre	Budget Heading	Budget Year	Proposed Spend this Report	Virement From	Other Comments
n/a	n/a	n/a	n/a	n/a	n/a

6.3 **Human Resources:** there are no direct implications arising from this report.

6.4 **Equalities:** the adoption of the Local Development Plan and the determination of planning applications in accordance with the policies in the Plan, will take equalities implications directly into account, where appropriate.

6.5 **Repopulation:** the adoption of the Local Development Plan will assist, through the determination of planning applications on sites identified for development in the Plan, and other initiatives in the Plan, the repopulation of Inverclyde.

7.0 CONSULTATION

7.1 **Chief Financial Officer:** no requirement to consult on the issues raised by this report.

- 7.2 **Head of Legal and Property Services:** subject to the possibility of a legal challenge noted above (paragraph 6.1), there was no other requirement to consult at this stage.
- 7.3 **Head of Organisational Development, Human Resources and Communications:** no requirement to consult on the issues raised by this report.

8.0 CONCLUSIONS

- 8.1 Subject to the exceptions outlined above (paragraph 4.6), Section 19(10) of the Act requires authorities to make modifications recommended in the Examination Report, and any other requisite modifications. The intention is that these and other, requisite modifications should be wholly consequent on the reporter's recommendations (e.g. to rectify any factual or terminological inconsistencies created by the Reporter's recommended modifications, or any necessary adjustments to tables, maps, schedules and text which are solely required to ensure that the whole of the Plan properly reflects the terms of the modification which has been recommended. It is not permissible to make any unconnected modifications.
- 8.2 Having done so in accordance with the Regulations, the Council would be in a position to publish the modifications and the Plan as they propose to adopt it by (Section 19(10) of the Act and regulation 17) carrying out the following:
- (a) publish a notice in the local newspaper, stating that the authority propose to adopt the Proposed Plan, as modified;
 - (b) where and when the Plan may be inspected;
 - (c) make copies of the modifications and the modified Plan available to inspect at the Municipal Buildings and in all public libraries, and on the Council's website; and
 - (d) notify people who made representations on the Proposed Plan prior to the Examination, that the Plan (as modified), has been published in the form in which the Council propose to adopt it, and where and when it can be viewed.
- 8.3 Within three months of receiving the Examination Report (i.e. no later than 11th September 2014, but ideally much sooner), Section 19(12) of the Act requires the Council to send to the Scottish Ministers:
- (a) the modifications made following receipt of the Examination Report;
 - (b) the Proposed Plan the Council wishes to adopt;
 - (c) the Report of the Examination;
 - (d) the advertisement of our intentions to adopt the Plan; and
 - (e) the Environmental Assessment carried out into the Plan.
- 8.4 It is proposed that all of the above statutory requirements are delegated to the Head of Regeneration and Planning to fulfil.
- 8.5 Twenty eight days after the publication of the notice of intention to adopt, the Council will be able to adopt the Plan unless directed not to by the Scottish Ministers. Scottish Ministers have default power under the Act (Section 20), to direct the Council to consider modifying the Plan, or for Scottish Ministers to approve the Plan themselves, although it is stated that Ministers expect they will rarely need to use these powers.
- 8.6 There is also the potential for a legal challenge which has to be made within six weeks of adoption and which would obviously delay considerably any final date for adoption of the Plan.
- 8.7 The above statutory requirements suggest that the earliest date for adoption of the Inverclyde Local Development Plan 2014 will be the end of August 2014.

9.0 BACKGROUND PAPERS

- 9.1 (1) Inverclyde Local Development Plan: Proposed Plan (May 2013) – Report to Environment and Regeneration Committee (2 May 2013), seeking approval to publish and consult on the Plan
- (2) Inverclyde Local Development Plan: Proposed Plan – Report to Environment and Regeneration Committee (30 October 2013), reporting on representations made to the Plan and seeking approval of the Schedule 4s for submission to the Examination to be held on the Plan into unresolved issues
- (3) Reporters' Examination Report (June 2014), including Reporters' recommended modifications. (copies made available in Members' lounge).

ATTACHMENTS

Annex 1: List of Modifications Made to the Proposed Plan (part of the above Examination Report)

Head of Regeneration and Planning
Municipal Buildings
Clyde Square
Greenock
PA15 1LS

File Ref: IC LDP – post Exam Mods and Adoption (June 2014)

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ANNEX 1

ISSUE	REPORTER'S RECOMMENDATION	REPORT PAGE NO
1. Climate Change	No modifications	3
2. A Sustainable Spatial Strategy	No modifications	6
3. Transport	<p>1. Add the following text to the end of Policy ENV3: "(e) Inverclyde Coastal Route: Inverkip Power Station – Ardgowan Road/ Brueacre Road; Kempock Point, Gourrock; and James Watt Dock – Graving Dock, Greenock".</p> <p>2. Identify the three links mentioned above with a letter (e) on Figure 8.2.</p> <p>3. Adjust the key to Figure 8.2 to show existing links as the green dashed line, and proposed and potential links as the black dashed line.</p>	14
4. Housing Development Strategy	<p>1. Amend the title of Policy RES2 to 'Development on Urban Brownfield Sites'.</p> <p>2. Amend Policy RES7 to read: "Policy RES7 - Residential Development in the Green Belt and Countryside The development of new dwellings in the Green Belt and Countryside, as identified on the Proposals Map, will only be supported if the proposal is for either: (1) a single or small group of dwellings not adjoining the urban area; or (2) the conversion of redundant non-residential</p>	19

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	<p>buildings, that are for the most part intact and capable of conversion for residential use without recourse to substantial demolition and rebuilding.</p> <p>In addition, all proposals must fall within one of the following categories:</p> <p>(a) demolition and replacement of habitable dwellings which cannot otherwise be brought up to acceptable building standards and where the proposed building reflects the scale of the existing building and is sympathetic to the character, pattern of development and appearance of the area; or</p> <p>(b) [as in Proposed Plan]</p> <p>(c) conversion of redundant non-residential buildings, where [continue as in Proposed Plan]</p> <p>[Criteria (d) and (e) as in Proposed Plan]</p> <p>Further detailed policy relating to this type of development is contained in the Supplementary Guidance on Planning Application Advice Notes.”</p>	29
5. Housing Land Supply and Residential Development Opportunities	No modifications	29
6. Affordable Housing	No modifications.	42

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7.1. Housing Sites in Proposed Plan - Kilmacolm & Quarrier's Village	No modifications	54
7.2. Housing Sites in Proposed Plan - Port Glasgow	No modifications	63
7.3. Housing Sites in Proposed Plan - Greenock	No modifications apart from the re-designation of the former Holy Cross School site (r39) as open space instead of it being proposed for residential development – and for its removal from Schedule 6.1 (as well as making consequential changes to the tables summarising housing land allocation totals).	67
7.4. Housing Sites in Proposed Plan - Gourrock & Wemyss Bay	No modifications	81
8. Smithy Brae, Kilmacolm	No modifications	92
9.1. Housing Sites Not Included in the Proposed Plan: Milton Wood (Police House Field site), Kilmacolm	No modifications	103
9.2. Housing Sites Not Included in the Proposed Plan - Old Hall, off Quarry Drive, Kilmacolm	No modifications	111
9.3. Housing Sites Not Included in the Proposed Plan: The Plots, Port Glasgow Road, Kilmacolm	No modifications	118
9.4. Housing Sites Not Included in the Proposed Plan: Valley View Farm, Doughtiehill Road, by Port Glasgow	No modifications	124
9.5. Housing Sites Not Included in the Proposed Plan: Urban Sites: Barr's Brae, Port Glasgow; Dunvegan Avenue, Gourrock; fmr Kilmacolm Institute, The Cross, Kilmacolm; and Gillburn Road, Kilmacolm	No modifications	132
10. Town Centres	Replace the wording of Policy TCR7 (g) with the following: (g) that no appropriate, suitable and available sequentially preferable site exists;	139
11. Local Centres and Neighbourhood Shops	No modifications	149

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12.	Environmental Designations	No modifications	152
13.	Green Network	<p>Replace Policy SDS4 with the following new wording:</p> <p>“Policy SDS4 – Green Network <i>The sustainable development strategy will be assisted and place making strengthened by safeguarding and where possible enhancing the existing green network of routes, as well as access to this network. Accordingly, new developments, in particular large-scale renewal and regeneration projects, should embed ‘greening’ principles to contribute to the strategic and local green network wherever appropriate opportunities arise.”</i></p>	154
14.	Open Space	No modifications	156
15.	Tree Preservation Orders	No modifications	160
16.	Conservation Areas	No modifications	167
17.	Gardens and Designed Landscapes (Enabling Development)	<ol style="list-style-type: none"> 1. Delete paragraph 9.8. 2. Delete the text of Policy HER7, with the exception of the first sentence. 3. Add an additional policy after Policy HER5 to read: <p>“Enabling Development</p> <p>Proposals for enabling development to support the restoration of listed buildings will be considered favourably where it is the only means of retaining the listed building. The resulting development should be of a high design quality, protect the listed building and its setting and be the minimum necessary to enable its</p> 	171

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	<p>conservation and re-use. The new development should be designed to retain and enhance the special interest, character and setting of the listed building. The Council will adopt further detailed policy on this topic, setting out the criteria that will be used to assess individual proposals, as supplementary guidance."</p>	
<p>18. Renewable Energy</p>	<p>1. Amend the first sentence of Policy ENV1(b) to read: <i>"Development adversely affecting the Clyde Muirshiel Regional Park and other strategic and local natural heritage resources will not normally be permitted."</i></p> <p>2. Amend the proposals map key to refer to Policy ENV1 alongside the notation for the regional park boundary.</p> <p>3. Amend the first part of Policy INF1 to read: <i>"The Council will support development required for the generation of energy from renewable sources, unless any economic, environmental and social benefits of the proposal are outweighed by significant adverse effects upon: ..."</i></p>	<p>178</p>
<p>19. Energy Efficiency</p>	<p>Delete the first paragraph of policy INF2 and replace it with:</p> <p>"Support will be given to all new buildings designed to ensure that at least 10% of the carbon dioxide emissions reduction standard set by Scottish Building Standards* is met through the installation and operation of low and zero carbon generating technologies. This percentage will increase to at</p>	<p>186</p>

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<p>least 15% by the end of 2016.”</p> <p>A footnote should also be added after the fifth bullet point as follows:</p> <p>“* It is recognised that Building Standards may change during the lifetime of this Plan. The requirements are therefore percentages of the Building Standard in operation at the time applications are determined.”</p>	
<p>No modifications</p>	<p>189</p>
<p>20. Miscellaneous</p>	