

# **PERTH AND KINROSS COUNCIL**

**25 September 2019**

## **LOCAL DEVELOPMENT PLAN 2 MODIFICATION AND ADOPTION**

**Report by Depute Chief Executive, Chief Operating Officer (Report No. 19/275)**

### **PURPOSE OF REPORT**

This report and the associated appendices present the conclusions and recommended modifications arising out of the Examination of the Proposed Local Development Plan 2. It notes that, in the majority of cases, the Reporter accepted the Council's position as set out in the Plan, or in the responses to representations submitted for examination.

In addition, the report notes an assessment of the Strategic Environmental Assessment (SEA) implications and an update of the Habitats Regulations Appraisal Record which take into account the modifications made to the Proposed Local Development Plan.

The report recommends that the Council accepts all the recommended modifications, plus the technical and consequential changes, and proceeds to the adoption of the Plan. The report also sets out the procedures required to modify and adopt the Plan.

### **1. BACKGROUND / MAIN ISSUES**

- 1.1 The Proposed Local Development Plan 2 (the Proposed Plan) sets out the strategy to guide future land use and development within Perth & Kinross up to 2028. The Proposed Plan contains policies and proposals covering the principal land use issues and sets out where new development should or should not happen. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the existing Perth & Kinross Local Development Plan (LDP1) adopted in February 2014.
- 1.2 The Council approved the Proposed Plan, for a period of representation, at its meeting on the 22 November 2017 (Report No17/387). Following on from this the representations received were considered and those that remained unresolved were reported to the Special Council Meeting of 29 August 2018 (Report No 18/263 refers). This meeting also considered the Council's proposed response to those representations. The Council agreed that the Proposed Plan along with the unresolved representations be submitted to Scottish Ministers for Examination.

## **2. EXAMINATION**

- 2.1 The Proposed Plan was submitted to the Scottish Ministers on 14 September 2018 and, following the satisfactory consideration of the Council's Participation Statement, the Examination commenced on 5 November 2018. The Examination was undertaken by four independent persons known as Reporters, and referred to in this report as the Reporter. The Reporter is appointed by Scottish Ministers, with the administration of the Examination process undertaken by the Government's Directorate for Planning and Environmental Appeals (DPEA). The full cost of the Examination is the responsibility of the Council and amounts to £122,532.29.
- 2.2 The Reporter has now completed the Examination of the Proposed Plan against the unresolved representations and the Council's submissions (as agreed at the Special Council meeting on 29 August 2018), and has outlined the modifications to be made to the Proposed Plan. Appendix 1, provided in electronic format, sets out in detail all of the modifications and changes made to the plan as proposed by the Reporter. Appendix 2, provided in electronic format, contains the full Examination Report and addendum. Copies of these Appendices are also available in the Members' Lounge.
- 2.3 The Reporter, in the Examination of the Proposed Plan, considered all of the 50 groupings of issues arising from the unresolved representations. The Examination process included a series of unaccompanied site inspections. A total of 18 further information requests were submitted to the Council and other parties. Most sought clarification on site specific issues. The remainder related to issues covering infrastructure contributions, housing land supply, placemaking, flooding, retail, air quality and minerals.
- 2.4 There was no requirement to hold a formal inquiry or hearing session. Having taken into account all of the information submitted, the Reporter has set out conclusions and recommendations in relation to each of the issues in the Examination Report. This was delivered to the Council on 11 July 2019, the date originally scheduled by the DPEA.
- 2.5 The Examination report is essentially binding on Planning Authorities - this is in terms of the Town and Country Planning (Grounds for declining to follow recommendations) (Scotland) Regulations 2009. Regulation 2 states that authorities may only depart from recommendations that:
- “(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) Are incompatible with Part IVA of the Conservation (Natural Habitats etc.) Regs 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;
  - (d) Are based on conclusions that could not reasonably have been reached based on the evidence considered at the Examination.”

- 2.6 Criterion (d) relates to the possibility of clear errors (including factual errors) by the Reporter, but not to occasions where the Reporter has reached a different planning judgement from the planning authority.
- 2.7 I am satisfied that none of the circumstances provided for in regulation 2 applies and therefore the Council is required to accept the Reporter's recommendations. The failure to comply with these regulations would present a high risk of legal challenge in the Court of Session.

#### Key findings and modifications

- 2.8 To assist Members a series of summary sheets have been prepared for each of the Issues the Reporters looked at. These provide information on:
- The extent to which the Reporters recommendations agreed with the Council's submission.
  - Any requirement to update the Strategic Environmental Assessment and Habitats Regulations Appraisal .
- 2.9 Appendix 3, provided in electronic format contains the summary sheets. A copy is also available in the Members' Lounge.
- 2.10 The following section provides an overview of some of the key conclusions reached by the Reporter and, where appropriate, discusses the implications of the modifications. It is worth noting that the majority of the Reporter's recommendations are in line with the Proposed Plan, or the suggested responses contained in the Council's submissions to the Examination. The more significant exceptions, where the Reporter recommends modifications which are not in line with the Council's position, are highlighted below.

#### Vision, objectives and spatial strategy sections (Issues 01, 14, 16, 24)

- 2.11 In general, the Reporter is supportive of the Council's Vision, Objectives and Strategy making only minor modifications to aid clarity.
- 2.12 In relation to the housing land strategy the key point to note is that the Reporter did not accept the development industry's representations to increase the housing land targets. The Reporter was supportive overall of the Councils strategy to meet the housing requirement and considered it to be in accordance with TAYplan and Scottish Planning Policy.
- 2.13 The Reporter has however recommended that, as the Plan will now be adopted in 2019, not 2018 as originally intended, that the Plan period be amended to take it to 2029. This required consideration of a housing land requirement for an additional 1 year. However, as a result of the Additional Information Requests from the Reporter, the Council was able to satisfy the Reporter that there was sufficient flexibility in the Plan as proposed to accommodate this change without new site allocation. This change does not present any issues for the Council and indeed gives greater flexibility for the preparation of LDP3.

## Policies (Issues 02 – 13, 15 & 17 – 23)

- 2.14 In general the Reporter is supportive of the policies contained in the Plan. One notable exception is with part of Policy 1D Placemaking (discussed below). The majority of the recommended modifications add clarification and many were supported by the Council in its submissions to the Examination. Of particular note is the strong support for the Infrastructure Contributions, Housing Mix, Green Belt and New Development & Flooding Policies.
- 2.15 **Policy 1D Placemaking.** In response to a representation, the Council made a suggestion to the Reporter that the upper limit of the identified density ranges set out in the Plan would be an absolute upper limit stating that “applications which exceed the identified capacity range will not be permitted”. The Reporter found against this premise indicating that “it would be inappropriate to treat the lower and upper figures in these ranges as finite and immutable. “
- 2.16 The Reporter goes on to state “I agree with the position taken by A&J Stephen Limited, Homes for Scotland and Springfield Properties in their FIR04 responses that identified capacity ranges on both allocated and consented sites must reasonably be treated as indicative only. I agree that identifying a capacity range is the best way, at this early stage of plan preparation, to identify a broadly acceptable quantum of development for a site. However, requiring all proposals throughout the plan period to remain within this range in either all circumstances or in unspecified exceptional circumstances has not been adequately justified. “
- 2.17 The Reporter recommends the deletion of the last two sentences of the policy and replacing them as follows:-
- “These capacities are indicative. On sites with an identified capacity range, any proposal for residential development that falls outside this range will be considered where adequately justified by the applicant and when any associated impacts upon infrastructure, open space and residential amenity can successfully be addressed.”
- 2.18 **Policy 5 Infrastructure Contributions.** Having taken into consideration the Recent High Court Appeal decision against the Aberdeen City / Shire developer contributions policy the Reporter found PKC’s approach robust . The Reporter made some modifications to the suggested wording which will allow for changes to the current Guidance and the introduction of future changes to it. The revised wording is helpful to the application of the Guidance. These changes clarify the policy in line with national policy, but do not change its main emphasis.
- 2.19 **Policy 23 Delivery of Development Sites.** The Reporter is supportive of the policy requirement for Delivery Strategies however, considered that the proposed Policy was too prescriptive in relation to the need to “demonstrate” provision for self build. The Reporter recommends modified wording is put in place which sets out that developers should have consideration for 'Self-Build' rather than being required to demonstrate this. While not a significant issue it is considered it waters down the Council's position slightly when seeking to ensure self-build plots.

- 2.20 **Policy 25 Housing Mix.** The Reporter resisted calls from the development industry to delete the requirement to have a minimum of 10% of houses with 1 or 2 bedrooms suitable for an increasingly elderly population. The Reporter also supported the requirement to meet the needs of those with disabilities where there were identified needs. The Reporter agreed in part with the suggested modified wording put forward by the Council but made some minor changes to make this more comprehensive. It is not considered that the proposed modifications raise any specific issues in relation to the policy application.
- 2.21 **Policy 28 Conservation Areas.** There were a number of areas highlighted for potential conservation area appraisals. In response the Reporter concluded that “The assessment of the character of current conservation areas, amendments to existing boundaries and designation of new conservation areas is a separate process from the preparation of a local development plan. These matters are therefore not within my remit to comment on”. He went on to note that the council has a process in place to prioritise the work when resources are available.
- 2.22 **Policy 41 – Green Belt.** There was general support for the Green Belt policy with only minor changes to the text in terms of Criterion (f) Essential Infrastructure. In accordance with the Council’s submissions, the Reporter has recommended amending the policy wording and adding a policy note to help clarify the intentions of the policy in relation to essential infrastructure and how the area of search would be defined.
- 2.23 The Reporter did not accept the suggestion by respondents that a new criteria should be added to the policy specifically for renewable energy developments concluding that: ‘...Policy 41 of the proposed plan does not rule out renewable energy developments in the Green Belt, but they must be assessed against other relevant development plan policies and all other material considerations, including Scottish Planning Policy.’
- 2.24 The Reporter agreed with the Council’s approach to housing in the Green Belt concluding that allowing more of the Housing in the Countryside categories (Policy 19) to apply within the Green Belt would ‘diminish the differing policy basis for housing in the countryside and the green belt, potentially increasing the possibility of additional residential development within the Green Belt....contrary to the objective of Scottish Planning Policy of designating a Green Belt around a city to support the spatial strategy and directing development to the appropriate places.’
- 2.25 **Policy 50 New Development and Flooding.** SEPA’s objection to our flooding policy and its implications for potential development sites particularly in the city centre and North Muirton along with limited areas within H319 Ruthvenfield and MU73 Almond Valley allocations was one of the key Examination concerns. It was a test case with potential to set precedent for residential development protected by Flood Protection Schemes (FPS) in Scotland.

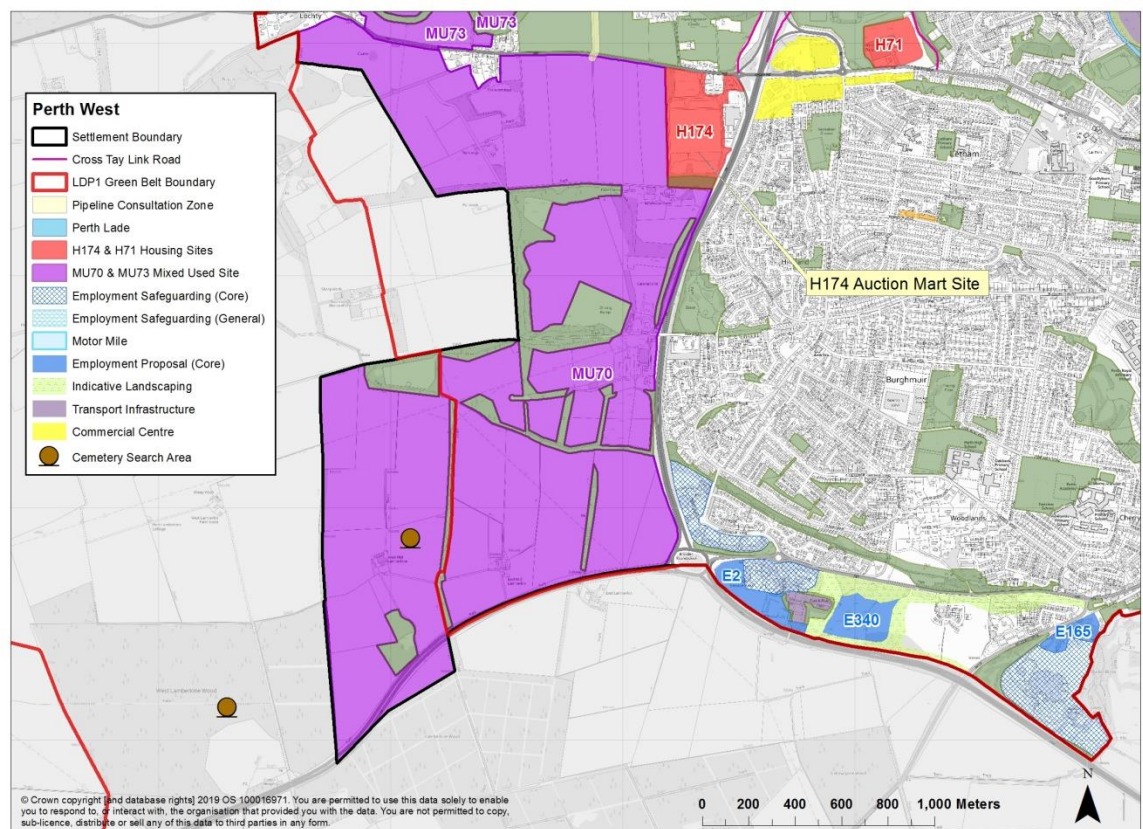
- 2.26 SEPA's objection sought to prevent new residential development behind FPS in Perth and Almondbank because it doesn't include for climate change even although they were constructed to the appropriate standards. The Proposed Plan fully acknowledges the need to take account of climate change, and the Reporter agreed that it is appropriate in the context of the Scottish Government advice for this to be addressed by other means, such as raised finished floor levels.
- 2.27 The Reporter disagreed with SEPA that for residential development the FPS needs to include for climate change in addition to being 1 in 200 year (plus freeboard) standard. The Perth and Almondbank FPSs both meet the appropriate standard of 1 in 200 year plus freeboard whilst the Council argued that climate change can be addressed in development design. Both the Council's policy approach and its potentially affected allocations were supported by the Reporter. Please note this only relates to flood protection schemes constructed to the appropriate 1:200 year standard plus a freeboard allowance and for example would not allow development behind the Milnathort scheme which was only built to a lesser 1:100 standard plus freeboard.
- 2.28 **New Policy – Embedding Low and Zero Carbon Generating Technology in New Development.** In accordance with the Council's submissions the Reporter recommended the addition of a new policy. In preparing the Proposed Plan the Council decided to remove the current policy EP1 of the Adopted LDP on requiring developments to embed low and zero carbon generating technologies due to difficulties in implementing and enforcing the policy. It was also noted that the Planning Minister in his response to the Planning Review acknowledged that the policy approach was not working.
- 2.29 However, the Scottish Government objected to the removal of this policy and sought a modification to the Proposed Plan to include a new policy covering this issue. Section 3F of the Town and Country Planning (Scotland) Act 1997 specifically requires planning authorities to include this issue within their LDPs. In the schedule 4 on this issue, the Council proposed no modification however suggested that if the Reporter was minded to modify the Plan that specific text be included for a new policy. The Reporter agreed with the Council's suggested text and considered this to be in line with the Scottish Government's representation. Discussions with Homes for Scotland established that the new policy is essentially in line with the requirements of the Building Regulations.

#### Perth Area (Issues 25 – 31)

- 2.30 **Perth Area.** The Reporter is supportive of the Plan strategy in identifying large scale strategic sites as the principle means of meeting the housing land supply. This included confirming the allocation of the enlarged Perth West site.

- 2.31 **Perth West MU70.** This is the major new allocation identified in LDP2 from LDP1. There was limited objection to its allocation from the public, whilst key agencies sought some changes to the developer requirements, and the Pilkington Trust sought its allocation as a longer term allocation suggesting that it may reduce land values on other sites and result in planning blight.
- 2.32 The Reporter agrees with the Council on the key issues and supports the allocation. The Reporter considers that the allocation provides flexibility, which is required when there is a reliance on larger strategic sites. Protecting the value of land is not a purpose of the planning system and it is considered that there is no evidence that allocating site MU70 would necessarily lead to planning blight.
- 2.33 The Reporter agrees the Proposed Plan change to the green belt for MU70 is justified. However the Reporter disagrees with the Council that the auction mart should be part of the wider Perth West allocation (argued for in case the permission lapses). The Reporter considers this should be identified as a separate housing allocation.

#### Perth West MU70/ Auction Mart H174



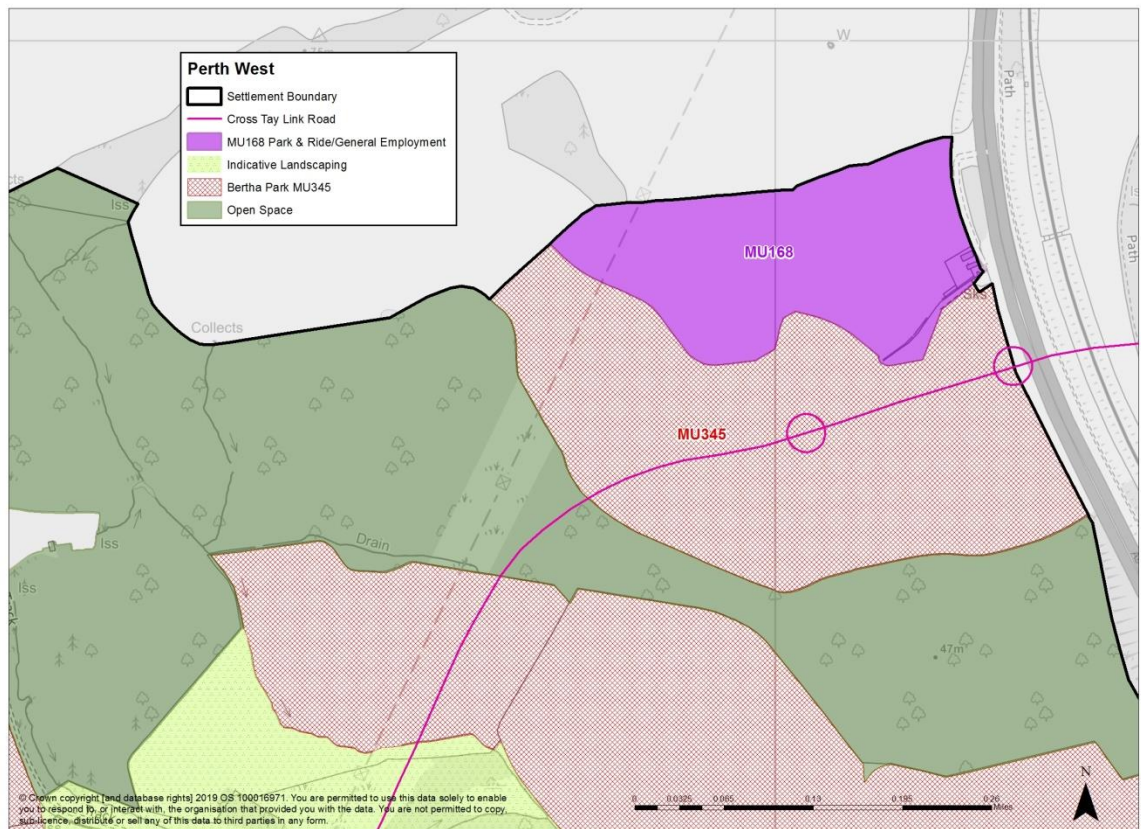
- 2.34 The Proposed Plan identified a pause and review once either: 1500 homes, or 20 hectares of employment land is development or by 2035, whatever comes first as the traffic modelling suggests that somewhere between 1,500 and 2,500 new homes can be accommodated and this is an appropriate point to reflect on impact on the road network and modal shift. There were however



concerns raised from the public regarding capacity of the road network, whilst Pillkington Trust considered that there was no justification for the trigger point, and Bullough and Ritchie felt it lacked clarity and introduced uncertainty. However the Reporter agreed with the Council that this a reasonable way forward, that the pause and review trigger could be influenced by the developer's Transport Assessment/s which will feed into a Comprehensive Transport Strategy, and that much will depend upon progress with the site and other influencing factors in respect of traffic and transportation and air quality in the plan area.

- 2.35 **Bertha Park MU168 (Incorporating Park & Ride Site).** The Reporter agrees with the allocation and considers that Scottish Planning Policy indicates that in developing the spatial strategy planning authorities should identify the most sustainable locations for longer term development and, where necessary, review the boundaries of the green belt. The Reporter also points to requirements regarding landscaping which will provide for a more robust green belt boundary, and to benefits from park and ride facility. However the Reporter also recommends we modify the requirement to acknowledge that new native planting should also help with 'views from core paths and surrounding hills' as well as views from the A9 and CTLR.

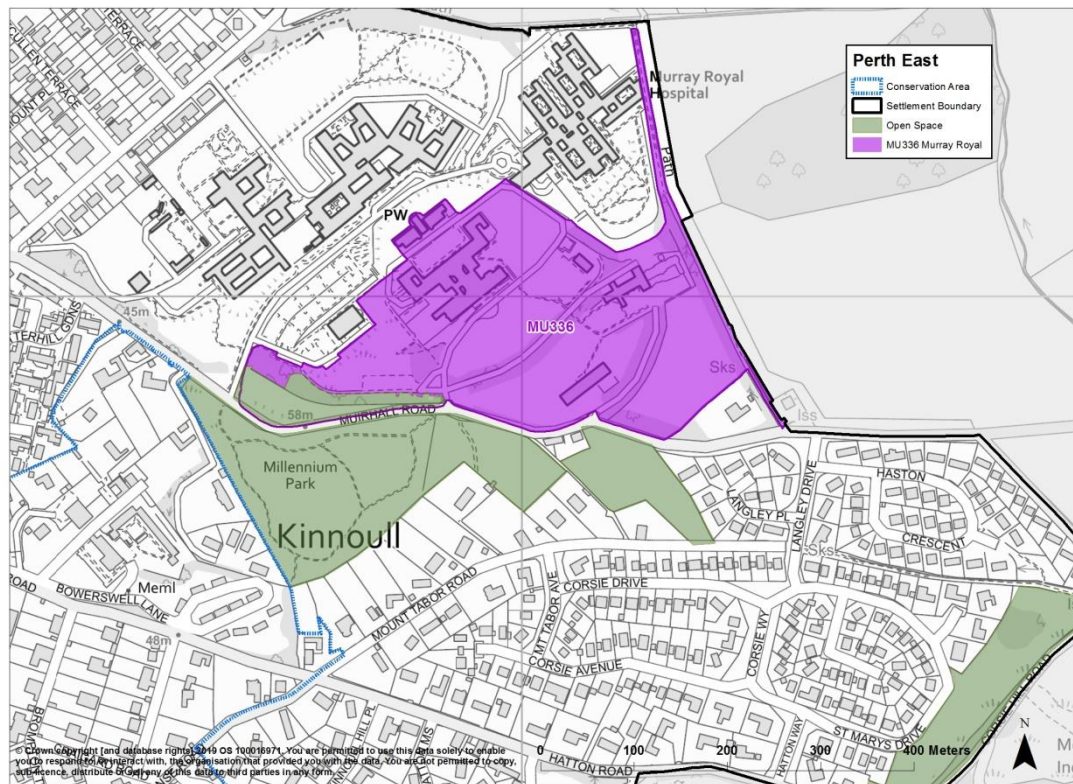
#### Bertha Park MU168





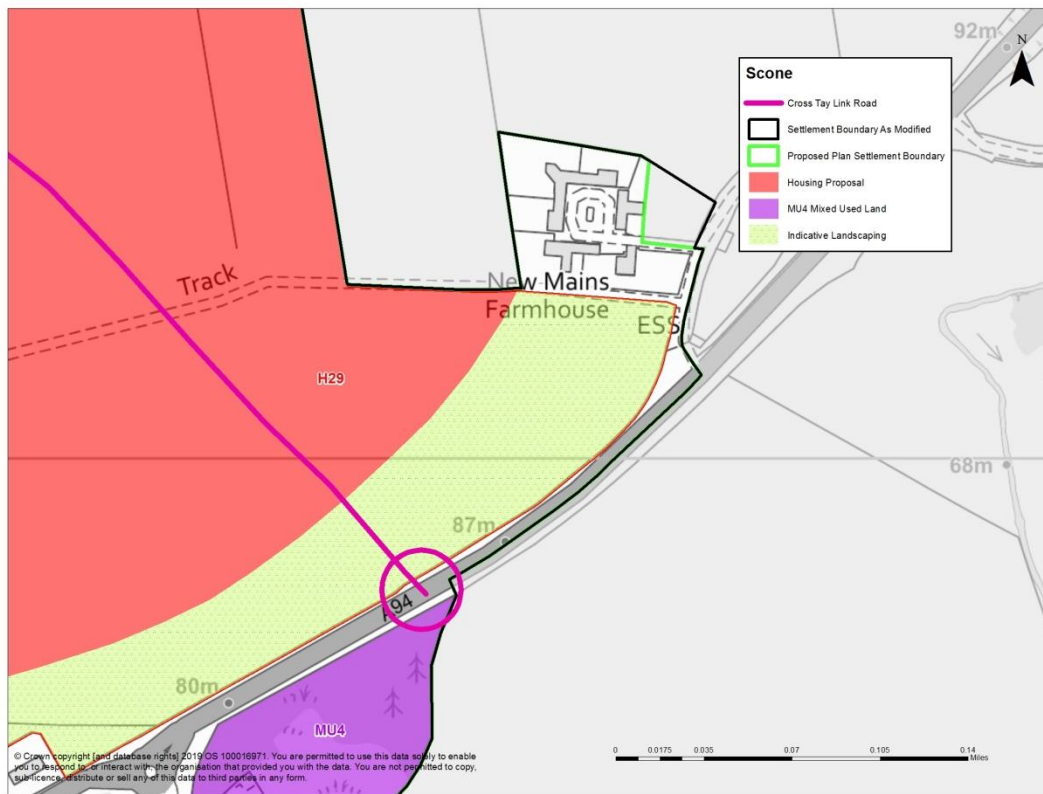
- 2.36 **Murray Royal MU336.** The Reporter rejected the Council's proposal to limit the development to the conversion of the Listed Building prior to the construction of the CTRL. The Reporter instead supported the decision being informed by the planning application and associated Traffic Assessment including any justification for enabling development associated with the conversion of the listed buildings. A planning application and listed building consent application affecting this site are currently the subject of appeal.

#### Murray Royal MU336



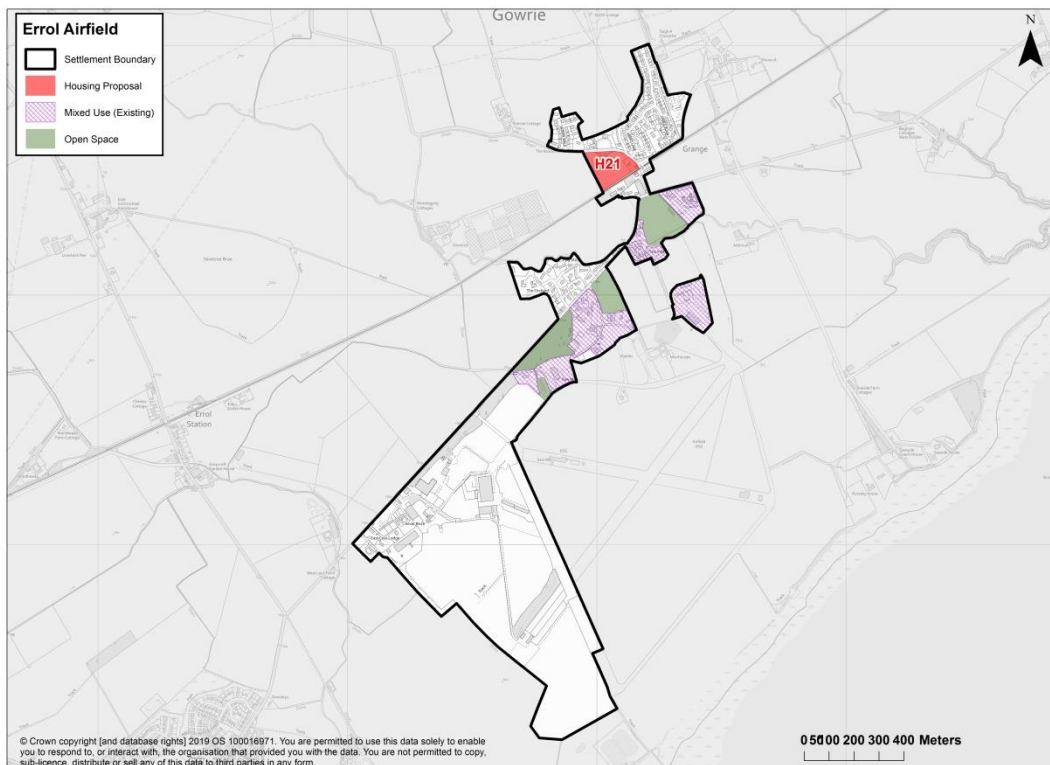
- 2.37 **Scone North H29.** The Reporter agreed with the Council and the Local Community Council and recommended the reinstatement of drainage developer requirements and minor amendments to the Scone North diagram to reflect the Masterplan approved for the site. The Reporter also recommends a change to the settlement/green belt boundary at no.5 Newmains steading as it currently cuts through the garden ground of the property. The Reporter considers that the boundary should be changed to reflect the property boundary so that it is consistent with the settlement boundary for other gardens within the steading conversion. The proposed boundary would be consistent with advice in Scottish Planning Policy by establishing a clearly identifiable visual boundary marker for the green belt.

## Scone North H29



- 2.38 **Grange/Errol Airfield.** The Reporter rejected the Council's position to exclude the housing site at the Airfield from the settlement boundary allowing its reappraisal should the current planning consent not come forward. The Reporter's recommendation is to amend the settlement boundary to follow the adopted local development plan boundary.

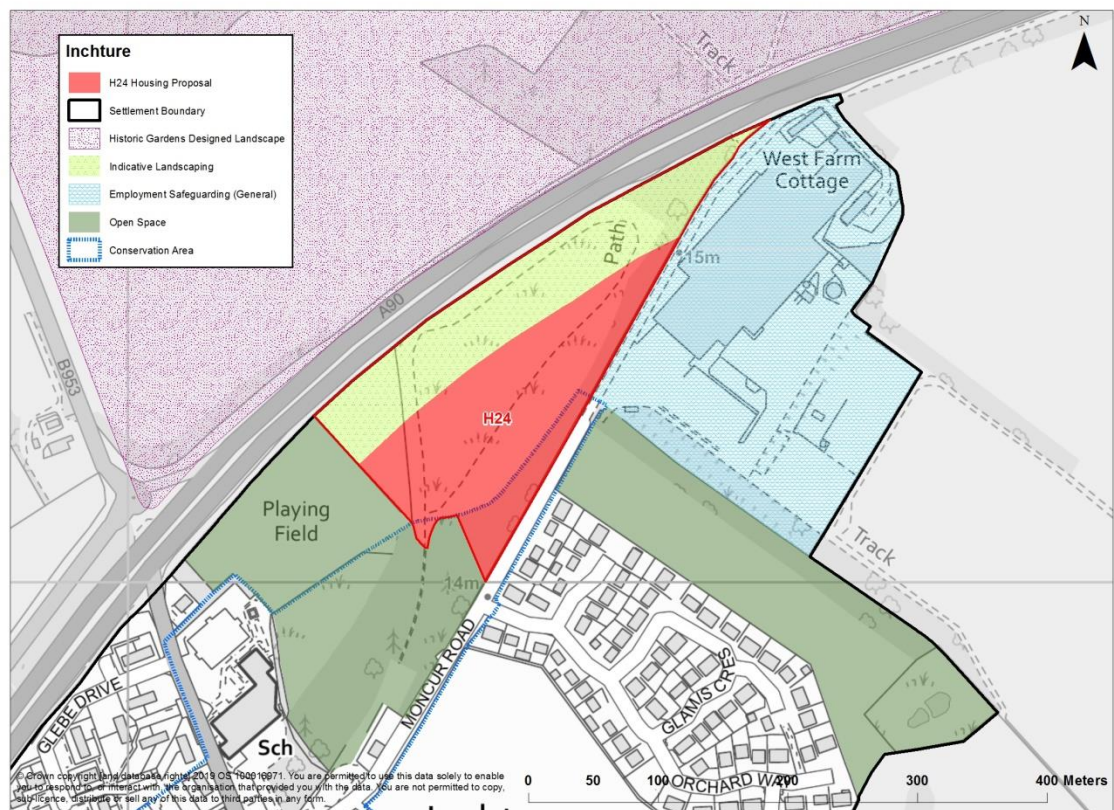
## Grange/Errol Airfield





- 2.39 **Inchtute H24.** The Proposed Plan stated that the site capacity range would be 52-80 units. An application for the site which ran concurrently with the Proposed Plan consultation was refused on the grounds of sound attenuation and impact on the mature trees lining the site. This is currently at appeal and the outcome is yet unknown but could potentially reduce the site density.
- 2.40 The inclusion of the site was objected to during the Proposed Plan consultation on the grounds of noise and loss of amenity. An alternative site was proposed. The Council argued, however, that the site was still capable of this site capacity range if the design addressed the issues raised during the planning application refusal. The Schedule 4 therefore proposed no modification to the Plan. The Examination Report agrees with this approach and noted that, for the Greater Dundee Housing Market Area as a whole, there is a surplus in supply of 24 units.

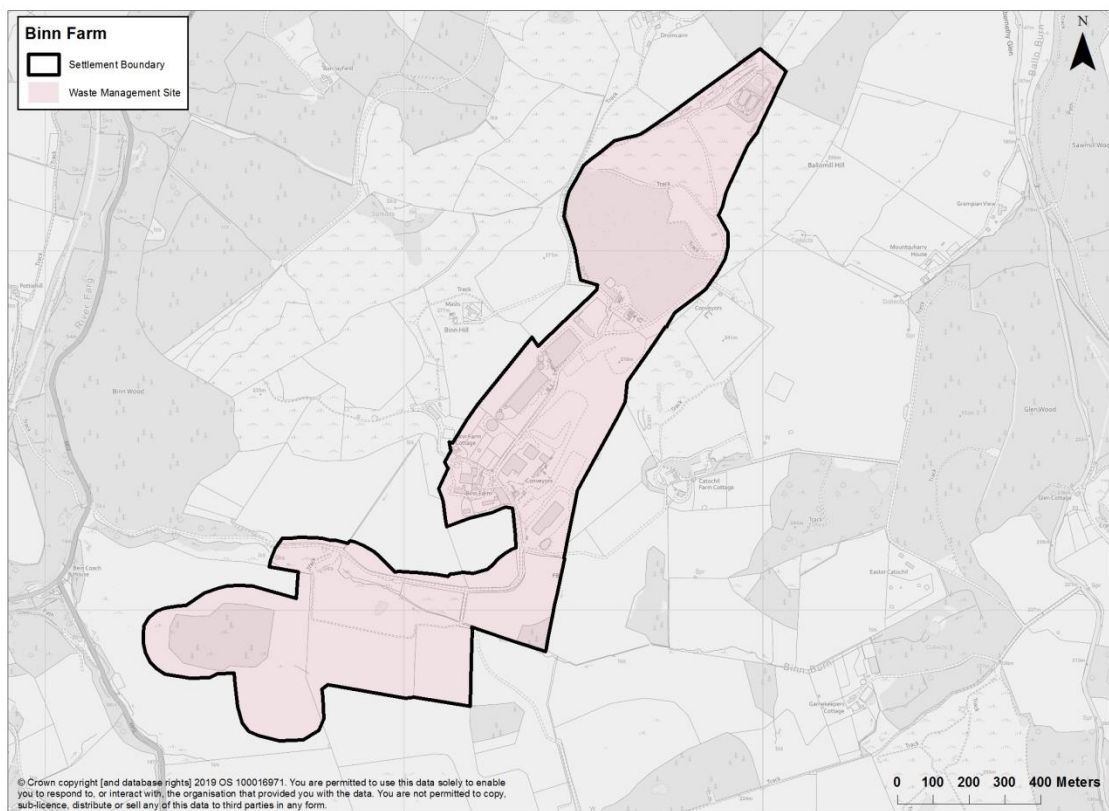
#### InchtuteH24



- 2.41 **Binn Eco Park.** Following publication of the LDP examination report, Binn Group has expressed dissatisfaction with the Reporters failure to find in favour of their objection seeking an extension to their site. Whilst there is substantial common ground between the Council and Binn Group about the future geographical and operational expansion of Binn Farm, the Reporter agrees with the Council that as a masterplan has not been consulted upon publicly, and the possible environmental impacts of development have not been properly assessed, he is unable to recommend modifications to the Proposed Plan.

- 2.42 Whilst the Reporter concludes that “Given the supportive policy environment for this proposal, I am satisfied that the Proposed Plan provides a practical framework within which to assess any future masterplan or planning application(s) for the geographical and operational expansion of Binn Farm”, Binn Group have suggested the Council modify the plan, and have put forward their own suggested modification. This suggested modification cannot be recommended and would not be competent because it would contravene the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009. In addition, it would have the effect of circumventing the outcome of the LDP examination without public consultation or regard for the statutory procedures for making further modifications.

### Binn Farm



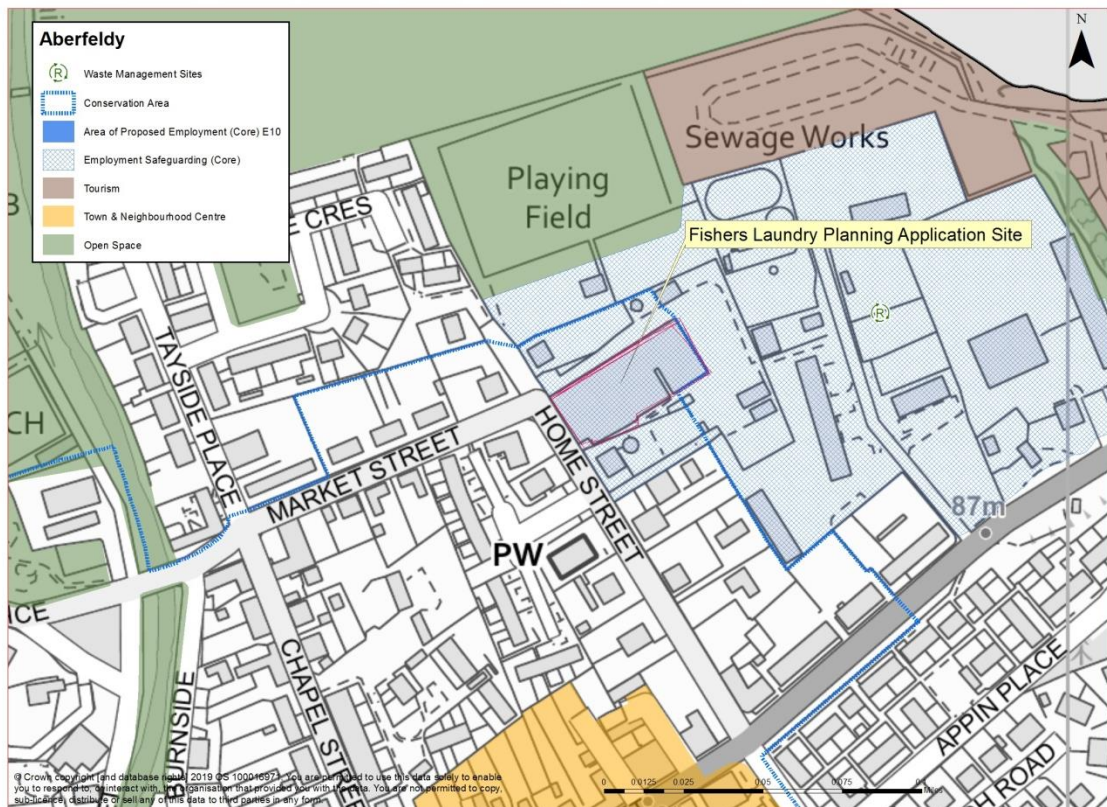
- 2.43 **A85, A93, A94 embargo corridor.** The Reporter considers the development embargo on the A85, A93 and A94 corridors to be proportionate and reasonable and should be continued until the CTRL is committed.
- 2.44 The Reporter also agrees with the Council that the CTRL does not need allocated and the polices are sufficient to guide the design stages; that it is appropriate for the CTRL route and junction points to be shown in LDP2 with opportunity for representations when a planning application is submitted; and that capital finance is in place from the Council and Scottish Government to deliver the CTRL.



## Highland Area (Issues 33 – 37)

- 2.45 The Reporter acknowledged the difficulties in identifying effective sites due to topography and supported the Plan strategy for housing land supply which diverts part of the demand to the Perth Housing Market Area and the expectation that a proportion of the supply will come from small sites.
- 2.46 **Fishers Laundry site.** It was requested by the Lomond Group that the site of the former Fisher's Laundry is allocated as a mixed use site rather than an Area of Employment Safeguarding (Core). They stated that the site was the subject of a full marketing exercise which confirmed that there is no commercial demand for the continued use of the site solely for business/industrial purposes.
- 2.47 The amendment was supported by Aberfeldy Community Council and the Council also suggested that there would be merit in considering a mix of uses for the site. The Council also highlighted however that until such time as the employment site E10 is delivered, the Business Park is the only area in Aberfeldy which is specifically identified in the LDP to be safeguarded for employment. Considering the above, the Reporter concluded that no modification should be made to the Plan.
- 2.48 While the suggested modification was not supported, planning permission for mixed use development has been gained for the site through appeal in the meantime.

### Fishers Laundry site, Aberfeldy



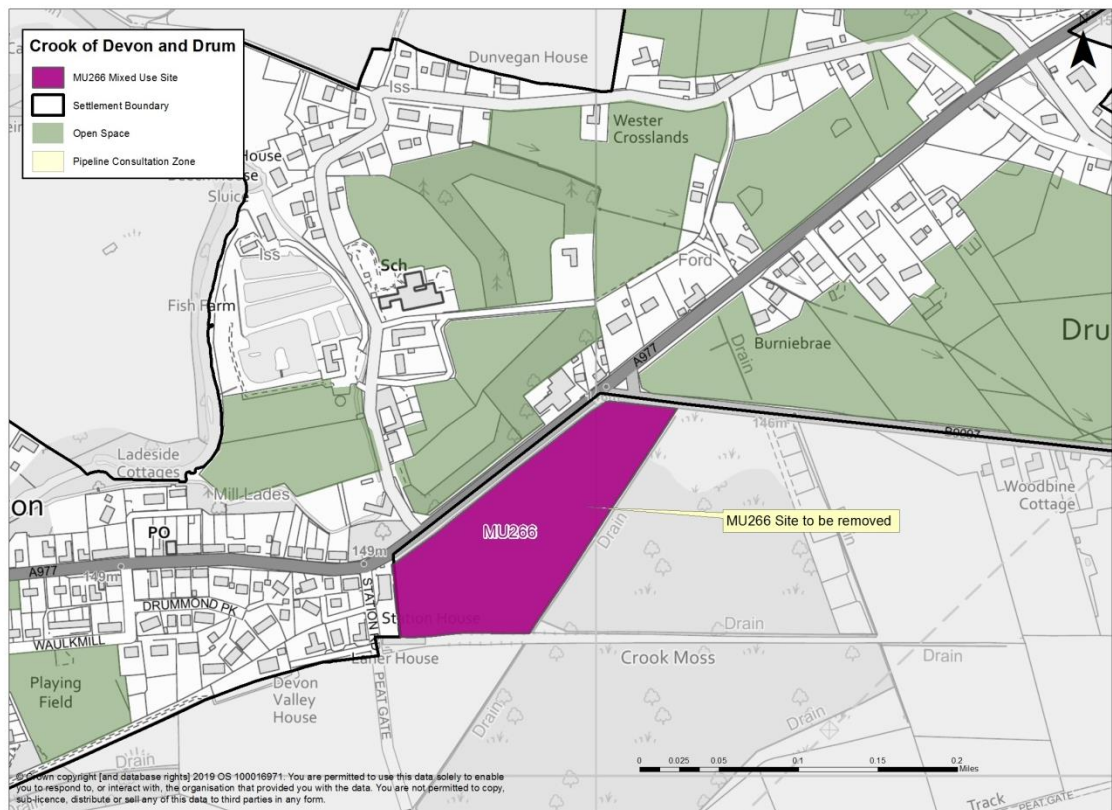
## Kinross-shire Area (Issues 38 – 40)

- 2.49 A number of submissions from Homes for Scotland and landowners seeking additional sites suggested that the calculations for the Kinross-shire area should be showing a shortfall rather than a surplus. Following the resubmitted calculations utilising the higher figure in the capacity range, and the removal of MU266 Crook of Devon and an adjustment to the figures for Powmill H53 (discussed below), there is still a surplus of 29 in the area. Sufficient options were therefore available from existing allocated sites in the area and none of the new sites proposed by respondents were introduced to the Plan.
- 2.50 **Route Action Plans.** The Council suggested including a requirement that developments in settlements in Fossoway support Route Action Plans for the A977 and B9097. The Reporter has agreed to include the proposed references to route action plans for the A977 in the settlement summaries of Balado, Blairingone, Powmill and Rumbling Bridge, and to both the A977 and B9097 in Crook of Devon. While identifying that improvements within the road boundary do not normally require planning permission it is appropriate to provide clarity to developers that they should take into account any planned improvements.
- 2.51 The Reporter also agreed that the modification as requested should be added to the overarching chapter of the Plan entitled “A Connected Place” which addresses the broader need for development to take into account route action plans during development.
- 2.52 The Council had also proposed modifications for Scotlandwell and Kinnesswood settlement summaries to recognise the need for improved pedestrian movement in the villages. The Reporter has not supported this amendment as without firm proposals it may not be reasonable for developers to take these into account.
- 2.53 **Milnathort Junction 7.** The potential slip roads at Milnathort to provide for south off and on slips had been put forward in the Proposed Plan. Following an objection from the landowner over whose land the slip roads would fall the Council recognised that without firm proposals the slip roads were unlikely to come forward during the life of the plan, but also put forward a case that retaining the indicative line of the slip roads would protect the option given the lack of alternatives. The Reporter has recommended removal of the indicative slip roads from the Plan, and any reference to them, in line with one option put forward by the Council. The Reporter has emphasised that the land is safeguarded from development by retaining the land in question outside the settlement boundary, and resisted a suggestion from the landowner that the land should be included as white land within the settlement boundary.
- Crook of Devon MU266.** Contrary to the Council’s position the Reporter has recommended the removal of this mixed use site, for 30 homes north of Crook Moss at the east end of Crook of Devon. There had been some objections to the proposal following consultation and conditional support from 2 respondents linked to up front provision of affordable homes, the requirement for which had been set at 50%. Previous consideration of this site (on a larger

scale) had highlighted the importance of retaining the separation between the villages of Drum and Crook of Devon and its prominence on approach from the East.

- 2.54 The Council argued that any landscape impact would be mitigated by the requirement for landscaping along the road boundary and the retained field and trees on the west side of Drum. While the Reporter agreed that the settlement is capable of accommodating an allocation of this size, the erosion of the gap and impact on the countryside setting, and in particular on the gateway from the east as significant. Additional weight against the proposal was provided by the lack of clear support from the community, the lack of certainty around delivering additional benefits, the exclusion of the site from the Fossoway Community Strategy Group's map, and the existence of sufficient windfall sites in the villages, with a surplus of supply in the overall area. Given that supply surplus, the removal of the site does not give rise to any other implications for the Plan.

#### Crook of Devon MU266

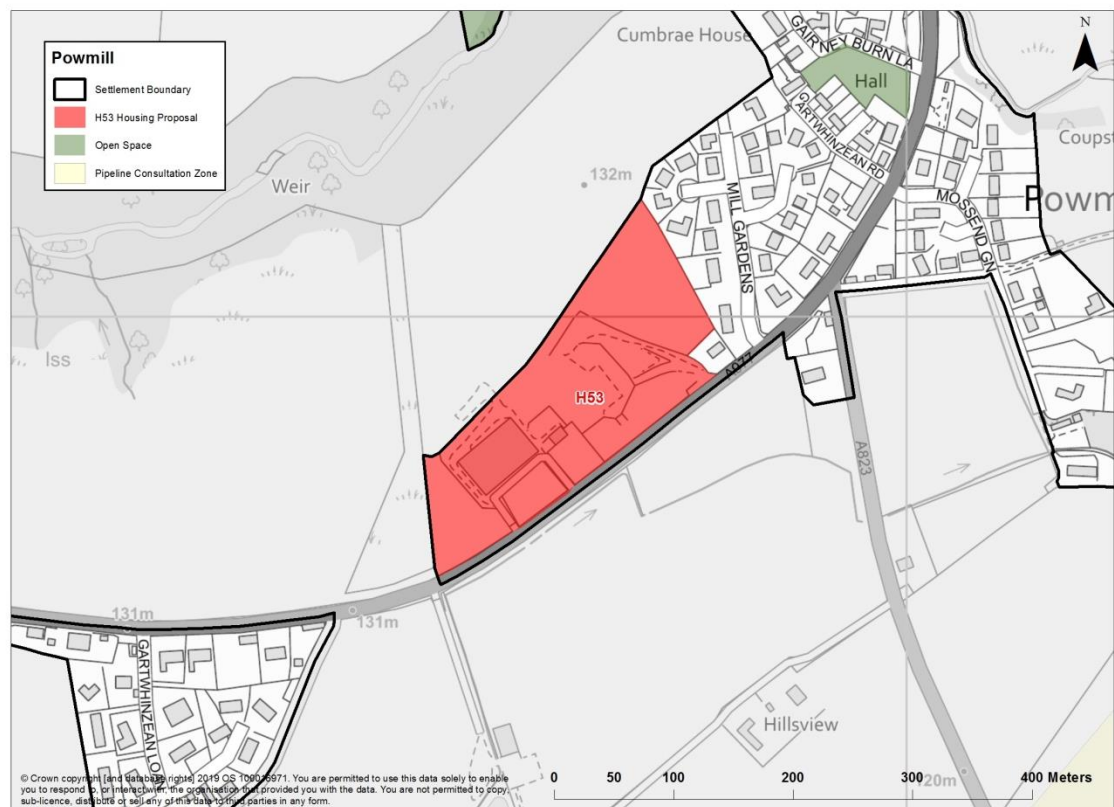


- 2.55 **Powmill, Gartwhinzean H53.** The Reporter has reduced the capacity of this site during the life of the plan to 30 homes. The Proposed Plan had assessed the site as capable of accommodating a capacity range of 46-73 homes but concerns were raised by respondents to the consultation that this was too high. As the Proposed Plan contained a requirement that a phasing plan be provided as part of a masterplan, the council had proposed that this would address any concerns about the speed of development. The Reporter however pointed out that the village has few amenities and although the site



may be capable of accommodating a higher number of homes in the long term, the number is inappropriate for the life of the Plan. Of the options put forward for the site in the main issues report for the adopted plan, a site for 30 homes had been supported, and again at examination the Reporter had identified that 30 homes over the life of the plan was the maximum. This Reporter agrees with that assessment given that little has changed in the village during the life of the previous plan that would provide for a greater allocation. There is still sufficient housing in the area given the surplus of 72 following the removal of MU266.

### Gartwhinzean H53

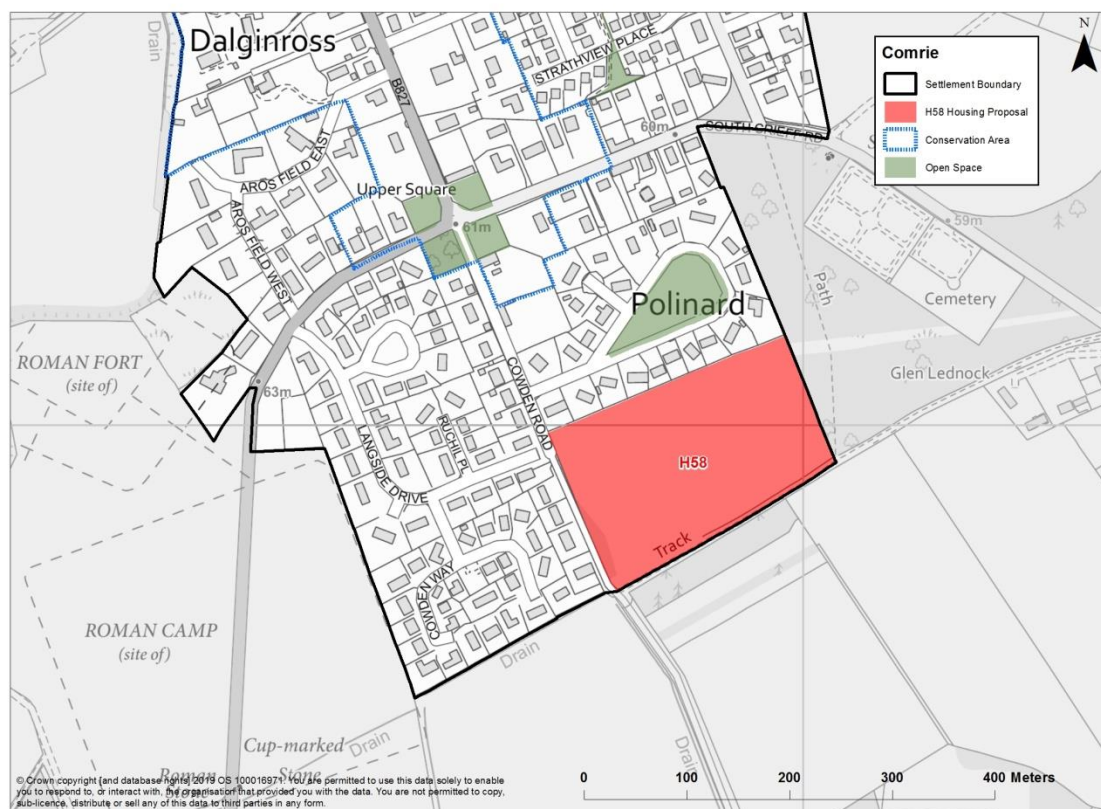


### Strathearn Area (Issues 41 – 44)

- 2.56 On the general housing numbers issues the Reporter noted that the Strathearn area is the one area with a housing shortfall. The Reporter is however aware that there is flexibility in the Plan strategy and, with a long term strategic site identified in Crieff, there is the potential to accelerate delivery and as a result has not recommended that any of the additional sites proposed are included in the Plan.
- 2.57 **Comrie H58.** This was one of the sites which raised the highest number of objections however the Reporter agrees that no modification is necessary because a housing shortfall has been identified for the Strathearn HMA. Proposal H58 has been found appropriate to remain as a housing allocation. The development of the site at the indicative capacity range set out in the Proposed Plan can be accommodated within Comrie, which is a village with a

good range of services and facilities. It therefore accords with Policy 1 of the strategic development plan.

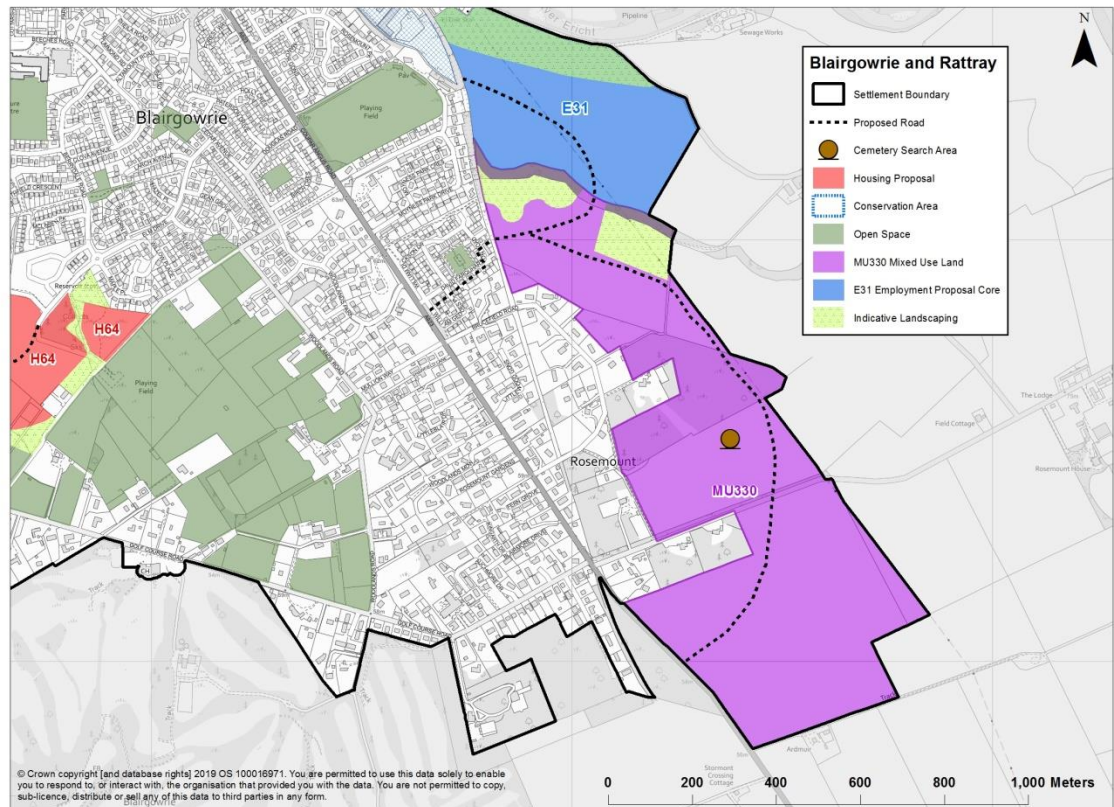
## Comrie H58



## Strathmore Area (Issues 45 – 49)

- 2.58 In the Strathmore HMA most growth is directed to the tier 2 settlement of Blairgowrie/ Rattray with a smaller proportion of housing land allocated within the tier 3 settlement of Alyth/New Alyth. The Proposed Plan identified three new sites in Blairgowrie (including the expansion to MU330) and one in Alyth in order to address a 339 unit shortfall in the housing land supply. The Reporter largely supported the approach taken by the Council with the exception of removing a small housing site in Blairgowrie which could have accommodated 18-31 units.
- 2.59 **Blairgowrie Growth and Infrastructure constraints.** A large number of comments were received regarding the impact of growth on local infrastructure and concerns about over development. Based on the evidence in the Schedule 4 summaries, the Reporter concluded that the level of growth proposed for Blairgowrie/ Rattray, during the plan period, can be accommodated by the settlement infrastructure and would conform to the TAYplan spatial strategy. The Eastern Expansion (MU330 & E31) which is a significant addition to the settlement has also been supported with minor changes to developer requirements.

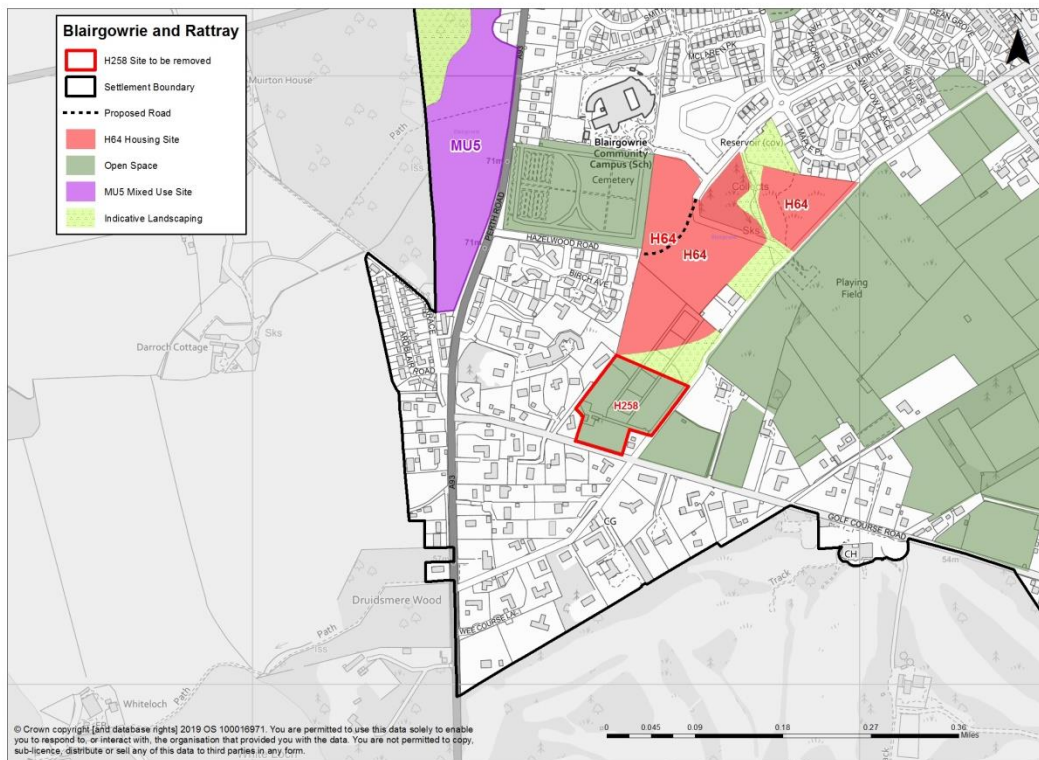
## Blairgowrie Eastern Expansion MU330 & E31



- 2.60 **Blairgowrie H258 Golf Course Road.** The Reporter chose to remove a small site from the Proposed Plan in Blairgowrie & Rattray. The site is an extension to an existing allocation to the north (H64) and is designated as open space in the Adopted Plan. The Council supported H258 as it is a logical extension to H64 and allows for a new connection to be made with Golf Course Road. The Reporter acknowledged the potential benefits to placemaking, movement and connectivity however concluded that the development of the site for housing would reduce the open character along the western part of Golf Course Road and impact adversely on the amenity value of the wider area of open space. The Reporter requested that the allocation is deleted and the open space designation is restored.
- 2.61 There is sufficient housing land allocated within the Strathmore HMA without H258 and its deletion will not impact on the deliverability of H64 or any other site within the settlement. Overall, the implications of this change are not considered significant for the wider area.

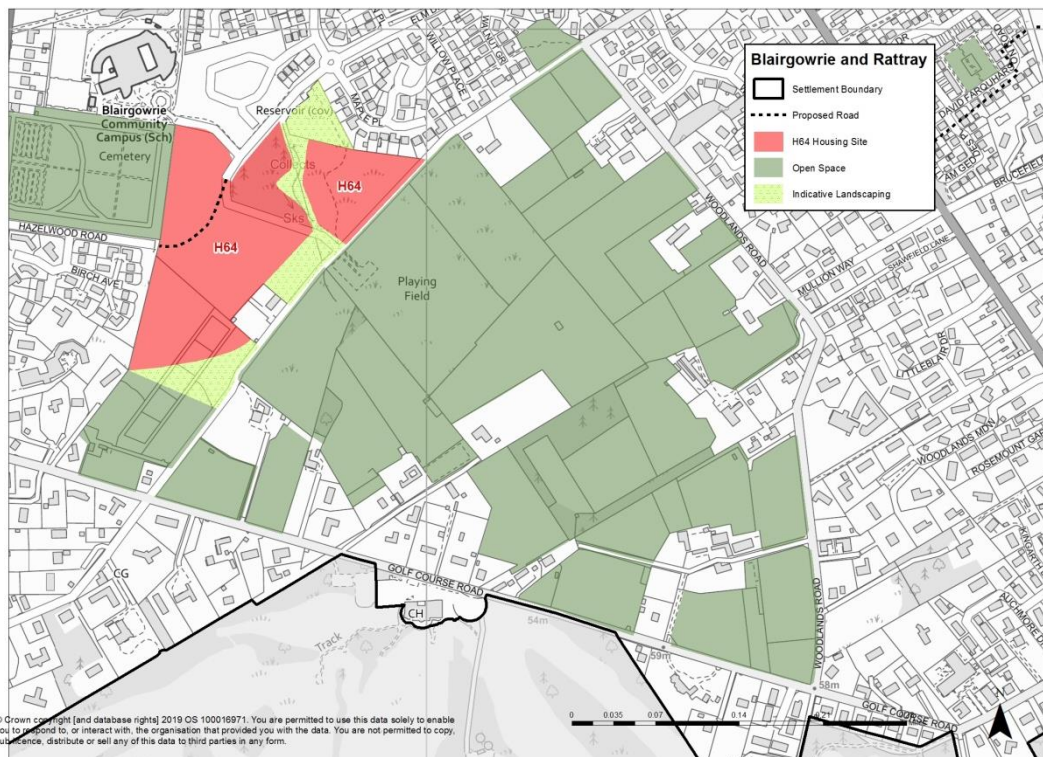


## Golf Course Road H258



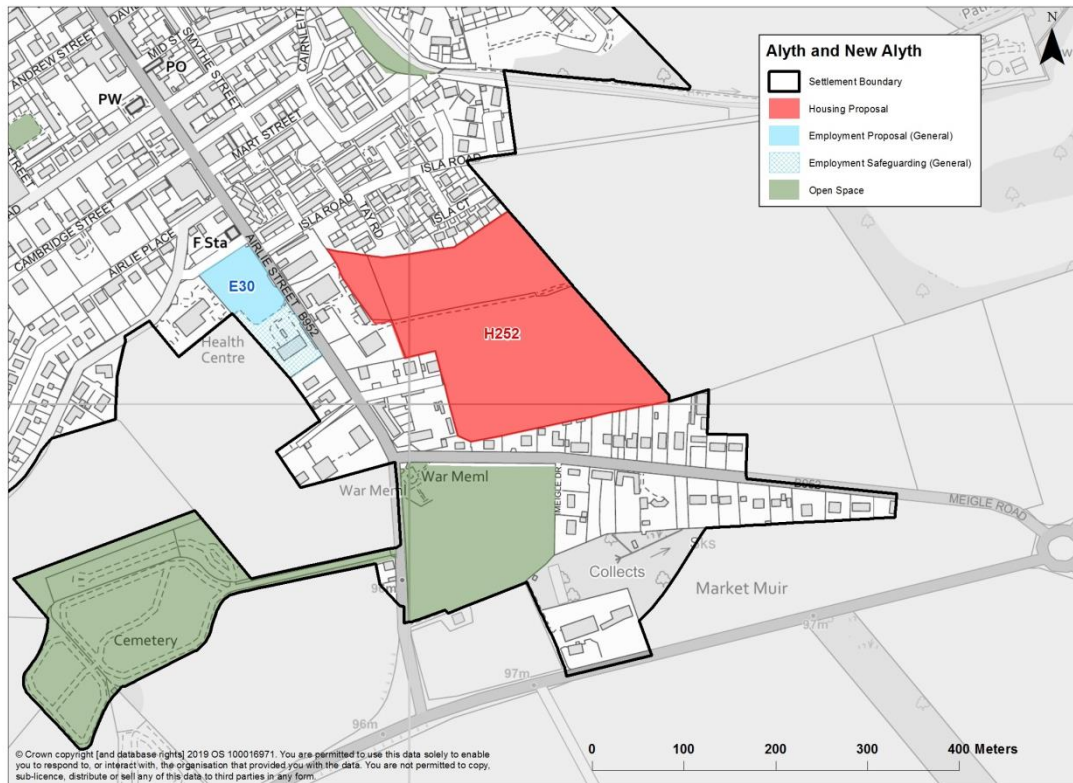
2.62 **Rosemount Open space.** In relation to the wider open space designation at Rosemount, the Reporter ruled against objections which requested the removal of open space areas around and within private garden grounds. This is in line with the Council's original position.

## Rosemount Open Space



- 2.63 **Alyth, Annfield Place H252.** Bellway Homes Limited suggested that the site is not effective and additional sites should be allocated within the Strathmore HMA instead of or in addition to H252. The key concerns from residents included flooding and access issues. The Reporter agreed with the Council that H252 should remain in the plan and did not support the allocation of other suggested sites.

#### Annfield Place H252



### 3. MODIFICATION OF THE PROPOSED LOCAL DEVELOPMENT PLAN

- 3.1 As noted above the DPEA submitted their Examination Report to the Council on 11 July 2019. The legislation obliges the Council publish the modifications to the Proposed LDP within three months of receipt of the Examination Report.
- 3.2 Having examined the full report (Appendix 2), officers identified a number of areas where it was not entirely clear how the Reporter intended the Plan to be modified. In addition, there were some areas where the proposed modifications resulted in a requirement for consequential changes which had not been anticipated by the Reporter. To address these issues a series of questions seeking clarification was submitted to the DPEA. This was felt necessary as the legislation allows very limited scope for the Council to depart from the Reporter's recommendations. In the main the responses to these questions helped clarify the required modifications and it is considered that all the proposed modifications are in line with the Reporter's recommendations. An addendum to the Examination Report has been prepared to take account of these clarifications and is included within Appendix 2.

- 3.3 The Council is also permitted to make consequential changes arising out of the Reporter's recommendations and minor modifications to reflect technical and drafting errors.
- 3.4 This report recommends that the Reporter's recommendations are accepted in full. The only variations are of a minor technical nature or to aid clarity. All variations have been agreed with the DPEA. The full list of modifications including consequential changes and the minor technical and drafting modifications is set out in Appendix 1.
- 3.5 As well as publishing this full list of modifications, the Council is required to prepare a copy of the Proposed Plan as Modified. This is contained in Appendix 4, provided in electronic format. A copy is also available in the Members' Lounge.

#### **4. ENVIRONMENTAL REPORT AND HABITAT REGULATIONS APPRAISAL**

- 4.1 A Strategic Environmental Assessment (SEA) was undertaken at the Main Issues Report stage. Where the assessment identified significant adverse environmental effects (following consultation with Scottish Natural Heritage, Scottish Environment Protection Agency, Historic Scotland and the public) this led to amendments to the Proposed Plan or mitigation measures being incorporated to minimise identified impacts. Appendix 5, provided in electronic format, contains the SEA Post Modification Assessment. A copy is also available in the Members Lounge.
- 4.2 Having considered the Reporter's modifications and the Environmental Report, it is considered that no modifications are likely to have significant effects on the environment when considering the overall effects of the Proposed Plan. Following adoption of the Local Development Plan, the Environmental Report will be finalised and a post adoption Strategic Environmental Assessment Statement will be published setting out how the findings in the Environmental Assessment were taken into account during the preparation of the Proposed Plan.
- 4.3 The Draft Habitats Regulations Appraisal (HRA) Record was prepared along with the Proposed Plan. The Reporter's modifications to the Proposed Plan have been screened and assessed and it is concluded that these are not likely to have a significant effect on a European Site and the assessment has been submitted to Scottish Natural Heritage. Appendix 6, provided in electronic format, contains the Draft HRA Post Modification Assessment. A copy is also available in the Members Lounge.

#### **5. ADOPTION OF THE PROPOSED LOCAL DEVELOPMENT PLAN**

- 5.1 In order to formally adopt the Proposed Plan, a further series of procedures and notifications require to be carried out. These include:-
- Publish and place on deposit the modifications and a copy of the Plan as modified

- Notifying people who made representations
- Publish a notice of the intention to adopt the Plan
- Send to Scottish Ministers the modifications and the Proposed Plan as modified.

5.2 It should be noted that there is no opportunity in the legislation for representations to be submitted in relation to the modifications to the Plan. After 28 days, the Proposed Plan can be adopted, unless the Council is directed not to by Scottish Ministers.

5.3 The Scottish Ministers are only likely to issue a direction where a Planning Authority fails to follow the modifications recommended by the Reporter. Following the adoption, there is a 6 week period in which a legal challenge can be made to the Plan.

## **6. ACTION PROGRAMME**

6.1 There is a requirement to publish an Action Programme within three months of the Proposed Plan being constituted and adopted. This document will set out how the proposals and policies contained in the Local Development Plan will be monitored and delivered. The Action Programme includes timescales for the delivery of key infrastructure and will be reviewed regularly taking into account changing circumstances. The draft Action Programme was approved by the Council along with the Proposed Plan.

## **7. CONCLUSION AND RECOMMENDATIONS**

7.1 The Proposed Local Development Plan 2 has completed an independent examination. The majority of the recommendations emerging from that process are in accordance with the Council's position as expressed in the Proposed Plan or the series of Schedule 4 documents submitted in response to unresolved representations. Some of the recommendations are not in line with the Council's wishes, nor in some cases that of local communities. As stated, there is no opportunity for the Council to deviate from the Reporters recommended modifications in view of the regulations as narrated in section 2 above. An assessment of the modifications against these criteria has been made and it is considered that all modifications are required to be made in order for the Council to adopt the Proposed Plan. The Plan as modified is attached to this report contained in Appendix 4, provided in an electronic format.

7.2 It is recommended that the Council:

- i) Notes the contents of the Examination Report on the Proposed Local Development Plan
- ii) Notes the findings of the Strategic Environmental Assessment and its subsequent assessment of the implications of the modifications
- iii) Notes the findings of the Habitats Regulations Appraisal and its subsequent assessment of the implications of the modifications



- iv) Agrees to make the modifications recommended in the Examination Report to the Proposed Local Development Plan 2,
- v) Remits to the Executive Director (Housing and Environment) to make further minor technical and consequential modifications to the Plan as required to improve presentation and ensure consistency
- vi) Remits the Executive Director (Housing and Environment) to notify the Scottish Ministers of the Council's intention to adopt the Proposed Local Development Plan as modified
- vii) Agrees to the adoption of the Proposed Local Development Plan 2 following completion of the relevant pre-adoption statutory procedures
- viii) Remits to the Executive Director (Housing and Environment) to report to the Strategic Policy and Resources Committee in January 2019, the updated Action Programme and the Strategic Environmental Assessment Post Adoption Statement.

#### Author(s)

Name	Designation	Contact Details
Brenda Murray	Development Plan Team Leader	<a href="mailto:bemurray@pkc.gov.uk">bemurray@pkc.gov.uk</a> 01738 475343

#### Approved

Name	Designation	Date
Jim Valentine	Depute Chief Executive (Chief Operating Officer)	11 September 2019

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You can also send us a text message on 07824 498145.

All Council Services can offer a telephone translation facility.

## 1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

<b>Strategic Implications</b>	<b>Yes / None</b>
Community Plan	<b>Yes</b>
Corporate Plan	<b>Yes</b>
<b>Resource Implications</b>	
Financial	<b>Yes</b>
Workforce	<b>No</b>
Asset Management (land, property, IST)	<b>No</b>
<b>Assessments</b>	
Equality Impact Assessment	<b>Yes</b>
Strategic Environmental Assessment	<b>Yes</b>
Sustainability (community, economic, environmental)	<b>Yes</b>
Legal and Governance	<b>Yes</b>
Risk	<b>No</b>
<b>Consultation</b>	
Internal	<b>Yes</b>
External	<b>Yes</b>
<b>Communication</b>	
Communications Plan	<b>Yes</b>

### 1. Strategic Implications

#### Community Plan

1.1 The LDP contributed to all of the Perth and Kinross Community Plan priorities:

- (i) Giving every child the best start in life
- (ii) Developing educated, responsible and informed citizens
- (iii) Promoting a prosperous, inclusive and sustainable economy
- (iv) Supporting people to lead independent, healthy and active lives
- (v) Creating a safe and sustainable place for future generations

#### Corporate Plan

1.2 The LDP contributed to the achievement of the Council's Corporate Plan Priorities:

- (i) Giving every child the best start in life;
- (ii) Developing educated, responsible and informed citizens;
- (iii) Promoting a prosperous, inclusive and sustainable economy;
- (iv) Supporting people to lead independent, healthy and active lives; and
- (v) Creating a safe and sustainable place for future generations.

## **2. Resource Implications**

### Financial

- 2.1 The cost of completing the statutory procedures and re-printing the Plan can be contained in the Planning & Development revenue budget.

### Workforce

- 2.2 None.

### Asset Management (land, property, IT)

- 2.3 None.

## **3. Assessments**

### Equality Impact Assessment

- 3.1 Following an assessment using the Integrated Appraisal Toolkit, it has been determined that the Plan is likely to have a positive impact, in particular for Travelling People, of EqIA.

### Strategic Environmental Assessment

- 3.2 The Environmental Assessment (Scotland) Act 2005 places a duty on the Council to identify and assess the environmental consequences of its proposals.
- 3.3 The Strategic Environmental Assessment was completed and Environmental Report and its addendums were prepared during the preparation of the Plan. Screening has determined that there is unlikely to be significant environmental effects in relation to the proposed modifications and it is therefore exempt and the Consultation Authorities have been notified.

### Sustainability

- 3.4 Under the provisions of the Local Government in Scotland Act 2003 the Council has to discharge its duties in a way which contributes to the achievement of sustainable development. In terms of the Climate Change Act, the Council has a general duty to demonstrate its commitment to sustainability and the community, environmental and economic impacts of its actions. One of the central themes of the Local Development Plan is to contribute to Sustainable Development and the modifications to the Plan have been examined by Reporters appointed by the Scottish Government.

### Legal and Governance

- 3.5 Legal Services have contributed to the interpretation of the relevant legislation contained in this report.

### Risk

3.6 None.

## **4. Consultation**

### Internal

4.1 The Executive Officer Team and Legal Services have been consulted in the preparation of this report.

### External

4.2 None.

## **5. Communication**

5.1 The procedures to be adopted by the Council in association with this report are defined by statute.

## **2. BACKGROUND PAPERS**

The following background papers, as defined by Section 50D of the Local Government (Scotland) Act 1973 (and not containing confidential or exempt information) were relied on to a material extent in preparing the above report.  
Supporting Documents

- Local Development Plan Environmental Report
- Local Development Plan Environmental Report – Addendum 2
- Habitats Regulations Appraisal
- Report to Council on the Proposed Plan 22 November 2017
- Report to Council on the Proposed Plan 29 August 2018
- Planning Circular 6/2013 Development Planning
- Town and Country Planning (Grounds for declining to follow recommendations) (Scotland) Regulations 2009
- The Town and Country Planning (Development Planning) (Scotland) Regulations 2008

## **3. APPENDICES**

- Appendix 1: List of Modifications (electronic)
- Appendix 2: DPEA Examination Report with addendum (electronic)
- Appendix 3: Summary Sheets (electronic)
- Appendix 4: Proposed Plan as Modified (electronic)
- Appendix 5: Strategic Environmental assessment Post Modification Assessment (electronic)
- Appendix 6: Draft Habitats Regulations Appraisal Post Modification Assessment (electronic)