



ABERDEEN HARBOUR  
EXPANSION PROJECT  
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Appendices*

# APPENDIX 4-A PLANNING AND LEGISLATION SUPPORTING INFORMATION



## **APPENDIX 4-A: PLANNING AND LEGISLATION SUPPORTING INFORMATION**

### **A4 INTRODUCTION**

This appendix contains further detail regarding policy and legislation in support of Chapter 4: Planning and legislation, and the Aberdeen Harbour Expansion Project.

#### **A4.1 National Planning Framework**

The National Planning Framework is a strategy for the long-term development of Scotland's towns, cities and countryside over the next 20 years. National Planning Framework 3 (NPF3) (The Scottish Government, 2014a) delivers a framework for the spatial development of Scotland as a whole, as well as identifying 14 national developments to deliver the strategy. The Expansion of Aberdeen Harbour is identified as one of those 'national developments', as defined by the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

NPF3 was laid before the Scottish Parliament in January 2014 and was finalised in June 2014. NPF3 sets out a vision for Scotland based around four overarching themes:

- i. A successful, sustainable place;
- ii. A low carbon place;
- iii. A natural, resilient place; and
- iv. A connected place.

In particular reference to Aberdeen Harbour, it refers to the expansion of Aberdeen Harbour in relation to the City of Aberdeen's position, stating "The expansion of Aberdeen Harbour will strengthen its key role in supporting the economy of the north east, as too will continued improvements to infrastructure including the Aberdeen Western Peripheral Route and Aberdeen Airport". Paragraphs 5.21 and 6.7 identify Aberdeen Harbour expansion as a National Development, stating:

".. Aberdeen Harbour serves as a multi-functional seaport, providing berthing and handling facilities for passengers, freight, oil and gas and other sectors. Despite the capacity constraints of the current harbour, this is one of Scotland's key gateways. Expansion of Aberdeen Harbour is identified as a national development".

"Aberdeen Harbour is a nationally important facility which supports the oil and gas sector, provides international and lifeline connections and makes a significant contribution to the wider economy of the north east. Expansion of the harbour is required to address current capacity constraints, consolidate and expand its role. We expect development proposals for this to come forward in the lifetime of NPF3, including new harbour facilities and onshore transport links".

Annex A of NPF3 sets out a 'Statement of need and technical descriptions' for each identified national development. For Aberdeen Harbour Expansion it states:

“1 – Location: Nigg Bay.

2 – Description of Classes of Development: Development at the location for:

- a. the construction of new and/or replacement harbour facilities where resultant building or structure is or exceeds 10,000 square metres, or the area of development is or exceeds 2 hectares.
- b. the construction of new and/or replacement road infrastructure from existing networks, and
- c. the provision of water supply and related infrastructure directly for new harbour facilities.

3 – Designation: A development within one or more of the Classes of Development described in paragraph (2) (a) to (c) is designated a national development.

4 – Need: These classes of development support the expansion of Aberdeen Harbour. Current constraints will increasingly limit the ability of the harbour to provide crucial services and limits opportunities for business growth at this nationally important facility. Nigg Bay has been identified as the preferred development option, as a result of the constraints of the existing sites”.

NPF3 also outlines a range of other considerations that require to be taken in to account:

- NPF3, Chapter 3: “A low carbon place”, confirms that the Scottish Government aims to achieve at least an 80% reduction in greenhouse gas emissions by 2050;
- NPF3, page 32, paragraph 3.12: states that “Both terrestrial and marine planning have a key role to play in reaching these ambitious targets by facilitating development, linking generation with consumers and guiding new infrastructure to appropriate locations. We are clear that development must work with and sustain our environmental assets, and should provide opportunities for communities”;
- NPF3, page 32, paragraph 3.14: confirms that “Ports and harbours identified in the National Renewables Infrastructure Plan will invest in their facilities to accommodate manufacturing, servicing and maintenance of our renewable energy infrastructure. We expect planning to enable development in all of these locations”;
- NPF3, page 37, paragraph 3.34: states “Major infrastructure investment will provide the marine renewable energy industry with upgraded and new-build port and harbour facilities. We expect to secure manufacturing commitments from major inward investors in the coming years and for planning to enable development in key locations. Many opportunities lie in and around our cities and on the more developed east coast, where ports and harbours already support significant industrial activity... We want to see a coordinated approach to guide development in these areas – making the most efficient use of resources, reducing environmental impacts and supporting high quality development”;
- NPF3, Chapter 4: “A natural, resilient place”, covers the importance of maintaining and enhancing Scotland’s cultural and natural assets;

- NPF3, page 42, paragraph 4.4: in relation to landscape confirms that at locations closer to settlements landscapes have an important role to play in sustaining local distinctiveness and cultural identity, and in supporting health and well-being;
- NPF3, page 44, paragraph 4.9: states that land use should deliver multiple benefits, and encourages us to make best use of assets and that, to achieve this, it must be recognised that the environment is a functioning ecosystem and take into account the opportunity costs arising from poor decisions on land use;
- NPF3, page 44, paragraph 4.10: makes reference to the 2020 Challenge for Scotland's Biodiversity which aims to promote and enhance Scotland's nature, the need to create walkable places (page 45, paragraph 4.15) and the creation of a national long distance walking and cycling network (page 49, paragraph 4.28);
- NPF3, Chapter 5: "A connected place", focuses on the maintenance and development of internal and global connections, both physical and digital;
- NPF3, page 52, paragraph 5.1: states "Scotland's location and its unique geography mean that connections, within our country and with the rest of the world, are crucial. In the 21st-century global connectivity and access to wider networks have become increasingly important", and (NPF3, page 54, paragraph 5.12) that 'Our ambition to significantly grow Scotland's exports means that strengthening of international gateways and freight networks will be essential';
- NPF3, page 57, paragraph 5.26: recognises that rail freight and short-sea shipping have potential to reduce the carbon footprint of Scotland's freight sector. In relation to rail, it confirms that freight networks are likely to become increasingly important as Scotland's export potential grows alongside its transition to a low carbon economy. In relation to maritime freight-handling it states (page 57, paragraph 5.27) that "We must ensure that we have the right infrastructure in place to support these key international connections. Our ambitions to significantly increase exports mean that we should continue to plan for development at strategically important locations"; and
- NPF3, page 67 to page 69: concludes with a list of key actions under each of the 4 overarching themes in the vision referred to previously.

#### **A4.2 Scottish Planning Policy**

Scottish Planning Policy (SPP) (The Scottish Government, 2014b) is a non-statutory statement of Scottish Government policy on how nationally important land use planning matters should be addressed across the country. The Policy is designed to promote consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It also sets out the policy that will help deliver the objectives of the NPF3. The SPP outlines a number of statements relevant to the development as outlined below:

- SPP, page 4, paragraph 2: states that planning should take a positive approach to enabling high quality development and making efficient use of land to deliver long-term benefits for the public while protecting and enhancing natural and cultural resources and places considerable emphasis on achieving the outcome of "sustainable economic growth".

- SPP (page 9, paragraph 27) reiterates the 4 overarching themes of the vision of NPF3 referred above and introduces a presumption in favour of development that contributes to sustainable development.
- SPP (page 9, paragraph 28) confirms that ‘The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost’.

A series of principles are set out in SPP, pages 9 and 10, paragraph 29: which policies and decisions should be guided by:

- “Giving due weight to net economic benefit;
- Responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
- Supporting good design and the six qualities of successful places;
- Making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
- Supporting delivery of accessible housing, business, retailing and leisure development;
- Supporting delivery of infrastructure, for example transport, education, energy, digital and water;
- Supporting climate change mitigation and adaptation including taking account of flood risk;
- Improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;
- Having regard to the principles for sustainable land use set out in the Land Use Strategy;
- Protecting, enhancing and promoting access to cultural heritage, including the historic environment;
- Protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
- Reducing waste, facilitating its management and promoting resource recovery”.
- In relation to green belts, SPP, page 16, paragraph 52: confirms that “Local development plans should describe the types and scales of development which would be appropriate within a green belt. These may include (amongst other things):
  - Essential infrastructure such as digital communications infrastructure and electricity grid connections; and
  - Development meeting a national requirement or established need, if no other suitable site is available”.
- With regard to the interrelationship between the marine and land use planning systems, SPP, page 23, paragraph 87: confirms that “Terrestrial planning by planning authorities overlaps with marine planning in the intertidal zone. On the terrestrial side, mainland planning authorities should work closely with neighbouring authorities, taking account of the needs of port authorities and aquaculture, where appropriate. On the marine side, planning authorities will need to

ensure integration with policies and activities arising from the National Marine Plan, Marine Planning Partnerships, Regional Marine Plans, and Integrated Coastal Zone Management, as well as aquaculture”.

- SPP, page 24, paragraph 89 confirms that “plans should identify areas of largely developed coast that are a major focus of economic or recreational activity that are likely to be suitable for further development; areas subject to significant constraints; and largely unspoiled areas of the coast that are generally unsuitable for development”.
- SPP, page 26, paragraph 104 states that “local development plans should locate development which generates significant freight movements, such as manufacturing, processing, distribution and warehousing, on sites accessible to suitable railheads or harbours or the strategic road network and that, through appraisal, care should be taken in locating such development to minimise any impact on congested, inner urban and residential areas”.
- In relation to proposals for development to, or affecting, a listed building, SPP, page 34, paragraph 141 confirms that special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest.
- Where there is potential for a proposed development to have an adverse effect on a scheduled monument or on the integrity of its setting, SPP, page 35, paragraph 145 states that “permission should only be granted where there are exceptional circumstances. Where a proposal would have a direct impact on a scheduled monument, the written consent of Scottish Ministers via a separate process is required in addition to any other consents required for the development”.
- SPP, page 35, paragraph 150: confirms that “protection should be afforded to archaeological sites and monuments as an important, finite and non-renewable resource and they should be preserved in situ wherever possible. Where in situ preservation is not possible, planning authorities should, through the use of conditions or a legal obligation, ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development. If archaeological discoveries are made, they should be reported to the planning authority to enable discussion on appropriate measures, such as inspection and recording”.
- SPP, page 36, paragraph 153 states that “Terrestrial and marine planning facilitate development of renewable energy technologies, link generation with consumers and guide new infrastructure to appropriate locations. Efficient supply of low carbon and low cost heat and generation of heat and electricity from renewable energy sources are vital to reducing greenhouse gas emissions and can create significant opportunities for communities. Renewable energy also presents a significant opportunity for associated development, investment and growth of the supply chain, particularly for ports and harbours identified in the National Renewables Infrastructure Plan. Communities can also gain new opportunities from increased local ownership and associated benefits”.
- SPP, page 45, paragraph 193 confirms that “planning plays an important role in protecting, enhancing and promoting access to our key environmental resources, whilst supporting their sustainable use”.
- SPP, page 47, paragraph 202 confirms that the siting and design of development should take account of local landscape character and that decisions should take account of potential effects

on landscapes and the natural and water environment, including cumulative effects. Adverse impacts should be minimised through careful planning and design, considering the services that the natural environment is providing and maximising the potential for enhancement.

- SPP, page 47, paragraph 203 states that “planning permission should be refused where the nature or scale of proposed development would have an unacceptable impact on the natural environment. Direct or indirect effects on statutorily protected sites will be an important consideration, but designation does not impose an automatic prohibition on development”.
- In relation to sites designated as Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) SPP, page 48, paragraph 207 states that “any development plan or proposal likely to have a significant effect on these sites which is not directly connected with or necessary to their conservation management must be subject to an “appropriate assessment of the implications for the conservation objectives and that these may only be approved if the competent authority has ascertained by means of an “appropriate assessment” that there will be no adverse effect on the integrity of the site”.
- SPP, page 48, paragraph 208 goes on to state that “a derogation is available for authorities to approve plans or projects which could adversely affect the integrity of a Natura site if:
  - There are no alternative solutions;
  - There are imperative reasons of overriding public interest, including those of a social or economic nature;
  - Compensatory measures are provided to ensure that the overall coherence of the Natura network is protected”.
- In relation to development that affects a Site of Special Scientific Interest SPP, page 48, paragraph 212: confirms that these should “only be permitted where:
  - The objectives of designation and the overall integrity of the area will not be compromised;
  - Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance”.
- SPP, page 49, paragraph 214 states that “The presence (or potential presence) of a legally protected species is an important consideration in decisions on planning applications. If there is evidence to suggest that a protected species is present on site or may be affected by a proposed development, steps must be taken to establish their presence. The level of protection afforded by legislation must be factored into the planning and design of the development and any impacts must be fully considered prior to the determination of the application”.
- SPP, page 64, paragraph 283 states that “Planning authorities and port operators should work together to address the planning and transport needs of ports and opportunities for rail access should be safeguarded in development plans. Planning authorities should ensure that there is appropriate road access to ferry terminals for cars and freight, and support the provision of bus and train interchange facilities”.

#### **A4.2 Planning Advice Notes**

The Scottish Government also provides advice on different subjects to support SPP, including planning advice notes, guides, letters from the Chief Planner, design guidance and specific advice documents. Those potentially relevant to the proposed development include:

- PAN 47 Community Councils and Planning;
- PAN 51 Planning, Environmental Protection and Regulation (Revised 2006);
- PAN 60 Planning for Natural Heritage;
- PAN 65 Planning and Open Space;
- PAN 66 Best Practice in Handling Planning Applications Affecting Trunk Roads;
- PAN 68 Design Statements;
- PAN 69 Planning and Building Standards Advice on Flooding;
- PAN 75 Planning for Transport;
- PAN 78 Inclusive Design;
- PAN 82 Local Authority Interest Developments;
- PAN 83 Masterplanning;
- PAN 3/2010 Community Engagement;
- PAN 1/2011 Planning and Noise;
- PAN 2/2011 Planning and Archaeology;
- PAN 1/2013 Environmental Impact Assessment;
- Guide on Transport Assessment and Implementation;
- Air Quality and Noise: Review of EIA Consultation Arrangements (Letter from the Chief Planner); and
- Specific Advice on Air Quality and Land Use Planning.

#### **A4.3 National Marine Plan 2015 (Scotland)**

This National Marine Plan sets out strategic policies for the sustainable development of Scotland's marine resources out to 200 nautical miles. It is required to be compatible with the UK Marine Policy Statement and existing marine plans across the UK, in particular where there is interaction between England inshore and offshore marine plans and Northern Ireland Marine Plans.

The following outline aspects specifically relevant to the development:

- (Page 6, paragraph 2.15) Harbour Authorities have a wide range of statutory powers or duties providing considerable autonomy over their area of jurisdiction. Where Harbour Authorities are required to apply for marine licences, their applications will be considered in accordance with the objectives and policies of this Plan.

- (Page 15, paragraph 4.4) There is a presumption in favour of sustainable development and use of the marine environment when consistent with the policies and objectives of this Plan. (Page 15, paragraph 4.5) This principle is relevant to all marine activities, but is especially relevant for the key growth sectors which Scotland specialises in. These include oil and gas and renewable energy activities; and tourism. Many of these sectors are particularly important in more remote areas of Scotland. The principle is equally relevant to existing and established activities as well as emerging activity and should be applied equally across all activity, subject to objectives and policies of this Plan.
- (Page 99) The Plan states that marine “development and use should not be permitted where it will restrict access to, or future expansion of, major commercial ports or existing or proposed ports and harbours which are identified as National Developments in the current NPF or as priorities in the National Renewables Infrastructure Plan (Map 10 and 11). Regional marine plans should identify regionally important ports and harbours, giving consideration to social and economic aspects of the port or harbour and the users of the facility subject to policies and objectives of this Plan. Regional plans should consider setting out criteria against which proposed activities and developments should be evaluated.
- Ferry routes and maritime transport to island and remote mainland areas provide essential connections and should be safeguarded from inappropriate marine development and use that would significantly interfere with their operation. Developments will not be consented where they will unacceptably interfere with lifeline ferry services.
- Maintenance, repair and sustainable development of port and harbour facilities in support of other sectors should be supported in marine planning and decision making.
- Port and harbour operators should take into account future climate change and extreme water level projections, and where appropriate take the necessary steps to ensure their ports and harbours remain viable and resilient to a changing climate. Climate and sea level projections should also be taken into account in the design of any new ports and harbours, or of improvements to existing facilities”.
- (Page 99) The Plan states that marine and terrestrial planning processes should co-ordinate to provide co-ordinated support to ports, harbours and ferry terminals to ensure they can respond to market influences and provide support to other sectors with necessary facilities and transport links.
- The national plan requires regional marine plans to consider identifying regionally important ports and harbours and setting out criteria against which proposed development and use should be evaluated. Page 100, paragraph 13.4 of the plan considers that “ports will have an increasingly significant role in supporting future growth of the renewables industry thereby further extending their economic importance. They also support the tourism industry by providing landing points for passenger ferries, cruise ships and other marine tourism operators, as well as offering facilities for recreational users. As ports develop to support renewable energy industries, potential increases in capacity may offer greater opportunity for utilisation for the cruise industry. Development of smaller harbour facilities could support a wider diversity of recreational pursuits”.
- (Page 101, paragraph 13.8) “The majority of port and harbour operations are administered by statutory Harbour Authorities, who have a range of statutory powers or duties for the purpose of

improving, maintaining or managing a harbour and for ensuring safety of navigation. Harbour Authorities have considerable autonomy over their area of jurisdiction, which may include permitted development rights. Marine planners and decision makers will have regard for the statutory duties and responsibilities of a Harbour Authority and will consult with them where a proposal for consented development or activity will impact on their operations or property. Where Harbour Authorities are required to apply for licences or other permissions, their applications will be considered in accordance with the objectives and policies of this Plan”.

- (Page 102, paragraph 13.12) “Safeguarding the viability of routes used by shipping, ensuring safety of navigation and encouraging development of Scottish ports and harbours are essential for the continuation and growth of economic prosperity provided by ports and harbours and the variety of sectors they support. This is especially important on the east coast to encourage economic activity and avoid movement away from Scottish ports to, for instance, the Humber or other English east or south coast ports”.
- (Page 102, paragraph 13.13) “Dredging is an essential activity to maintain existing shipping channels, establish safe approaches to new ports or open up routes to old ports. Dredged material may be disposed of at licensed marine disposal sites or used for alternative purposes such as land reclamation or coastal nourishment, if suitable, to minimise seabed disposal. Licensed areas may change – normally as a result of disuse, monitoring information or the need for sites in additional locations. The consideration of both dredged navigation channels and disposal sites in marine planning and decision making is important to support safe access to ports and the disposal of dredged material in appropriate locations”.
- (Page 102, paragraph 13.14) The location of Scottish ports in relation to oil and gas reserves in the North Sea means they have strategic importance in handling products as well as servicing of industry boats and infrastructure and general support of the industry. Sullom Voe, Flotta, Grangemouth, Aberdeen and Dundee are of particular importance.
- (Page 104, paragraph 13.21-13.22) “Ports and harbours can support various elements of tourism/recreation such as cruise liners and smaller vessels, recreational boats, tour operators, charter boats and sea anglers. Small harbours can be of particular importance to local sports, activities and tourism enterprises. Harbours at the interface between canals and the marine area also provide important gateways to the marine environment for leisure craft, offering alternatives to difficult passage around the north mainland and acting as an international gateway for boats arriving from Europe. Maintenance or restoration of harbour facilities can boost local activity and generate social benefits for the local community as well as economic benefits for the harbours; necessary closure for safety purposes can have negative impacts for an activity and a community which previously relied upon the facility. Harbour developments, including marinas have been successful in supporting increased boating activity with benefits to the sport, as well as local economies.
- Cruise activity in Scotland has the potential to increase: in the future it could be enhanced by the provision of additional capabilities of existing cruise ports and the development of others. Predictions are for cruise liners to increase in size. If this is realised within a Scottish market, ports adapting to support renewable industry may also be able increase capacity to accommodate liners”.

#### **A4.4 Regional and Local Policy**

##### **A4.4.1 Current Development Plan**

The purpose of the Development Plan is to set the framework for new developments. In addition, planning applications are assessed against the provisions (land allocations and policies) of the development plan.

The current development plan for the Aberdeen City Council area comprises:

- The Aberdeen City and Shire Strategic Development Plan (2014) (Aberdeen City and Shire Strategic Development Planning Authority, 2014); and
- The Aberdeen Local Development Plan (2012) (Aberdeen City Council, 2012) which will be replaced by the new Aberdeen Local Development Plan (2016) (Aberdeen City Council, 2015).

##### **A4.4.2 The Aberdeen City and Shire Strategic Development Plan (2014)**

The Aberdeen City and Shire Strategic Development Plan (SDP) was approved by Scottish Ministers on 28 March 2014. The plan covers the whole of Aberdeen city and Aberdeenshire (except the Cairngorms National Park) and represents a shared vision for the future of the area to 2035A number of key objectives of particular relevance to the Harbour expansion are articulated throughout the SDP. These are set out below, along with the issues relative to each objective highlighted in the plan:

- SDP, page 28, paragraph 4.5 states “To be a city region which takes the lead in reducing the amount of carbon dioxide released into the air, adapts to the effects of climate change and limits the amount of non-renewable resources it uses”;
- SDP, page 28, paragraph 4.7 requires that “all new developments must be designed and built to use resources more efficiently and be located in places where they have as little an effect on the environment as possible. Focusing initially on using energy-efficiency measures is likely to be the best way of reducing the demand for energy as a step towards achieving carbon-neutral development, and this should be done as soon as practically possible”;
- SDP, page 34, paragraph 4.27 requires planners “To make sure new development maintains and improves the region’s important built, natural and cultural assets”;
- SDP, page 34, paragraph 4.28 confirms that “the built, natural and cultural environment is a valuable resource, but one which needs to be protected and the way in which sites are chosen, and high quality design, will make sure that development does not lead to the decline of the north-east’s built, natural and cultural assets”;
- SDP, page 34, paragraph 4.29 states that “biodiversity, wildlife habitats and landscape can be vulnerable to the effects of new development and that there needs to be a focus on maintaining and improving them, especially where there are plans for development”;
- SDP, page 36, paragraph 4.32 requires planners “To make sure that new development meets the needs of the whole community, both now and in the future, and makes the area a more attractive place for residents and businesses to move to”; and

- SDP, page 38, paragraph 4.41 requires “To make sure that all new developments contribute towards reducing the need to travel and encourage people to walk, cycle or use public transport by making these attractive choices”.

A series of targets set out in SPD, include:

- For all developments to meet the accessibility standards set out in the regional transport strategy;
- For major employment and service developments in strategic growth areas to show that they are easy to access by walking, cycling or using public transport. The travel plans produced for these developments should reduce the need for people to use cars;
- To reduce the percentage of journeys made by car:
- To make sure that development improves and does not lead to the loss of, or damage to, built, natural or cultural heritage assets;
- To avoid new development preventing water bodies achieving ‘good ecological status’ under the Water Framework Directive; and
- For the quality and design of new developments in the city region to be nationally recognised.

#### **A4.4.3 The Aberdeen Local Development Plan**

The adopted Local Development Plan (2012) provides a land use framework during the plan period to 2023 with indications of locations for growth to 2030.

The adopted LDP confirms through Policy I2 that “Development must be accompanied by the infrastructure, services and facilities required to support new or expanded communities and the scale and type of developments proposed”. The LDP goes on to identify masterplan zones within which developers are directed to work collaboratively to facilitate the delivery of infrastructure. Aberdeen Harbour and Nigg Bay are not identified within this list.

Policies and statements within the LDP relevant to the development are included below:

- The LDP recognises the importance of Aberdeen Harbour and the importance of safeguarding land in “strategic locations” including beside the Harbour – including land suitable for harbour related uses. The Harbour is described as a “vital hub... (providing)... a service for the region as a whole”;
- Policy B14 states “within the operational land applying to Aberdeen Airport and Aberdeen Harbour there will be a presumption in favour of uses associated with the airport and harbour respectively. Due regard will be paid for the safety, amenity impacts on and efficiency of uses in the vicinity of the Airport and Harbour”;
- The Local Development Plan notes that the Harbour Board Operational Area will be subject to a Masterplan which will provide detailed guidance in respect of land uses, policies, proposals, access and connectivity within it and the adjoining areas. This was undertaken as part of the Aberdeen Harbour Development Framework (January 2012) which comprises supplementary guidance also forming part of the Development Plan;

- This Development Framework outlines the connections between the Harbour and the City and considers how these connections can be improved so that the Harbour can continue to complement and support Aberdeen’s economic and cultural growth. It also provides guidance to ensure that the objective for a greater mix of uses at the Harbour can be delivered without impacting on the operations of the Harbour. It includes guidance on how to avoid adverse effects upon the qualifying features of the River Dee Special Area of Conservation (SAC), which runs throughout the Harbour and also upon bottlenose dolphins, which frequent the outer Harbour and mouth and are qualifying features of the Moray Firth SAC and are a European Protected Species;
- The proposals maps which accompany the LDP identifies Nigg Bay and the surrounding coast as Green Belt, Green Space Network, District Wildlife Site and Coastal Management – Coastal Area Undeveloped. Land west of the Coast Road at St Fitticks Park is identified as Coastal Management – Coastal Area Developed and a SSSI is identified on the southern edge of Nigg Bay. The Core Path Network, which skirts the coast and around the bay is also identified on the proposals maps;
- Policy NE7 - Coastal Planning is applicable to the development site. This states (Page 211, Paragraph 3.80) that “Development will be permitted in the developed coastal areas only where it is demonstrated that a coastal location is necessary. Development will only be permitted in undeveloped coastal areas if it can be demonstrated that there is no other suitable site including the re-use of brownfield land; and it respects the character, natural and historic environment, plus, the recreational value in the surrounding area; or there is an overriding environmental benefit. In all cases development will not be permitted in areas at risk from coastal erosion and flooding, public access to and along the coast will be protected and promoted wherever possible and development proposals will be required to demonstrate through appropriate marine-noise modelling, that adverse impacts on Bottlenose Dolphins and Atlantic Salmon are avoided”;
- Policy NE8 - Natural Heritage affords protection to protected species and areas designated because of their natural heritage value. It states (Page 212, Paragraph 3.84) that development which, taking into account any proposed mitigation measures, has an adverse effect on these sites and species will only be permitted where it satisfies the relevant criteria in Scottish Planning Policy. These are International Designations, National Designations, Local Designations and European Protected Species and Species protected under the Wildlife and Countryside Act 1981.3. No development will be permitted unless steps are taken to mitigate negative development impacts. All proposals that are likely to have a significant effect on the River Dee SAC will require an appropriate assessment which will include the assessment of a detailed construction method statement addressing possible impacts on Atlantic Salmon, Freshwater Pearl Mussel and Otter. Development proposals will only be approved where the appropriate assessment demonstrates that there will be no adverse effect on site integrity, except in situations of overriding public interest.

#### **A4.4.4 Proposed Aberdeen Local Development Plan**

The adopted Aberdeen Local Development Plan is under review, with its replacement presently being at Proposed Plan stage. The Proposed Aberdeen Local Development Plan (Proposed LDP) was published for a period of public engagement in March 2015 until 1st June 2015. While this does not form part of the current development plan and the proposed development is likely to be considered by

regulators in advance of it becoming adopted, the Proposed LDP is nonetheless a material consideration in the determination of planning applications and should be afforded consideration.

- Policy D2 - Landscape requires (Page 21) that developments have a strong landscape framework which improves and enhances the setting and visual impact of the development, unifies urban form, provides shelter, creates local identity and promotes biodiversity. It goes on to require that development:
  - Be informed by the existing landscape character, topography and existing features to sustain local diversity and distinctiveness, including natural and built features such as existing boundary walls, hedges, copses and other features of interest;
  - Conserve, enhance or restore existing landscape features and should incorporate them into a spatial landscape design hierarchy that provides structure to the site layout;
  - Create new landscapes where none exist and where there are few existing features;
  - Protect and enhance important views of the City's townscape, landmarks and features when seen from busy and important publicly accessible vantage points such as roads, railways, recreation areas and pathways and particularly from the main city approaches; and
  - Provide hard and soft landscape proposals that is appropriate to the scale and character of the overall development.
- Policy D4 (Page 24) affords protection to the Historic Environment with a view to preserving and enhancing it in line with SPP, SHEP, the Council's own Supplementary Guidance and Conservation Area Character Appraisals and Management Plan. Proposals which respect the character, appearance and setting of the historic environment and protects the special architectural or historic interest of its listed buildings, conservation areas, archaeology, scheduled monument, historic gardens and designed landscapes will be favourably considered.
- In situ preservation of all scheduled monuments and archaeological sites is supported while developments that would adversely impact upon archaeological remains, including battlefields, of either national or local importance, or on their setting will only be permitted in exceptional circumstances, where there is no practical alternative site and where there are imperative reasons of over-riding public need.
- It goes on to state that the applicant must at their own expense:
  - Take Satisfactory steps to mitigate adverse development impacts;
  - Where the preservation of the site in its original location is not possible, arrange for the full excavation and recording of the site in advance of development.
- In those cases where this is not justifiable or feasible, provision should be made for excavation and record with an appropriate assessment and evaluation. The appropriate publication/curation of findings will be expected.
- Policy T1 Land for Transport safeguards land for transport related projects, one of which is "Aberdeen Harbour Expansion".

- Policy T2 seeks to manage the transport impact of development and requires that measures be taken to minimise traffic generated and maximise the opportunities for sustainable and active travel.
- Policy T3 Sustainable and Active Travel states (Page 38) that new developments must be accessible by a range of transport modes, with an emphasis on active and sustainable transport and that links between residential, employment, recreation and other facilities must be protected or improved for non-motorised transport users, making it quick, convenient and safe for people to travel by walking and cycling.
- It further confirms that “Existing access rights, including core paths, rights of way and paths within the wider network will be protected and enhanced. Where development proposals impact on the access network, the principle of the access must be maintained at all times by the developer through provision of suitable alternative routes”.
- Policy T4 Air Quality states (Page 39) that:
  - “Development proposals which may have a detrimental impact on air quality will not be permitted unless measures to mitigate the impact of air pollutants are proposed and agreed with the Planning Authority. Planning applications for such proposals should be accompanied by an assessment of the likely impact of development on air quality and any mitigation measures proposed”.
- Policy T5 – Noise (Page 40) presumes against noise generating developments, as identified by an accompanying Noise Impact Assessment, being located close to noise sensitive developments, such as existing or proposed housing, while housing and other noise sensitive developments will not normally be permitted close to existing noisy land uses without significant mitigation measures in place to reduce the impact of noise.
- The proposals map identifies land at Nigg Bay as Aberdeen Harbour. Policy B5 - Aberdeen Harbour states (Page 45):
  - “Within the areas zoned for Aberdeen Harbour on the Proposals Map, there will be a presumption in favour of harbour infrastructure and ancillary uses, which are required for the effective and efficient operation of the harbour and which have a functional requirement to be located there. This may include administrative offices, warehousing and storage (including fuel storage), distribution facilities and car/HGV parking. Other harbour-related uses will be treated on their merits.
  - Due regard will be paid to any conflicts of use between the harbour and both new and existing developments in its vicinity, in order to preserve the amenity of new development and maintain the operational efficiency of the harbour. Mitigation measures may be required in order to permit uses which may otherwise be unacceptable”.
- Policy NE1 Green Space Network (Page 52), Policy NE2 Green Belt (Page 54), Policy NE5 Trees and Woodlands (Page 56), Policy NE7 Coastal Planning (Page 59) and Policy NE9 Access and Informal Recreation (Page 62) are broadly similar to those same policies in the adopted LDP as referenced above.
- Policy NE8 Natural Heritage states (Pages 60-61):
  - “Designated Sites

- Direct and indirect effects on sites protected by natural heritage designations, be they international, national or local, are important considerations in the planning process.
- In all cases, a development that is likely to have a significant effect on a Natura site, either alone or in combination with other plans or projects, will require an appropriate assessment (under the Habitats Regulations) to demonstrate that it will not adversely affect the integrity of the site. Development that would have an adverse effect will only be permitted where there are no alternative solutions and there are imperative reasons of overriding public interest, including those of a social or economic nature.
- Development that affects a site designated at a national level, including Sites of Special Scientific Interest, will only be permitted where it will not adversely affect the integrity of the area or the qualities for which it has been designated. Where adverse effects are unavoidable, they must be clearly outweighed by social, environmental or economic benefits of city-wide importance.
- Development that is likely to impact a locally designated site should seek to address this through careful design and mitigation measures. Development that, taking into account any proposed mitigation measures, has an adverse effect on a locally designated site will be permitted only where the adverse effects are clearly outweighed by social, environmental or economic benefits of citywide importance.
- Protected Species
  - Some of the species found in Aberdeen are protected under international and national law (including European Protected Species, and species protected under the Wildlife and Countryside Act 1981) while others are identified as being of local importance (North East Scotland Local Biodiversity Action Plan species).

If it is suspected that a Protected Species is present on a development site, then a survey will be recommended as part of a planning application. If evidence of a protected species is found, then the surveyor will be required to identify the possible impacts of the development on it. Applicants should submit supporting evidence for any development that may have an adverse effect on a protected species, demonstrating both the need for the development and that a full range of possible alternative courses of action has been properly examined and none found to acceptably meet the identified need. If the impacts cannot be avoided, then development may result in an offence being committed. Where a European Protected Species is concerned, a license will therefore be required to proceed. Licenses will only be granted if certain tests are met. Please see relevant Supplementary Guidance for more information on European Protected Species and licensing”.

#### **A4.4.5 LDP Supplementary Guidance**

The following information is supplementary guidance regarding the Local Development Plan:

##### **Air Quality 2012**

- Air quality issues must be given due weight when determining an application. An appropriate assessment of air quality must therefore be included with any application that may adversely affect local air quality or be significantly affected by existing levels. It is vital that the applicant considers the need for any assessment before any application is submitted. Failure to include appropriate information on air quality could result in the application being refused or delayed.

- There are three Air Quality Management Areas, including Anderson Drive, located in close proximity to the development site. As outlined within the supplementary guidance, an Air Quality Assessment is likely to be required due to the scope and location of the proposed development.

#### **Archaeology and Planning 2012**

- Approval for developments that would have an adverse effect on a scheduled monument or on any other archaeological site, including battlefields, of either national or local importance, or on their setting, would only be granted, subject to other policies, if:
  - There are imperative reasons of overriding public interest, including those of a social or economic nature; and
  - There is no alternative site for the development; and
  - Where there is doubt, the applicant has provided further information, at their expense, on the nature and location of the archaeological feature(s) involved, prior to determination of the planning application.
- The council's general environmental approach to development indicates that developments will be allowed where they do not destroy or damage natural resources or their setting, adversely affect amenity or be visually damaging to the appearance or setting of Aberdeen. Other objectives also apply, of course, and in particular it is to be expected that that new developments will be designed with due consideration for their context and make a positive contribution to their setting.

#### **Landscape**

- (Page 4, paragraph 2.2) Landscape Practice Note 1 - Landscaping Details of hard or soft landscaping, or a combination of both, will be required to be submitted as part of a planning application for development. Building work will not normally be allowed to start on the ground until an appropriate landscape scheme has been approved.
- (Page 4, paragraph 3.3) Landscape Practice Note 2 – Design Standards Applicants for Planning permission are required to submit landscape drawings that are to a professional standard. Failure to provide clear and precise information, or the submission of inappropriate designs, may lead to delays or a recommendation to refuse to grant planning permission.
- (Page 5, paragraph 4.5) Landscape Practice Note 3 - Landscape and Townscape Character Applicants must be able to demonstrate that they have taken all relevant environmental considerations into account, show how proposals relate to local landscape or townscape character, and indicate what physical and visual impacts developments may have upon them.
- (Page 7, paragraph 5.4) Landscape Practice Note 4 – Supporting Information Where required, developers shall provide supporting landscape information with planning applications on such matters as a sites context, landscape or townscape character, landform, soils and drainage, vegetation, access, features and services. Failure to provide satisfactory information may lead to problems in the processing of some applications.
- (Page 8, paragraph 6.6) Landscape Practice Note 5 – Development Proposals Rural or urban fringe developments shall accord with planning policy guidelines in assessing the potential impacts of their location, siting and design upon local landscape character and setting, and their relationship to other buildings or settlements. The siting and design of new buildings and

structures within urban areas shall have regard to landscape fit and local context in terms of their visual scale, massing and colour of materials. A Planning Brief explaining the principles on which development proposals are based will be required in some instances. Masterplans will also be required for some sites to show the proposals in more detail (for further information please see Aberdeen City Councils Masterplanning process).

- (Page 11, paragraph 7.11) Landscape Practice Note 6 – Layout and Design Soft and hard landscaping shall form a fundamental part of the design and layout of any development, and shall be clearly shown on submitted drawings accompanying planning applications from the outset. The redevelopment of brownfield sites shall not be an excuse for the creation of higher densities with less amenity or quality in the design of external spaces. Layouts that represent such circumstances will be rejected. A balance shall be struck between the need for site security and the maintenance, restoration or enhancement of townscapes, landscapes and wildlife habitats. All landscape designs shall demonstrate that they are sustainable.
- (Page 12, paragraph 8.7) Landscape Practice Note 7 - Soft Landscaping Landscaping shall be prepared with a clear design philosophy in mind and where it is not clear applicants may be asked to provide a relevant landscape statement. Soft landscaping treatments will be expected to cover a substantial proportion of any site and provide a definite structure or theme for the development. Landscape plans shall show precisely how proposed trees and shrubs are to be distributed around sites, and whether it is proposed to retain, remove, or replace existing elements. Planting details shall include reference to specific species, their precise location, grouping arrangements, density or spacing, and planting sizes. Areas for planting need to be of sufficient size to hold species which will have some landscape impact, be in scale with adjacent buildings, and accommodate planting without affecting adjoining areas or vice versa.
- (Page 14, paragraph 9.8) Landscape Practice Note 8 - Trees Applicants shall demonstrate that all trees have been accurately plotted; that tree impacts including felling have been minimised; that they have been given protection from construction activities; that suitable locations have been provided for new or replacement planting in or around the same place; and that they have taken appropriate steps for their future maintenance. Once a planning application has been submitted, no trees shall be removed from a development site unless prior planning permission has been obtained or there is written justification for doing so. Developments which impact significantly on the future health of sound trees will be rejected and where necessary Tree Preservation Orders made.
- (Page 15, paragraph 10.4) Landscape Practice Note 9 - Hard landscaping Hard and soft landscaping shall not be treated as separate parts of the design of external spaces around buildings, but be integrated into a comprehensive landscape plan. Surface water from hard surfaces shall be disposed of in a sustainable manner.
- (Page 16, paragraph 11.6) Landscape Practice Note 10 – Open Space Open spaces shall be provided in accordance with specified Council standards. Landscape treatments shall reflect the proposed purpose of the individual areas of open space and be capable of accommodating all of the expected functions including extensions to buildings. Layouts which contain open spaces without a distinct function or which represent SLOAP will be rejected. The external spaces around buildings shall reflect the scale, rhythm and proportions of the buildings.

- (Page 16, paragraph 12.1) Landscape Practice Note 11 - Slopes Ground level changes shall show a degree of natural undulation and the extent of works be clearly marked on drawings. Slopes of 1:3 or greater shall be avoided.
- (Page 17, paragraph 13.4) Landscape Practice Note 12 - Car Parking Landscaping shall form an essential part of the design layouts for car parks and be used to provide (i) peripheral screening and boundary treatments, (ii) hard surfacing that will relate to and link with the buildings, (iii) methods for demarcating parking bays, and (iv) internal divisions within large parking areas. Sufficient space for landscaping must be provided that will allow planting to survive without a constant threat of damage, especially at the edges of planting beds.
- (Page 18, paragraph 14.2) Landscape Practice Note 13 - Boundary Treatments Boundary enclosures for screening, privacy or security shall be designed to provide a good visual external and internal presentation for development sites. Existing boundary elements such as stone walls, hedges and trees, that contribute to local landscape character and grain, shall be retained or reinstated, and incorporated into the design.
- (Page 19, paragraph 15.5) Landscape Practice Note 14 - Landscape Establishment and Maintenance The implementation of landscape schemes shall be properly time-tabled into the construction process. Advance structural planting will be required for all major greenfield developments and the subject of legal agreements. Areas to be planted up as part of an approved landscape scheme shall not be used for construction or storage activities and planting shall be carried out at the first available planting season following commencement of the development unless otherwise agreed in writing. A maintenance programme for landscaping works, and the means by which they will be put into effect, will also be required.

#### **Low and Zero Carbon Buildings 2014**

The purpose of this supplementary guidance is to provide the methodology for developers to demonstrate compliance with Aberdeen Local Development Plan policy R7, which requires all new buildings to install low and zero carbon generating technology.

- (Page 6) Designing for Reduced Energy Demand Good, careful design at the outset will minimise the total energy demand for the lifetime of a development. Design considerations for a development as a whole and for the individual buildings will help to increase the efficiency of energy use. Well sited developments, orientation and design are not always included in the calculation methodologies used for building regulations. However, use of passive energy efficiency measures should be incorporated into all development to help reduce the energy demand of new buildings in addition to the buildings standards energy requirements.
- (Page 7) Demonstrating Compliance with Policy Applicants should consider how to meet the requirements of this guidance at an early stage of planning. It will be the responsibility of applicants to provide the necessary technical calculations in support of planning applications to demonstrate how the proposed development will satisfy the requirements of this guidance.
- (Page 8) Instances When Policy Will Be Relaxed Development will have deemed compliance with the requirement to install low and zero carbon generating technology if it can be demonstrated that the development will achieve a CO<sub>2</sub> saving greater than required by the current building standards (the minimum standard is likely to change over the life time of the plan as building standards are increased).

### **Open Space 2012**

- (Page 4) Open spaces are places for informal recreation, important for our physical and mental health and wellbeing. They can play a big part in building community cohesion, can stimulate the economy and attract enterprise. Open spaces are vital for encouraging biodiversity, supporting a resilient environment and providing important opportunities for learning.
- The highest quality open spaces were found to be Public Parks and Gardens, which mainly include the city's Victorian parks. Green Access Routes, Natural Greenspace and Green Corridors also scored well in terms of quality. Amenity space scored poorly both in terms of the quality assessment by officers, and community engagement feedback.
- (Page 7) Aberdeen's Green Space Network is identified in the Local Development Plan (Policy NE1) to protect, promote and enhance designated natural heritage sites, connectivity between habitats, open spaces and opportunities for physical activity and access to the outdoors. It also takes into account climate change adaptation opportunities and flood risk or alleviation, the distribution of existing open spaces and their relationship with communities, development opportunities, health and deprivation information and transport issues.
- (Page 9) Open space in new development should be strategically planned and contribute to enhancing the connectivity of the Green Space Network where possible.
- (Page 9) Aberdeen's Open Space Audit identified a need for higher quality and more accessible open space, rather than simply quantitative provision.

### **Transport and Accessibility 2012**

- (Page 3) Good transport connections are essential to the economic prosperity of Aberdeen and the quality of life of people living and working in the City. With an emphasis on ensuring that transport provision is considered from the very outset of a planning application, the Council is committed to developments that encourage sustainable travel.
- Developments should be linked by the most direct, attractive, safe and secure pedestrian links possible to potential trip sources within 800 metres of the development.
- (Page 5) In planning the layout of new development, the Core Paths Plan (2009) and Open Space Strategy (2011) should be taken into account, including routes referred to as 'aspirational' in the Core Paths Plan. New development must be permeable to walkers and cyclists and should ensure that new routes are planned in accordance with the 5 C's – connected, convenient, comfortable, convivial and conspicuous – as referred to in the Aberdeen Local Transport Strategy 2008 - 2012.
- (Page 9) The majority of new development will have an impact on the transport network and these impacts must be identified and dealt with as early as possible in the planning process. Transport Assessments (TA) can help to identify and tackle these issues at the planning application stage.
- (Page 9) A Transport Assessment should provide a comprehensive and consistent review of all the potential transport impacts relating to a proposed development or redevelopment and its immediate vicinity. The TA should consider travel-related issues such as safety, trip generation, access junction design and new infrastructure required (such as new bus services or cycle

lanes) before, during and following construction. Adverse traffic and accessibility issues should be addressed and, if appropriate, suitable mitigation measures identified.

- (Page 9) The assessment should look at the accessibility of the site by different modes of travel. The objective should be to maximise sustainable travel by walking, cycling and public transport and only then to consider the impact of the residual car traffic. Developers will be expected to take a realistic approach to their assessment of how much travel will be capable of being attracted to sustainable modes and they should bear in mind the Council's traffic targets as set out in the Local Transport Strategy (2008) and detailed in the Local Transport Strategy Monitoring Paper (2009).
- (Page 10) There are two ways to ensure that sustainable travel will be maximised. First, through careful attention to the design and layout of the development itself and giving priority to those on foot, cycling or using public transport ahead of car user requirements; secondly through measures to improve infrastructure and services to encourage sustainable travel within the catchment area of the development.
- (Page 12) A Travel Plan will be required for developments which exceeds the thresholds for Industry of >5,000 m<sup>2</sup> Gross Floor Area.
- (Page 12) Travel Plans should be site-specific and measures and objectives should reflect the individual characteristics of a site as well as the trips likely to be generated by that development. They should contain a range of measures to ensure that the site is accessible by a variety of modes of transport, and that private car use to and from the site is discouraged via a combination of incentives and disincentives. Workplace Travel Plans can address commuter journeys to work, customer access, business travel and fleet management and they can encompass the movement of freight as well as people.
- (Page 22) The proposed site is located in Zone 3 for car parking. This allows for a high provision of parking due to the relatively inaccessible location. 1 space per 40 meters squared on industrial floor space will be required. Disabled spaces will also be required at a rate of 6 spaces, plus 2% of the overall number of spaces in the car park should the car park exceed 200 spaces. For a car park of less than 200 spaces 1 space per disabled employee will be required plus 2 spaces or 5% of the total number of spaces in the car park or whichever is greater.

#### **Waste Management 2012**

- (Page 2) Developments should provide enough space for the storage and collection of waste – specifically recyclables, composting and residual waste – and access to such facilities. Planning conditions are already imposed on proposals likely to generate a significant amount of waste e.g. public houses, restaurants, medium to large-scale retail outlets and offices. However more could be done at the design stage to ensure that adequate provision is made for such facilities.
- (Page 5) Commercial developments vary in activity and scale. However, they will be expected to recycle waste and so multiple storage containers are likely to be required. The minimum size of storage area for a small shop is 2m x 1m. This is a minimum area and size will vary significantly due to the size and type of business. Larger retail and commercial developments should as a minimum allow for three separate containers for refuse, paper and card and other recyclables. As with residential properties, areas of hard standing at storage and collection points are required and dropped kerbs along routes where waste is moved in wheeled

containers. Where premises are accessible to the public, safe pedestrian access must be provided even where collection is from the public footway.

- (Page 5) Developers can save money and help the environment by not over-ordering materials, using recycled material and minimising waste production during construction. Preparing a Site Waste Management Plan will help identify how much waste will be produced, how this can be minimised and what might be done with the waste. For proposals where we believe the potential savings are likely to be significant, we will ask developers to prepare a Site Waste Management Plan. The Netregs website has a useful checklist and guide for creating these.

#### **A4.5 References**

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