



REPORT TO: SPECIAL MEETING OF MORAY COUNCIL ON 24 APRIL 2024

SUBJECT: MORAY LOCAL DEVELOPMENT PLAN 2027 EVIDENCE REPORT

BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND FINANCE)

1. REASON FOR REPORT

- 1.1 This report asks Council to approve the Evidence Report for the Moray Local Development Plan 2027 and delegate authority to the Head of Economic Growth and Development to submit to the Scottish Ministers for the Gatecheck.
- 1.2 This report is submitted to Committee in terms of Section III (E) (2) of the Council's Scheme of Administration relating to the review and preparation of Local Development Plans.

2. RECOMMENDATION

2.1 It is recommended that the Council:

- (i) Considers and approves the Evidence Report for the Moray Local Development Plan 2027 (LDP27);**
- (ii) Note that the Strategic Environmental Assessment (SEA) Scoping Report will be submitted to the SEA Gateway;**
- (iii) Delegates authority to the Head of Economic Growth and Development to update the Evidence Report to include references for core documents and other relevant evidence, and consultees; and**
- (iv) Delegates authority to the Head of Economic Growth and Development to submit the Evidence Report to the Scottish Ministers via the Scottish Government Division for Planning and Environmental Appeals (DPEA) for the Gatecheck.**

3. **BACKGROUND**

- 3.1 The Planning (Scotland) Act 2019 (hereafter, referred to as the 'Act') introduced changes to the LDP preparation process following the Transforming Planning programme. The Act introduced two key changes to the stages of the LDP preparation process; the Evidence Report and the Gatecheck. The key stages of the new process are set out below:
- Evidence Report: Prepared by the Planning Authority and sets out the baseline evidence to inform what the LDP is to plan for. The Report provides a summary of what the evidence means for the new LDP and is not expected to contain all the detail of the evidence. The Evidence Report must be approved by Moray Council before being formally submitted to the Scottish Ministers.
 - Gatecheck; Following submission of the Evidence Report, the Scottish Ministers will appoint a Reporter to carry out an independent assessment of the Evidence Report. The purpose of the Gatecheck is to assess the sufficiency of the evidence base to prepare the new LDP; it is not a mini or early Examination of the evidence. It aims to reduce the level of debate arising at the later stage of Examination.
 - Proposed Plan: Identifies where new development will take place and where it should not through land allocations and local policies in accordance with the Regional Spatial Strategy (RSS) and National Planning Framework 4 (NPF4). The LDP is to be 'place-based' with greater emphasis on maps, development briefs and masterplans and adopt an infrastructure first approach to support delivery.
 - Examination: An independent examination of any unresolved issues arising from the Proposed Plan is carried out by a Reporter appointed by the Scottish Ministers. The Examination process is not an opportunity to revisit the Evidence Report.
 - Adoption: Following the publication of any modifications arising from the Examination the Council can proceed to adopting the LDP where, along with NPF4, it becomes the statutory development plan of the Council.
- 3.2 The Evidence Report for the new Moray Local Development Plan (LDP) is set out in **Appendix 1**. The Report is topic based and grouped into policy headings that reflect NPF4. The information is presented in a 'Schedule' format similar to that suggested in the Scottish Government Local Development Planning Guidance. This provides a systematic, consistent and transparent approach to the analysis and interpretation of the evidence.
- 3.3 Along with the 'Schedules' the Evidence Report includes a summary of the appropriateness of the LDP2020 spatial strategy, policies and allocations; adherence with the legislative requirements of the Act; main issues arising from the evidence for the new LDP; engagement statement to explain how the Council has sought stakeholder views in line with legislative requirements and how these have been taken into account; position statement providing an overview of the evidence and areas of agreement and dispute; and, checklists that will be used to assess future bids for sites.

- 3.4 Scottish Government guidance on Local Development Planning makes it clear that a proportionate approach is to be taken by Planning Authorities when considering the sufficiency of evidence. This means that it is not expected that the Evidence Report will be a compendium of all available information and that Planning Authorities can decide which information is relevant to the LDP in each case. A significant volume of work has been undertaken to inform the new LDP. This has included the preparation of a number of plans, strategies and studies which have been presented to various Committees of the Council along with those which are the subject of separate reports presented to this special meeting of Moray Council.
- 3.5 The Gatecheck is a new and untested process and Moray Council is one of the first planning authorities to submit an Evidence Report to the Gatecheck. Meetings and regular dialogue have taken place with the DPEA regarding the format of the Evidence Report and proportionality of the evidence. The Evidence Report set out in **Appendix 1** is considered to reflect these discussions and contain a proportionate level of evidence to prepare the new LDP.
- 3.6 The Evidence Report Schedules contain 'statements of agreement and disputes' on the sufficiency of the evidence from stakeholders. Where there is agreement, the Reporter is unlikely to consider the issue in depth. However, where there is a dispute, the Reporter will consider the different viewpoints and come to a view. It is anticipated that any assessment of disputes will be carried out via written submissions rather than hearings. The Reporter will also identify any gaps in evidence, and if so, request further information as part of the Gatecheck.
- 3.7 A small number of key stakeholders have disputed the sufficiency of the evidence for the new LDP or suggested that further evidence is included. The disputes relate to Housing and Infrastructure and have been raised by Homes for Scotland, SEPA and NatureScot have suggested that further evidence is required to inform the new LDP on biodiversity and natural places, however, it is not considered that this level of evidence is proportionate or necessary. Consultation with SEPA also highlighted that a Strategic Flood Risk Assessment was required. This is currently being worked on and when agreed with SEPA will be submitted with the Evidence Report. The Council's recommended response is set out in the Schedules of the Evidence Report.
- 3.8 The Position Statement provides an overview of the evidence and areas of agreement and dispute for each Schedule of the Evidence Report. The Position Statement also sets out how the evidence relates to NPF4 policy areas. The Position Statement demonstrates how the Evidence Report as a whole provides sufficient evidence to enable the preparation of the new LDP.
- 3.9 The Evidence Report is a snapshot in time. The evidence may change between the time the Evidence Report is submitted to the Gatecheck and the preparation of the Proposed Plan. The Proposed Plan will be based on the most up-to-date evidence at the time.

- 3.10 A Strategic Environmental Assessment (SEA) is a statutory requirement for a LDP. It aims to ensure that the environment is a primary consideration in the preparation of the LDP and that steps are taken to avoid, mitigate or reduce significant adverse effects, where possible, or enhance positive ones. An SEA Scoping Report has been prepared alongside the Evidence Report. The SEA Gateway which consists of the Consultation Authorities of NatureScot, SEPA and Historic Environment Scotland are to receive the SEA Scoping Report when the Evidence Report is submitted to the Gatecheck.

4. LDP2020 SPATIAL STRATEGY, POLICIES AND ALLOCATIONS

- 4.1 The Evidence Report is to evaluate whether the LDP2020 has delivered on its outcomes, and allocations, and consider the appropriateness of the previous spatial strategy. The LDP2020 was informed by 9 main land use issues identified as part of the Main Issues Report (MIR) in 2018. The LDP2020 has been monitored on an annual basis since its adoption in July 2020 to examine whether it is addressing these 9 main issues.

- 4.2 A summary of the evaluation of the spatial strategy, policies and designations is set out in Section 2 of the Evidence Report. Further detail is provided within the LDP2020 Monitoring Reports for 2020-21 and 2021-23 which are included on the list of evidence to be submitted to the Scottish Ministers. Overall, the LDP2020 policies and land allocations are delivering the spatial strategy as intended with the majority of development taking place in the primary and secondary growth areas of Elgin, Buckie and Forres. Growth in the Tertiary Growth areas of Lossiemouth, Keith, Fochabers, Mosstodloch and Aberlour have been more modest however, Moray Growth Deal funding will help to unlock sites with viability challenges in Speyside. A review of allocated sites will be undertaken for the new LDP to determine whether existing site designations need to be removed and replaced with alternatives if there has been little to no progress on delivery.

5. MAIN ISSUES ARISING FROM THE EVIDENCE

- 5.1 The main issues arising through the Evidence Report to be addressed through the new LDP are set out in detail in Section 3 of the Evidence Report. Overall, the new LDP will need to address:

- Demographic challenges of an ageing population and increase in smaller households;
- Risks associated with climate change such as coastal erosion and more extreme weather events for example, through nature-based solutions and the location and adaptation of buildings and infrastructure;
- Delivery of biodiversity enhancements and improvements such as the establishment of a Nature Network and building on natural capital assets such as peatland restoration, woodland creation and natural flood management;
- Supporting the outcomes of the Council's Hydrogen Strategy including identifying sites for hydrogen generation facilities;

- Increasing pressure for renewable energy developments including windfarms, anaerobic digestion plants, Battery Energy Storage Systems (BESS) and the associated infrastructure for the National Grid and their impact on the landscape and serviced employment land;
- Supporting the regeneration and changing role of town centres including the delivery of town centre living and redevelopment and refurbishment of vacant buildings and brownfield land;
- An available supply of housing sites to ensure there is a deliverable housing land pipeline for the Local Housing Land Requirement and addressing local need for affordable and specialist housing;
- Identification of a significant level of additional land for business and industry across Moray and addressing viability issues with the delivery of serviced sites;
- Supporting and coordinating an infrastructure first approach between infrastructure providers to facilitate development;
- Identification of transport infrastructure necessary to facilitate development and addressing the outcomes of the Scottish Government's A96 corridor review;
- Continuing to deliver high quality places that have multiple benefits for climate resilience, nature and health and wellbeing.
- Approaches to Local Living that reflect the urban and rural context of Moray;
- Pressures on rural areas from large-scale expansion and storage requirements of the whisky industry and energy developments;
- Continuing a sustainable hierarchical approach to rural housing that balances delivery with protecting and safeguarding Moray's high-quality landscape;
- Identification of one or two public sites for Gypsy Travellers with a mixture of temporary and permanent pitches;
- A shortfall in the 10-year landbank for sand and gravel; and,
- Alignment of plans and strategies across the Community Planning Partnership and how Local Place Plans are taken account of in the preparation of the new LDP.

6. ENGAGEMENT

- 6.1 Extensive engagement has been undertaken to support the preparation of the Evidence Report over the last 16 months. Section 5 (Engagement Statement) of the Evidence Report sets out in detail how views of the groups specified in the Act (children and young people, disabled people, Gypsies and Travellers, Community Councils, the public at large and key agencies) have been sought and taken into account.
- 6.2 Engagement has taken a variety of forms and methods to reach the groups specified in the Act and as wide an audience as possible. This has included hosting drop-in exhibitions, attending community events, facilitating workshops at primary and secondary schools, conducting surveys and engaging with parents and carers on Additional Support Needs (ASN). Engagement with Gypsies and Travellers has been primarily undertaken through the Housing Needs and Demand Assessment (HNDA). The views gathered have informed the evidence for the new LDP.

- 6.3 Community Councils were invited to attend engagement events and to make submissions to the Call for Ideas to highlight the key issues and concerns of their communities. A meeting was held with the Joint Community Councils in February 2023 on the new LDP process, and another meeting is scheduled in May 2024 on the Evidence Report. It was considered this was a more appropriate and meaningful way to engage Community Councils in gathering the evidence to inform the new LDP as the technical nature of the Evidence Report would likely inhibit participation. This was highlighted by Finnerne Community Council who considered there was too much information to digest following consultation on the Energy Schedule of the Evidence Report.
- 6.4 The key agencies have been consulted on the relevant Schedules of the Evidence Report and their views and how these have been taken into account recorded in the 'Statements of Agreement or Dispute'. Key agencies have also been involved in the preparation of a number of studies cited in the Schedules that are or will become evidence to inform the new LDP.
- 6.5 The Act requires Planning Authorities to set out how they have invited local communities to prepare Local Place Plans (LPPs) and the assistance provided to help them prepare these. LPPs are community-led plans, setting out proposals for the development and use of land and offers communities the opportunity to develop proposals for their local area, expressing their aspirations and ambitions for future change. They must be prepared by a constituted community body such as a Community Council. Once registered by the Planning Authority, there is a legal responsibility to take LPPs into account in the preparation of the LDP.
- 6.6 The Engagement Statement sets out that the invitation to prepare a LPP has been advertised widely by the Council through emails to Community Councils, website and social media, and press releases. To date, 6 community groups have committed to preparing a LPP, 4 community groups have expressed an interest and one LPP has been submitted and is currently being reviewed. The Strategic Planning and Development team are working closely with the Community Support Unit (CSU) to assist communities to prepare their LPPs. This has involved the creation of a dedicated webpage, LPP and engagement templates, FAQs, signposting of relevant information, and a series of quarterly in-person meetings to support groups. The Council will endeavour to provide as much support as practically possible to community groups, however it is important to manage expectations given limited resource availability and other work commitments.

7. NEXT STEPS

- 7.1 Should the Evidence Report be approved by the Council, it will be submitted to the Scottish Ministers for the Gatecheck. The Scottish Ministers will appoint a Reporter from the Scottish Government Division of Planning and Environmental Appeals (DPEA) to independently assess the evidence to prepare the new LDP. The SEA Scoping Report will be sent to the SEA Gateway when the Evidence Report is submitted to the Scottish Ministers for the Gatecheck.

7.2 Following the assessment of the Evidence Report, the Reporter will either prepare a letter setting out that the Evidence Report contains sufficient evidence to prepare the new LDP, and the reasoning for this, or prepare an 'Assessment Report' setting out the reasons that they are not satisfied that Evidence Report contains sufficient evidence and the recommendation for improving the evidence. A copy of the letter or Assessment Report will be sent to the Planning Authority and the Scottish Ministers. Where an Assessment Report is issued the Planning Authority will require to address the areas of improvement and resubmit the Evidence Report to the Gatecheck.

8. **SUMMARY OF IMPLICATIONS**

(a) **Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The LDP is a vital aspect of supporting and facilitating the Council's Corporate and Community Planning objectives and priority for economic growth. The Plan also aims to deliver other key objectives including the delivery of affordable housing, provision of land for employment purposes and conservation and enhancement of our high quality natural and historic environment.

(b) **Policy and Legal**

Preparation of the LDP and RSS is a statutory responsibility in the Council's role as Planning Authority. Preparation must follow statutory procedures.

(c) **Financial implications**

The Gatecheck is carried out by the Scottish Government DPEA Division. Costs are charged to the Council on an hourly rate which is the same as the Examination for the Proposed Plan. As set out in the Development Plan Scheme (DPS) a 6-month time period has been estimated for the Gatecheck process. The Gatecheck will be paid from the LDP annual revenue budget. As reported to the Planning and Regulatory Services Committee on 19 December 2023 (para 15 of the minute refers) this results in a LDP revenue budget pressure in 2024/25. This may impact on other work commitments of the SPD team. As the Gatecheck is a new and untested process, any delays or an extended Gatecheck will likely increase the cost and further budgetary pressures. The majority of the evidence has been gathered by Officers, however some external consultancy use has been required to provide specialist input.

(d) **Risk Implications**

Key risks identified are set out below which all raise risks of delays to the LDP process or risk of not delivering the proposals within the LDP;

- Reporter requests for additional information and/or re-write of the Evidence Report if they consider that there is insufficient evidence gathered and collated to proceed to the Proposed Plan;

- Staff resources: risks associated with other competing workloads and deadlines, and with sickness and/or losing experienced members of staff which would add delay, not only within Strategic Planning and Development but other services also.
- Uncertainty over LDP procedures and implementation until guidance on RSS and other LDP aspects are published and adopted by the Scottish Government.
- Failing to meet the Scottish Government's aspirations for wide engagement in the process.
- Risk of not resourcing services to deliver the new LDP and meet the aspirations for planners to be the enablers of change.

(e) Staffing Implications

Work on the Evidence Report is carried out within the Strategic Planning and Development Team. The preparation of the LDP is a priority for the SPD team, and at key peaks in workload this may have an impact on other workload commitments. Further pressure has been added by the decision to remove the post of Senior Economic Strategy Development Officer, retaining £30k towards consultancy support.

Preparation of the Evidence Report and the subsequent stages in the preparation of the LDP and its delivery involves other services, particularly Transportation, Housing, Education, Estates, Legal, and Consultancy which impacts upon workloads and performance within these services.

(f) Property

None

(g) Equalities/Socio Economic Impact

An Integrated Impact Assessment has been prepared. Whilst the full impacts of the LDP are unknown at this stage, it is anticipated that they will be mostly positive given the LDP seeks to provide for affordable housing, accessible housing, employment land and support inclusive and healthy environments through placemaking.

(h) Climate Change and Biodiversity Impacts

The new planning system introduces national and local planning policies aimed at reducing carbon emissions and addressing the nature crisis as well as concepts such as local living which will be key drivers in delivering change. The Evidence Report includes Schedules dedicated to Climate Change and Biodiversity. Climate change officers within the Strategic Planning and Development team have been involved in the Evidence Report and will continue to be in throughout the LDP process.

A SEA Scoping Report has been prepared alongside the Evidence Report. This ensures the environment is a primary consideration in the evidence gathered for the preparation of the LDP. Further assessments on carbon and biodiversity will be undertaken in the preparation of the LDP. A Habitats Regulations Appraisal (HRA) will also be undertaken to inform the Proposed LDP.

(i) Consultations

Consultation has taken place with the Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Head of Education, the Learning Estate Programme Manager, the Legal Services Manager, the Transportation Manager, the Consultancy Manager, the Community Services Manager, the Equal Opportunities Officer, and the Democratic Services Manager have been consulted and comments received have been incorporated into the report.

9. CONCLUSION

9.1 The Evidence Report and Gatecheck are two new stages in LDP preparation, introduced by the Planning (Scotland) Act 2019. Moray Council is one of the first planning authorities to prepare an Evidence Report and submit it to the Gatecheck. The process is untested. Discussions with the DPEA have informed the format and proportionality of the evidence to prepare the new LDP.

9.2 Whilst there are a small number of disputes on the evidence, primarily related to housing and infrastructure, the majority of key stakeholders are in agreement with the sufficiency of evidence. It is considered that there is sufficient evidence to move forward with the preparation of the new LDP.

9.3 Should the Evidence Report be approved by the Council, it will be submitted to the Scottish Ministers for the Gatecheck. At the same time, the SEA Scoping Report will be submitted to the SEA Gateway.

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Background Papers:

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