

# Planning Committee

2.00pm, Wednesday, 19 June 2024

## City Plan 2030 Report of Examination and Resolution to Adopt

Executive/Routine: Executive  
Wards: All

### 1. Recommendations

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- 1.1 It is recommended that Planning Committee:
  - 1.1.1 Accepts the Reporter recommendations to modify City Plan 2030 as set out in the Table of Recommendations (Appendix 1) and as justified in the Report of Examination (Appendix 2);
  - 1.1.2 Endorse the modified City Plan 2030 (Appendix 3) as its Local Development Plan;
  - 1.1.3 Approve the covering letter (Appendix 4) to be submitted with the modified plan, to provide clarity on certain matters to the Ministers, along with the Housing Technical Note (revised) (Appendix 5) for the same purpose of clarity; and
  - 1.1.4 If recommendation 1.1.2 is approved, refers this report to the Council to resolve to adopt the modified City Plan 2030 (Appendix 3) as its Local Development Plan and submitted to the Scottish Ministers in accordance with the requirements of section 20 of the Planning etc (Scotland) Act 2006, with accompanying documents as listed in Appendix 3 and the Report of Examination.

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## City Plan 2030 Report of Examination and Resolution to Adopt

### 2. Executive Summary

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- 2.1 City Plan 2030 requires to follow the statutory process for a Local Development Plan. The most recent stage has been the Examination of representations to the plan and the Report of Examination. That report makes recommendations for modifications to the plan, which is substantially unchanged in terms of strategy, land allocations, the resultant land supply and policies.
- 2.2 The recommendations for changes are 'largely binding' on the Council. The Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009 set out the limited circumstances in which a Council can decline to follow Examination recommendations.
- 2.3 This report concludes that none of the recommendations can be considered to fall within the terms of that statutory provision, and therefore that they be accepted and the Council resolve to adopt the Plan as modified.
- 2.4 The formal adoption of Local Development Plan is a reserved matter for the Council. If the Council resolves to adopt the plan, it requires to be submitted to Scottish Ministers for them to consider whether to allow the Council to adopt the plan or to make a Direction for further changes to it.

### 3. Background

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- 3.1 City Plan 2030 has been through its statutory stages of Main Issues Report (Choices for City Plan 2030) and consultation, the Proposed Plan and representations, summary of and response to representations, submission for Examination of the Proposed Plan as the plan the Council wishes to adopt and the Examination itself.
- 3.2 The Examination stage is critical for the integrity of the plan. Seven Reporters worked on the Examination over a period of some 16 months. In addition to 24 Further Information Requests to the Council and to other parties, a two day hearing session was held in September 2023 to inform the Reporters' understanding of key

issues including housing requirements and housing land supply, infrastructure provision, affordable housing policy and all other matters subject to representation.

- 3.3 The Report of Examination sets out the Reporter's findings, conclusions and recommendations, following in each section the summary of the representations made and the Council's responses to them.
- 3.4 The Report of Examination is accompanied by a Table of Recommendations which summarises the modification to the Plan recommended by the Reporter.

## 4. Main report

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- 4.1 The recommended modifications to the plan are set out in the Table of Recommendations (Appendix 1). The full report of the Examination, including the Reporter's reasoning, can be found in Appendix 2. A Table of Requisite Changes as a consequence of the Reporter's recommendations is in Appendix 3d.
- 4.2 The Reporter's findings are largely supportive of the proposed plan as submitted for Examination. They do not undermine its integrity nor seek significant changes to the strategy or policies of the plan. The recommendations are largely intended to modify the plan to be further aligned with National Planning Framework 4 (NPF4), insofar as this is raised through the representations to the plan.
- 4.3 The recommendations for changes are 'largely binding' on the Council. Section 19 (10) (a) (i) and Section (11) of the Town and Country Planning (Scotland ) Act 1997 (as amended) and the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009 set out the limited circumstances in which a Council can decline to follow Examination recommendations. That the recommended modification:
  - 4.3.1 Is not consistent with the National Planning Framework;
  - 4.3.2 Is not consistent with the Strategic Development Plan for the land to which the proposed local development plan relates;
  - 4.3.3 Is not consistent with any plan adopted as a National Park Plan under section 12(7)(a) of the National Parks (Scotland) Act 2000(1) for such land;
  - 4.3.4 Means that the adoption of the local development plan as so modified would not be compatible with the requirements of Part IVA of the Conservation (Natural Habitats, &c.) Regulations 1994;
  - 4.3.5 Is based on conclusions that the appointed person could not reasonably have reached based on the evidence considered in the course of the examination under section 19(3) of the Act; or
  - 4.3.6 Is not acceptable in terms of Strategic Environmental Assessment as assessed in the updated Environmental Report.

- 4.4 The considerations of the Strategic Development Plan and of National Park Plans are not relevant. Although the strategic development plan remains referenced in the regulations, it no longer forms part of the development plan following the approval of NPF4, and its limited relevance in terms of the current planning legal framework. The consideration of National Parks Plans is not relevant to this Council.
- 4.5 Section 19(10)(a)(ii) provides for such other modifications, if any, as appear to be requisite, having regard to the report. This provision allows scope to potentially make 'tidy up' amendments to the Plan, if these directly flow from the recommendations. Any other tidy up amendments which seem necessary would need to be made through request to Ministers if they do not directly flow from the Examination Report recommendations.
- 4.6 Recommended modifications include detailed wording of some policies and proposals, though often in the supporting text rather than within the wording of the policy itself. From the Table of Recommendations the key modifications are:

### **Housing targets and housing land**

- 4.6.1 Recommendations which have a bearing on housing numbers and supply of land are largely presentational and do not undermine the scale or nature of the housing requirements or the land supply. Only two relatively small sites are removed from the plan and no new sites are added.
- 4.6.2 The housing targets and housing land supply for the plan are to be replaced with the Minimum All Tenure Housing Land Requirement (MATHLR) set out in NPF4. This means replacing the Housing Supply Target of 36,911 homes with the MATHLR figure of 36,750 homes.
- 4.6.3 A figure for Local Housing Land Requirement of 40,500 homes is used to show the land supply over the 10 year period of the plan. This is, however, a notional phasing of housing completions made by the Reporter rather than the capacity of the land supply. The overall capacity of the supply, taking account of the two sites to be removed from the plan, of other adjustments made to reflect planning permissions granted or other changes, is for 55,400 homes compared to the 57,428 in the plan as proposed. This is explained further in Appendix 5 Housing Technical Note (revised) to provide clarity and understanding between the figures in the Proposed Plan as submitted and as modified.
- 4.6.4 The changes add to City Plan's compliance with NPF4. Further, given that the MATHLR figure is based on the latest robust and credible assessment of housing need and demand (HNDA3) plus a 25% addition for 'flexibility' and the land supply significantly exceeds this, the recommended changes are considered reasonable and acceptable.

### **Opportunity Sites**

- 4.6.5 Within this overall land supply, the Reporter considers that 44 of the 93 brownfield sites allocated are unlikely to contribute housing completions in the plan period and re-categorised them as 'Opportunity Sites'.

- 4.6.6 The Reporter considers these sites are constrained by ownership and existing uses, though does not recommend they be removed from the land supply, rather their phasing and likely completion is amended to be outwith the plan period.
- 4.6.7 The Reporter also considers that the question of the deliverability of these sites should be reassessed in the course of making the next Local Development Plan (LDP) and that new plan be commenced immediately.
- 4.6.8 As the change does not affect the overall land supply, it is not considered to have an impact on it. Brownfield sites with existing uses have long been a significant part of the Edinburgh housing land supply and, whilst this can present a constraint to development, it can often be resolved e.g. in the Bonnington area. Nonetheless, as set out in a report to Planning Committee in September 2023, work is underway on City Plan 2040 in response to the changes to the development planning system resulting from the Planning (Scotland) Act 2019. This is in line with the Scottish Government's expectation of 'new style' LDPs being in place by May 2028.

### **Affordable Housing**

- 4.6.9 The Reporter accepts the Proposed Plan Policy HOU 2 (Affordable Housing requiring 35% of homes on market sites to be of affordable tenure), with a recommendation that the wording of the policy be modified to read that relevant sites 'should normally' provide that level rather than be 'required' to do so. The Reporter considers that this allows for flexibility should an applicant seek to provide more affordable housing, or submit a viability case as to the level, and reflects the use of the term 'normally' in relation to on site provision. The supporting text would also be amended to specify that guidance will be provided, including that an assessment of viability must include an open book approach from the applicant.
- 4.6.10 The added reference to 'normally' would effectively modify the policy to include the principle of Section 25 of the Planning Act that proposals should be determined in accordance with the provisions of the development plan, unless material considerations indicate otherwise, with viability being a potential material consideration. The added wording on guidance and open book approach is helpful.
- 4.6.11 The Reporter recommends that Policy HOU 4 be deleted. This policy refers to the provisions of Scottish Planning Policy (SPP) for maintaining a five year housing land supply and for release of sites where that is not achieved.
- 4.6.12 Those provisions no longer apply since SPP was superseded by NPF4. This modification better aligns the plan with NPF4 and the policy is no longer required.

### **Loss of Housing**

- 4.6.13 The Reporter also recommends that Policy HOU 7 (Loss of Housing) be deleted. This Policy is that there be a presumption against loss of housing to

any change of use, or to demolition. The provisions of Policy 30 e of NPF4 would then apply. This presumes against the loss of housing to a change of use to a short term let (STL). Considerations of amenity would continue to apply through both City Plan and NPF4 policies.

- 4.6.14 In terms of a change to a non-STL use an application would therefore need to be considered on the basis of impacts on amenity and any other relevant material change of use. In legal terms, demolition of a home is permitted development, so this would outweigh any policy presumption against loss of housing to demolition. The deletion of the policy aligns the plan with NPF4 and permitted development rights.
- 4.6.15 Data shows that over the past five years, 42 homes have been subject to approvals for change of use such as hotel/guest house and food and drink and uses. A further 24 homes have been subject to change of use to a House of Multiple Occupation (HMO), which can reasonably be considered to remain a needed form of housing use.
- 4.6.16 Investigation into demolitions over the past 5 years has found that 21 reported units relates to demolition of Council stock at 1 Linksvie House, Tolbooth Wynd and a further 20 demolitions all of which related to replacement housing with a small net gain in units.
- 4.6.17 The deletion of the policy as recommended therefore would not have a significant effect on the existing housing supply and non-STL uses can be managed through other policies and the relevant material considerations.

### **Student Accommodation**

- 4.6.18 For Policy HOU 6 (Student Accommodation), the Reporter recommends a modification that for sites of more than 0.25 of a hectare, the requirement for mainstream housing should be for 50% of the site area rather than 50% of units. The requirement for 35% of this to be affordable housing remains.
- 4.6.19 The modification would clarify, simplify and improve the policy.

### **Sustainable Buildings**

- 4.6.20 For Policy ENV 8 (Sustainable New Buildings), the Reporter recommends the wording be amended to refer to 'as reasonably practical' with reference to aspects of sustainable building.
- 4.6.21 The effect of this would be to align the policy with the relevant NPF4 policy.

### **Access to Community Facilities**

- 4.6.22 In respect of Policy INF 1 (Access to Community Facilities), the Reporter recommends removal of the term 'walkable' from the provision that 'Housing development will be supported where key community facilities are walkable within a 20 minute return trip'.

4.6.23 The effect of this is to align it with Policy 15 (Local Living and 20 minute neighbourhoods), which as a national policy is more flexible to allow for rural considerations.

4.6.24 This would be flexible in regard to the rural areas of the City of Edinburgh Council administrative area though is not as clear in respect of urban contexts. Guidance can be used to reinforce the consideration of 'walkable' in the urban context, and the Scottish Government guidance on living well locally does include this provision.

#### **Use of Supplementary Guidance**

4.6.25 On the form of guidance for developer contributions the Reporter recommends the plan be modified so that this will be statutory Supplementary Guidance (SG) rather than non-statutory supplementary planning guidance (guidance), and therefore be a part of the development plan.

4.6.26 The Council's reasons for making the case that it be non-statutory guidance rests partly on the consideration that the 2019 Planning Act effectively abolishes SG in the new development planning system, after a period when the Scottish Government has discouraged the use of SG. The transitional arrangements for plans made under the old system only allow until March 2025 for SG to be submitted and approved by the Scottish Government and importantly do not allow for its future amendment.

4.6.27 As financial amounts are a critical part of developer contributions guidance, updating and amending those financial amounts which will be subject to various reasons for change, could be more effectively managed as guidance rather than SG. The terms of the Reporter recommended wording allow for consideration of this and subject to careful wording the SG can provide a level of flexibility to allow for appropriate updating of financial information.

4.7 In considering the Reporter recommendations, this report concludes that none of the grounds on declining to accept (as set out at paragraphs 4.2 to 4.6) apply, and therefore recommends that they be accepted and the plan be modified to reflect this, as set out in the version of the plan in Appendix 3.

4.8 This report also concludes that the Reporter's recommendations are appropriate to further align the plan with NPF4, which is not unexpected. The recommendations underpin the strategy and policy approach of the plan within the requirements of NPF4 and therefore the report recommends that the Council should resolve to adopt the plan.

4.9 Adoption will mean City Plan 2030 forms the most up to date part of the development plan alongside NPF4 and allow its provisions to fully take effect in informing decisions.

## **5. Next Steps**

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- 5.1 Endorsement of the recommendations, and adoption of the plan by the Council will allow the modified Proposed Plan and required documents as set out in 1.1.4 to be submitted to the Scottish Ministers. Officers consider that the Housing Technical Note (revised) will provide a clear read across between the plan as submitted for Examination and the modified plan and should therefore also be submitted to Ministers.
- 5.2 In addition to the submission above, it is recommended that the covering letter set out in Appendix 4 be sent to Scottish Ministers, noting the reasons for submitting the Housing Technical Note and raising some minor modifications to the plan which the Reporter was unable to address.
- 5.3 Subject to committee endorsement and Council approval, the modified plan will be submitted to Scottish Ministers as soon as possible. Scottish Ministers have a statutory 28 day period in which to consider whether the Council should be informed it can adopt the plan, or whether further amendments should be required by Ministerial Direction. Any such amendments would be brought back to Council for a final decision on adopting the plan.
- 5.4 This can include that the 28 day period be extended to allow further time for consideration.

## **6. Financial impact**

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- 6.1 The potential financial impacts of City Plan 2030 have been noted at previous stages through a high level assessment. Detailed figures will be provided in draft Developer Contributions Supplementary Guidance which will be presented to the next Planning Committee. This will be reviewed in the light of consultation responses and any Ministerial Direction on changes to the plan.

## **7. Equality and Poverty Impact**

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- 7.1 An Integrated Impact Assessment (IIA) has been carried out at each stage of the plan preparation process. The proposed plan IIA has been reviewed (Appendix 6) to consider the implications of the modifications resulting from the Report of Examination.
- 7.2 The IIA assessment concludes that overall City Plan 2030 will support equality, health and well-being and human rights and have positive socio-economic impacts overall.

## **8. Climate and Nature Emergency Implications**

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- 8.1 The Environmental Report and its associated Strategic Environmental Assessment (SEA) has been updated to incorporate the modifications made by the Reporter to



the City Plan 2030 in accordance with the advice of PAN 1:2010. It constitutes a background document to the Plan. It will be finalised following approval for adoption by the Council and Scottish Ministers.

- 8.2 There have been no new options put forward in the Report of Examination that have not already been assessed, and that are likely to have significant environmental effects. The two housing sites that have been recommended for deletion, which have already been assessed for the Proposed Plan, have been removed from the SEA. The additional East of Millburn tower (H96) site already has consent and therefore is exempt from the SEA process, i.e. the environmental effects would already have been assessed as part of that consent process.
- 8.3 Minor changes have been made to policy wording of various policies, but they do not have any “significant environmental effects” that necessitated a change to the assessment and as a result there was no necessity to consult on the changes to the Environmental Report. The main changes made to the report, highlighted in blue, relate to updating the text in the report to reflect the fact that the Plan is now entering the final adoption stage of the process.

## **9. Risk, policy, compliance, governance and community impact**

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- 9.1 City Plan 2030 has been subject to early engagement since 2018. Engagement has taken place with communities and stakeholders at all key stages and statutory periods of consultation and representation have encouraged community and stakeholder involvement and responses to inform the plan.
- 9.2 All representations to the plan have been examined by Scottish Government Reporters and this is documented in the Report of Examination.
- 9.3 Should the recommendations of the report not be accepted, the Council will not have updated policies and land allocations which will help to manage development pressures in the city. Whilst this will be mitigated by use of the policies of NPF4, it would significantly reduce the ability to provide for affordable housing and to manage the growth of purpose built student accommodation on brownfield sites in the city.
- 9.4 City Plan 2030 has been produced in collaboration with the Council’s other services and key agencies, with its strategy and policy designed to support Council objectives including its business plan and housing, transport and sustainability strategies.

## **10. Background reading/external references**

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- 10.1 [City Plan 2030 - Approval of Schedule 4 Documents and Proposed Plan for Examination](#), Planning Committee 30 November 2022

## 11. Appendices

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Appendix 1 – Reporter Table of Recommendations.

Appendix 2 – [Report of Examination](#).

Appendix 3 – Modified Proposed Plan Documents for Submission to Scottish Ministers:

3a – modified City Plan 2030 Written Statement;

3b – modified City Plan 2030 Appendix D;

3c – modified City Plan 2030 Proposals Map;

3d – Table of Requisite Changes from Reporter Recommendations;

3e – Environmental Report; and

3f – Draft Habitats Regulations Appraisal and Addendum

Appendix 4 – Covering Letter to Scottish Ministers.

Appendix 5 – Housing Technical Note (revised).

Appendix 6 – Updated Integrated Impact Assessment.