



## FRIENDS OF SAINT FITTICK'S PARK

Tom Arthur MSP  
Minister for Public Finance, Planning and Community Wealth  
Scottish Government  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG

Ref: FoSFP/rev1\*

21st December 2022

Dear Mr Arthur,

### **PROPOSED ABERDEEN LOCAL DEVELOPMENT PLAN 2022**

We refer to the above and write in respect of the above matter on behalf of members of the Friends of St. Fittick's Park ("FoSFP") community campaign group based in Torry, Aberdeen.

#### **Background**

FoSFP was established in 2020 to protect Torry's last remaining accessible greenspace – St. Fittick's Community Park ("the Park"). You may be aware that the future of the Park is threatened by its inclusion in the proposed site for the Energy Transition Zone ("ETZ") intended for Aberdeen under the terms of the Proposed Aberdeen Local Development Plan 2022 ("Proposed LDP 2022").

In the extant Local Development Plan ("LDP 2017"), the Park is designated as Green Belt and NE1 Green Space Network. The purpose of this designation is to safeguard the Park and other green spaces under recognition that, "A well cared for natural environment and its ecosystems provide a range of benefits for communities and the economy. Safeguarding natural and open spaces will also improve air and water quality and help us to mitigate and adapt to the effects of climate change."<sup>1</sup>

We have grave concerns for our community that the rezoning of the Park to form part of the ETZ will result in severe detriment to the mental and physical health of Torry's inhabitants. This is a view supported by medical practitioners across Aberdeen. A copy of an open letter penned by said practitioners is attached for your information.

We also have concerns about the process that has been followed in reaching Aberdeen City Council's ("the Council") settled view and which initially resulted in the Park's inclusion in the ETZ development.

We are currently reviewing the legal position with our Legal Advisors and considering the merits of a legal challenge in this respect.

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<sup>1</sup>ABERDEEN CITY COUNCIL, 2017. Aberdeen Local Development Plan 2017. [online]. Aberdeen: Aberdeen City Council. Available from: [https://www.aberdeencity.gov.uk/sites/default/files/LDP\\_WS\\_20170328.pdf](https://www.aberdeencity.gov.uk/sites/default/files/LDP_WS_20170328.pdf) p67 [Accessed 28 September 2022].

## **Adoption of the Proposed Aberdeen Local Development Plan**

You may be aware that at a meeting of Full Council on Wednesday 14 December 2022, the Council resolved to approve the modifications made to the Proposed LDP 2022 and to instruct the Chief Officer to notify Scottish Ministers of the Council's intention to adopt as modified. It was also agreed that, unless directed otherwise by Scottish Ministers, the Proposed LDP 2022 will be adopted in its modified form.

You will be aware that under Section 20 of the Town and Country Planning (Scotland) Act 1997 ("1997 Act"), in its current form, Scottish Ministers may "if it appears to them that the proposed plan is unsatisfactory": -

- delay the adoption of the LDP;
- direct the authority to consider modifying it in such respects as are indicated in the direction; and
- direct that the proposed LDP is to be constituted if and when approved by the Ministers.

You will also be aware that where a planning authority has been given a direction to consider modifying the proposed plan, they cannot adopt the plan unless they satisfy the Scottish Ministers that they have made the modifications necessary to conform with the direction, or the Ministers withdraw the direction.

As the Minister responsible for Planning, we urge you to consider using the powers available to you under Section 20 of the 1997 Act to intervene in this matter and support the people of Torry.

To assist you in understanding the necessity for intervention, we set out below a brief summary as to why we feel the process for identifying the Park as an Opportunity Site (OP56) within the Proposed LDP 2022 was unsatisfactory, and why the destruction of the Park cannot be justified on social, environmental or economic grounds.

As the backdrop to our position, we submit that the inclusion of the Park as an Opportunity Site for the ETZ is contrary to the intent of National Planning Framework 4 ("NPF4") which sets out an ambition that land planning in Scotland is used to create an inclusive, just and sustainable well-being society.

Our supporting arguments are thus as follows: -

## **1. Local Governance - Opaque and Unaccountable**

The circumstances surrounding the re-zoning are contentious. There was no consultation or involvement with either the public or statutory consultees regarding the inclusion of green-belt areas in the Torry area of Aberdeen prior to March 2020. The Council has financial and land ownership interests, so this absence of transparency and rigour is particularly concerning.

There was no democratic oversight during preparation of the Proposed LDP 2022. A Senior Officer commissioned a land search that included public green space protected by a Section 69 Agreement drawn up between the Council and Aberdeen Harbour Board ("AHB"). This, and subsequent alteration of established planning policy, was carried out by officers who consulted neither the public nor the statutory consultees.

A business plan dated 15 February 2021 was created by Opportunity North East, the Council, Aberdeen Harbour Board, and Scottish Enterprise, and used to obtain £53M in public funding for an "Energy Transition Zone". "ETZ Ltd" was subsequently formed to receive direct public funding to pay for the delivery of infrastructure and land assembly. This occurred while the Proposed LDP 2022 was being considered by the Reporter, with the land in question remaining as protected green belt under the extant Plan, suggesting either predetermination or a lack of due diligence on the part of the funders.

### *Development Plan*

The process to date has been contrary to Planning Advice Note 3/2010[1]. This document outlines the requirements for Community Engagement, and stresses that people and interest groups should be involved in the preparation of development plans as early as possible, since this is where the decisions on land use are made. It clearly states that it is the role of the planning authority and elected representatives to promote public awareness by actively engaging with the people they represent. The Council has failed in these duties, despite the requirement that development proposals in which the local authority has either a financial or land ownership interest should be handled with greater transparency and rigour.

## **2. Failure of effective oversight by Councillors**

A Senior Officer commissioned a land search at public expense. The land search included public green space that was protected by a Section 69 Agreement drawn up between the Council and AHB. This was done without the authority of elected representatives. Established planning policy was then changed by Council Officers, once again without either public consultation or the involvement of elected representatives. The community was in this way denied the opportunity to have any influence in the preparation of a development plan that affected them.

## **3. Deficiencies in the Reporter's conclusions and decision in the Report of the Examination of the LDP Issue 17**

### *Costs and Benefits*

The decision to prioritise "considerable economic benefit" over the loss of green space with consequent damage to the local community's well-being because only OP56 and OP61 together

is able to provide the necessary land is unfounded. The Reporters' conclusions are based on inaccurate information supplied by the Council with AHB's concurrence.

It is therefore also contrary to the Aberdeen and Aberdeenshire Strategic Development Plan 2020's ("SDP") view of the right land (for business) in the right place.

There is no firm evidence for the jobs forecast in the public domain and the basis of them is uncertain given that the activities in OP56 and OP61 on which it appears they are crucially dependent are still not confirmed. The Reporters even acknowledge this in their conclusion: -

*"The council's position is that the wider environmental and economic benefits of the Energy Transition Zone would outweigh its disbenefits. During the examination, I sought further clarification and quantification of the benefits of the proposal. The council has not provided any quantification of those effects."*

#### *Participation Statement*

The Reporters' satisfaction with the Participation Statement is questionable as AHB submitted an unsuccessful bid in 2018 during development of the SDP for land right round the Bay of Nigg to be rezoned for harbour-related activities. It is very similar to the one submitted on the last day of consultation for the Main Issues Report in May 2019 which resulted in the inclusion of OP56 and OP61 in the Proposed LDP 2022. AHB's interest in these sites predates the Scottish Government's declaration of a Climate Emergency on 14 May 2019; the day the bid for the land was submitted.

#### **4. Failure of due diligence by the Scottish Government**

As alluded to above, the Scottish Government received a business plan from Opportunity North East, the Council AHB, and Scottish Enterprise dated 15<sup>th</sup> February 2021 for an "Energy Transition Zone". A map on the heavily redacted copy was obtained following an appeal to the Information Commissioner and is now in the public domain. It shows that much of the land concerned was, at that time, zoned as green belt. Despite this, the Scottish Government gave £26M of taxpayers' money to fund a private company, ETZ Ltd. The purpose of this company is to receive direct public funding to pay for the delivery of infrastructure and land assembly. The funding of the project by the Scottish Government while the Proposed LDP 2022 was still being considered by the Reporters, and the land in question remaining as protected green belt in the extant Plan again indicates either predetermination of the outcome of those considerations, or a lack of due diligence on the part of the Scottish Government.

#### **5. Local Social, Physical & Mental Health Inequality**

Torry is the poorest area of Aberdeen and ethnically diverse. 27.6% of secondary school pupils from Torry do not have English as their main home language. We see no evidence that an Equality Impact Assessment has been carried out, or that the Fairer Scotland Duty (2018) was considered.

Access to greenspace has been identified by the Scottish Government as an important element in tackling health inequalities, which are currently worsening in Scotland. Reducing the amount and quality of greenspace available to the most deprived population in our region is perverse in this context. It runs counter to every relevant recommendation from the statutory national public health bodies in both England and Scotland. The Medical Research Council (MRC)/Chief Scientific Officer (CSO) Social and Public Health Sciences Unit in Glasgow recommend increasing green space and access especially for the poorest communities, not reducing it.

Greenspace provision was identified by the Health Inequalities Policy Review by Public Health Scotland as key to preventing ill health in deprived populations. DEFRA has calculated savings in healthcare costs of £2.1Billion per annum in the UK by increasing access to green space. The World Health Organisation ("WHO") maintains that these benefits from access to greenspace are greatest for the poorest communities.

The development of the Park is contrary to the principles embedded in the Planning Act 2019 for enhancement of blue and green spaces, spaces for play as well as forestry strategy. Public health bodies also recommend greater involvement and power for deprived populations in local planning decisions as an integral part of tackling health inequalities: Public Health Scotland recommends the "Creation of a vibrant democracy, greater and more equitable participation in elections and decision-making, including action on health inequalities."... Communities should be at the centre of decision-making. Improving access to and the quality of greenspace in proportion to need therefore has the potential to reduce health inequalities."

These recommendations have been ignored with respect to changes in land use involving the Park. Perceived inferiority contributes to health inequalities, and the deemed inferiority of the community in Torry has already contributed to the general erosion of health status within the community.

By allowing the development to continue, the Scottish Government would choose to ignore the evidence and recommendations of all the relevant statutory bodies and officers: the Chief Medical Officer (CMO), Public Health Scotland, NatureScot as well as World Health Organisation, Public Health England and its own MRC/Chief Scientific Officer unit.

## **6. Environment**

The Park is a multi-award-winning biodiversity hotspot and the last remaining accessible natural greenspace left in Torry. Over the past 50 years, the community has been burdened with constant industrialisation. Torry is bordered by two large landfill sites, industrial estates and the third most polluting road in Scotland. The Bay of Nigg, once pristine and rich in habitat for rare species, such as the sea-pea and oyster plant, was sacrificed for the building of the South Harbour.

The powerful objections by the Scottish Environmental Protection Agency ("SEPA") and NatureScot underline the Park's ecological importance. It is a critical stop-over point for many migratory bird species, as well as moths and dragonflies. There are 133 species of bird there, and 42 of those breed in the Park, including 8 red-listed and 8 amber listed bird species. If industrialisation goes ahead, the biodiversity loss will be permanent because, due to the surrounding area being industrialised already, it would not be possible to create compensatory habitat (a highly contentious process in itself).

In order to mitigate the environmental constraints, ETZ Ltd has employed the Edinburgh-based Landscape Architects, Ironside Farrar (IF) as Masterplanners for the ETZ site. From our own observations, we believed that IF are not conducting the master planning process impartially or with due diligence. Consequently, the FoSFP is in the process of submitting a formal complaint to the Landscape Institute regarding the unprofessional and potentially environmentally damaging conduct. The main grounds for our complaint can be found in the supplementary material sent with this letter, in summary these cover 5 areas of concern: -

1. Not following best guidance: the proposed 'realignment' and 'enhancement' of the East Tullos burn and wetland habitat has come with no publication or discussion with the community of 'reasonable alternatives',

2. Lack of transparency and availability of ecological baseline surveys that the Masterplan is currently based upon,
3. Misleading claims on mitigations: IF has publicly claimed to have reduced the developable area to only one third of the Park. However, it was always going to be one-third due the Park's physical, topographical and hydrological constraints,
4. Masterplanners not following Scottish Government's planning guidance for 'development briefs or master plans 'that require detailed explanation of how particular sites or small areas develop',
5. Masterplanners not following best practice by not producing an independent detailed Environmental Impact Assessment on proposals to move the burn and wetland habitat.

Our Legal Advisors have written to IF to raise our concerns and enclose a copy herewith for your information.

## **Conclusion**

To conclude, there is an abundance of evidence which demonstrates that the Proposed LDP 2022 is unsatisfactory in respect of its inclusion of the Park as part of the proposed ETZ.

FoSFP, together with many people in the community of Torry, has engaged in the LDP process in good faith, but feel deeply let down by the planning system. Our experience is far from the Scottish Government's aim of a planning system that contributes to an inclusive, just and sustainable well-being society.

Therefore, we ask you to use the powers you have to intervene and direct the Council to remove our much-loved and cherished greenspace, St Fittick's Park, from the Proposed LDP 2022 for all of the reasons we have given herein.

We also invite you to meet with us during the week of 9<sup>th</sup> January 2023 when we plan to travel to Edinburgh with our supporters to hold a public rally at the Scottish Parliament.

Kindly acknowledge safe receipt of this letter.

We thank you for your consideration and look forward to your response in due course.

Yours sincerely,

**The Friends of St Fitticks Park**

Supplementary documents. Encs.

<https://www.dropbox.com/sh/3g0zpreagkxcza3/AACDjqSGsYLJXdroC9boCyo-a?dl=0>

\*Letter revised correcting typos and moving 'Development Plan' to section 1

