

CITY OF EDINBURGH – DRAFT SUPPLEMENTARY GUIDANCE – DEVELOPER CONTRIBUTIONS & INFRASTRUCTURE DELIVERY

SCOTTISH GOVERNMENT RESPONSE

Q1 Do you have any comments on the Council's approach to infrastructure provision associated with development?

We note that on page 5 of the document, text at iii) states "In some circumstances it may be appropriate to establish a new Contribution Zone with its own contribution requirements, for example if a development comes forward that would require a new school to be added to the Action Programme."

It is not clear where these contributions zones would be published or whether they would be subject to external scrutiny. The Local Development Plan (LDP) examination Reporter made clear that contribution zones should be established in supplementary guidance rather than the action programme which is subject to annual review and which would not achieve the required degree of clarity or certainty (LDP examination report p 763).

Q2 Do you have any comments on how infrastructure has been assessed?

We note that infrastructure has been assessed via an updated Education Appraisal (December 2016) and a refresh of the West Edinburgh Transport Appraisal (WETA, December 2016). These assessments are generally based on assumptions for housing development supported by the LDP. However, it is noted that this is not that case for a site that Scottish Ministers have a significant interest in - National Development 10 of National Planning Framework (NPF) 3: Strategic Airport Enhancements – and the International Business Gateway (IBG) to be created adjacent to Edinburgh Airport.

For the IBG site, the updated Education Appraisal assumes a housing capacity of 2000 units and the WETA refresh uses 2278 units as a basis. These figures are not supported by the recently adopted (24 November 2016) Local Development Plan (LDP). Whilst the site is included in Table 4 New Housing Proposals, the table confirms it is an 'opportunity for housing development as a component of business-led mixed use proposals'. The table continues that the estimated number of houses is to be confirmed through the master plan process, which is to contribute to place making, sustainable development and to the primary role of the site in supporting strategic airport enhancement and international business development.

During the examination for the LDP, the Reporter considered a representation from the prospective developer seeking an increase from 300-400 houses, as identified in the Second Proposed Plan, to some 2,350 units. As part of the Examination, Scottish Government Planning and Architecture Division responded to Further Information Request (FIR) 31 on Issue 20 – Strategic Development Areas – Other Matters. We set out our view as stated below and confirm that it is the view we maintain.

"The significant increase in the amount of housing as proposed would markedly change the uses within the IBG from business led as identified by the National Development. This would significantly diminish the business opportunities for this prime location, which could then be lost to Scotland as a whole. The loss of that opportunity would fail to fulfil the long term spatial strategy set out in NPF3."

Having taken the above comments and those of others into account, the Reporter, in their conclusions on the principle of significantly increasing the housing capacity at the site, made the following comments:

“The current proposal through this examination constitutes a significant increase in the previously identified capacity of the site for housing, and would involve a significant change to the proposed plan.” (page 725, para 124)

“.. inclusion of housing on a strategic scale alongside employment use changes the intended composition of the site. This moves away from a direct reflection of the description as contained in the National Planning Framework.” (page 726, para 132)

“.. given the site’s national development status significant additional housing would represent a major land use change.” (page 731, para 158)

Following Scottish Ministers consideration of the LDP and prior to its adoption, our letter to the Chief Executive of Edinburgh Council highlights that the IBG is of significant interest to Ministers given its status as a national development and it having been considered by the Scottish Parliament. The letter reinforced the recommendations of the Reporter with regard to the masterplan being consistent with NPF.

In view of the above, we are concerned that the Education and Transport assessments, used to inform this Supplementary Guidance have used the housing capacity assumptions of 2000 and 2278 respectively. These capacities are not supported by the LDP, have received the above comments from Scottish Ministers through the development plan process and have not yet been established via a masterplan or planning permission.

Q3 Do you have any comments on the requirements within the education, transport, public realm and green space contribution zones?

We are concerned with the identification of a new secondary school shown in the West Education Contribution Zone at page 30. Its location is shown within National Development 10 of NPF3, Strategic Airport Enhancements and the IBG to be created adjacent to Edinburgh Airport. We are of the view that locating a new secondary school in this position has the potential to compromise the site for its intended purpose by creating ambiguity around the business-led role of the IBG and thereby potentially diminishing the business opportunities available at this prime location.

The recently adopted (24 November 2016) LDP does not identify a new secondary school at the IBG or in West Edinburgh but instead refers to extensions to existing named High Schools. A new secondary school at the IBG site has therefore not been subject to all of the necessary consultation or assessment requirements that are expected to be undertaken as part of the plan preparation process, for example strategic environmental assessment.

The mapped reference pre-empts the outcome of an updated masterplan, as required by the LDP, and consideration of any planning application for the site. It should therefore be removed from the supplementary guidance and its inclusion be subject to any future review of the document.

Q4 Do you have any comments on the arrangements for Section 75 Legal Agreements?

No comment

Q5 Do you have any comments on how the Council will deliver the required infrastructure?

No comment

Q6 Do you have any comments on the Council’s approach, should the required contributions raise demonstrable commercial viability constraints and/or where forward or gap funding may be required?

No comment

Q7 Do you have any further comments you wish to make?

i) Clarification of Statutory Requirements for Action Programmes

a) Section 2 of the Supplementary Guidance ‘ Delivering the Edinburgh Local Development Plan’ states that the ‘Action Programme is a statutory document, which is submitted to Scottish Ministers for approval on at least a two yearly basis.’

This statement should be corrected to reflect that Action Programmes are not approved by Scottish Ministers but adopted by planning authorities.

The statutory requirements for authorities include having to: seek and have regard to Scottish Ministers views when they are preparing an Action Programme; review, update and publish an Action Programme whenever required to do so by Scottish Ministers; and to send two copies to Scottish Ministers when it is published.

b) The Planning etc. (Scotland) Act 2006, Section 21(6) states that ‘an action programme is a document setting out how the authority in question propose to implement the plan to which it relates’ (our underlining). The content of the Action Programme adopted by City of Edinburgh Council mirrors that of the supplementary guidance being consulted on – particularly in regard to the identification of a new secondary school in West Edinburgh. As referred to in our responses to questions 2 and 3 above, the LDP does not specifically identify a new secondary school at the IBG site, nor does it support the capacities of housing development assumed in the Education Appraisal (December 2016) used to inform the Action Programme and Supplementary Guidance. It is therefore unclear that the adopted Action Programme meets the necessary legislative requirements.

ii) Compliance with Statutory Requirements for Supplementary Guidance

It is unclear that the document meets the statutory requirements of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008, section 27 (2) - that supplementary guidance ... may only deal with the provision of further information or detail in respect of the policies or proposals set out in that plan, and then only provided that those are matters which are expressly identified in a statement in the plan as matters which are to be dealt with in supplementary guidance. This is on the basis that the supplementary guidance proposes a new secondary school in west Edinburgh, which is not supported by the LDP.

iii) Transport Scotland Response

Transport Scotland endeavours to collaborate with authorities in the production of their developer contribution mechanisms. These enable development proposals which are brought forward to development management to be informed by appropriate identification of potential impact on the strategic transport network alongside any required mitigation and funding. We have included comments on the Local Development Plan draft Supplementary Guidance and Action Programme below.

Draft Supplementary Guidance on Developer Contributions and Infrastructure Delivery

Page 8 - Other Transportation Contributions

Throughout the LDP Examination process, we outlined that the LDP required to take account of cross boundary implications, specifically, the requirement for the identification of any impact from the developments contained within the LDP on the transport network out with the CEC area. The SG document details three approaches; A, B and C for identifying contributions. All LDP developments are accounted for in approach A and subject to the details of the SG. Under approach B for development proposals out with the LDP, bullet point (vi) on page 8 details that; “Contributions will be identified using the following approach.....assessments should be carried out cumulatively, taking account of: cross boundary impacts, taking account of relevant developments in surrounding

authorities.” This is contrary to the position promoted by Transport Scotland in relation to identifying impacts on infrastructure in surrounding authority areas as a result of developments in the CEC area. It is therefore, recommended this bullet point is amended accordingly.

Page 36 - West Edinburgh Contribution Zone

Transport Scotland was a key stakeholder in the WETA Refresh study and is therefore comfortable that the assessment has been progressed to a sufficient level of detail to allow actual improvements and costs to be established. Where these directly affect the trunk road we will continue to work closely with CEC through the development management process.

Pages 47 – 79 - Trunk Road Junction Contribution Zones

The SG details that “ACTION and COST still to be established” in relation to the following trunk road junctions; Sheriffhall, Straiton and Gilmerton on the A720.

Transport Scotland has been taking forward the option assessment process (Design Manual for Roads and Bridges – DMRB – Stage 2 Assessment) to identify a preferred grade separation junction option at Sheriffhall. The junction improvement options under consideration were presented to the public for comment in December 2016 and it is expected that the option assessment process will be completed by the end of 2016-17. The development and detailed assessment of the preferred option is expected to take approximately 18-24 months. Timescales beyond that stage are heavily dependent on the outcomes of consultation following Publication of Draft Orders. Transport Scotland will keep the Council updated on progress, which can feed in to updates to the LDP Action Programme.

In relation to Gilmerton and Straiton, these junctions have not been specifically identified in the cross boundary appraisal study as requiring upgrading and we are not aware of any other appraisal work or planning applications which have identified improvements are required at these locations. Consequently, we would request further information from the Council on the potential cumulative impact from developments on these junctions and what mitigation is proposed. If, as a result of work already done or further study it is identified that Gilmerton and Straiton do not require to be improved as a result of development impacts, then it is recommended to remove these junctions from the Supplementary Guidance. The Guidance requires to be supported by a robust evidence base and to date we have not had sight of any cumulative appraisal work which has highlighted these junctions require to be improved as a result of the cumulative impact of the LDP allocations.

We note that Old Craighall junction is included within the Action Programme as requiring developer contributions from three specific CEC LDP schemes, as well as developments in East Lothian, however Old Craighall is not included within the SG document. It is recommended that further information pertaining to Old Craighall is included, specifically referring to the way in which contributions will be gathered and managed taking cognisance of the contributions collected from East Lothian Council, Transport Scotland and the City of Edinburgh Council.

For all three junctions, the diagrams detailing the ‘Transport Contribution Zone’ do not appear to follow any specific land use or development boundaries including those already in the development management system. The Guidance outlines that the geographical extent of the zones “relate to the type and nature of the action in relation to transport.....”. However, we request information on the evidence base underpinning the identification of the zones, which should link to the LDP and the land use allocations identified as potentially impacting upon the specific junctions. We have concerns regarding the zones given the scale of the Sheriffhall zone and that it does not include the Bio Quarter development which is included within the LDP with the following wording; “the BioQuarter may require to contribute to improvements to the A720 Sheriffhall junction improvements.”

We also highlight the inconsistency between the individual Contribution Zone diagrams and the overall ‘Transport Infrastructure’ diagram in Annex 2, page 32. The contribution zones should remain

consistent throughout the Guidance for clarity. It may be worth including a separate diagram specifically for the zones in the south east of Edinburgh due to their close proximity.

Delivery and Action Programme

The Guidance outlines on page 8 that the timescales and responsibility for the delivery of the transport infrastructure actions are set out in the Action Programme. We have specific comments on the Action Programme relating to Sheriffhall, Gilmerton and Straiton Junction Transport Contribution Zones. For these entries it is inaccurate to state that funding will come from the cross boundary study. We had previously offered to review a draft of the Action Programme, however we did not have sight of this prior to it being published. We are concerned that the Action Programme is not up to date, yet links with and comprises an important element of the Supplementary Guidance.

The LDP details that Straiton and Gilmerton will be subject to further assessment with the detail of any mitigation to be included in Supplementary Guidance. As detailed previously, Gilmerton and Straiton have not emerged from the cross boundary study as requiring improvement. There requires to be an evidence base to support the position that LDP sites will present an impact to these junctions, with the Action Programme reflecting that any improvements will be as a result of LDP developments and will be funded through developer contributions. The current Action Programme position contradicts the Supplementary Guidance which includes the junctions of Straiton and Gilmerton, signifying these locations will be improved as a result of developer contributions. However, as mentioned previously, we are not aware of any other appraisal work or planning applications which have identified improvements are required at these locations. Consequently, we would request further information from the Council on the potential cumulative impact from developments on these junctions and what mitigation is proposed. If, as a result of further study it is has been identified that Gilmerton and Straiton do not require to be improved as a result of development impacts, then it is recommended to remove these junctions from the Supplementary Guidance and Action Programme. As stated previously, DMRB assessment work for options for grade separation of Sheriffhall is progressing, Transport Scotland welcome continued dialogue with the Council on the evolving LDP Action Programme, and would recommend this is updated as information on a potential scheme at Sheriffhall emerges.

We trust these comments are helpful in the progression of the Supplementary Guidance and Action Programme and would be happy to discuss any part of this response in more detail. We aim to engage in a collaborative approach to development planning and would welcome the opportunity to engage further on this, particularly in instances where further information from the Council is required.