

## **West Lothian Local Development Plan – Proposed Plan**

### Scottish Government Representations

#### **1. Page 12 – Economic Development and Growth**

##### Suggested Change

The proposed plan should support opportunities for integrating efficient energy and waste innovations within business environments. This has not been addressed in the Economic Development and Growth section of the plan.

##### Reason

To accord with paragraph 96 of the SPP, which refers “Development plans should support opportunities for integrating energy efficient waste innovations within business environments. Industry stakeholders should engage with planning authorities to help facilities co-location, as set out in paragraph 179.”

#### **2. Page 20 – Figure 3 – SESplan Housing Land Requirement 2009-2024**

##### Suggested Change

Figure 3 includes a column setting out the SESplan additional allowance figures. The column is presented ahead of the Total 2009/24 figure but it is not clear how this is included to reach the total sum. The table and explanatory should be revised to clearly set out how the additional allowance is addressed in the plan and how this is linked to Figure 5.

##### Reason

As it is presented in the Proposed Plan, the additional allowance (set out in the SESplan Supplementary Guidance of June 2014) is set out but it is not clear how it is included within the overall total housing land requirement figure for 2009/2024.

#### **3. Page 21 – Figure 4 – Projected Annual Unmet Need for New Housing in West Lothian by Tenure**

##### Suggested Change

The Figure needs to be clarified to identify the status of the numbers set out.

##### Reason

The inclusion of these figures is confusing. The Proposed Plan notes that the LDP must meet the requirements of the SDP. It is therefore not clear what status or purpose the Figure serves.

#### **4. Pages 20/21 – Paragraphs 5.39 – 5.52**

##### Suggested Change

The plan should use the terminology used in SPP (2014) to articulate the housing figures presented and the process through which they are determined. The plan should state the Housing Supply Target (HST) for West Lothian, separated into affordable and market sector, and the resultant Housing Land Requirement (HLR), with an explanation of the reasoning behind the additional 10%

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generosity above the SESplan HLR. The extrapolation method used in relation to housing needs should be explained in the technical paper.

Within paragraph 5.52 the following sentence should be amended to reflect alignment with SPP (2014) .. 'Figure 5 is set out to comply with the requirements of SPP 2010 ...'

#### Reason

There is no mention of a HST in the Proposed Plan and the terminology used is confusing. The plan appears to have conflated two concepts, the HST and HLR, into a single step and a single figure termed the 'Housing Land Supply Target' is given. SPP (2014) sets out the process of deriving housing figures in Diagram 1 – taking the housing estimate from the HNDA, then deriving a HST using the HNDA and other factors, then setting the HLR based on the HST, with the addition of a generous margin. Plans should also set out the HST separated into affordable and market sector.

The Proposed Plan sets out figures from the SESplan HNDA on housing needs in the area. The figures are not directly comparable to the HNDA but instead have been extrapolated. However, it is not clear how this extrapolation has been done and it is difficult to understand the figures.

There is not a clear read across from SESplan figures to those set out in the Proposed Plan. Further explanation of the relationship and justification for the additional 10% generosity margin should be provided. SPP (2014) requires that generosity is added in setting the HLR through the SDP and that LDPs in city regions meet the HLR. While provision of a more generous land supply would be acceptable, the plan should indicate how it is derived and whether it is realistic.

Paragraphs 5.39 to 5.42 include a lengthy commentary on the differences between HNDA1 and HNDA2, resulting in a lower projected rate of growth. While it is acknowledged that the LDP must conform to the SDP and meet the HLR in full, it is unclear why the LDP provides an additional 10% flexibility above the SDP HLR.

### **5. Page 22 – Figure 5 – West Lothian Housing Land Supply Target**

#### Suggested Change

The numbers presented in the Figure should be reviewed for accuracy and corrected, in particular:

- Row (I), column 2009-2019 and column 2009-2024
- Row (J), column 2009-2019 and column 2009-2024
- Row (L), column 2009-2019 and column 2009-2024

#### Reason

The numbers do not total correctly when using the calculations noted in the table itself.

### **6. Page 23 – Paragraph 5.51 and Policy HOU 2 – Maintaining and Effective Housing Land Supply**

#### Suggested Change

The text should be re-worded to reflect SPP (2014) in regard to the references to effective land.

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#### Reason

Both paragraph 5.51 and Policy HOU 2 use terminology from SPP 2010 in their references to effective land. Paragraph 119 of SPP (2014) indicates the definition is 'sites from the established land supply which are effective or expected to become effective in the plan period'.

#### **7. Page 23 – Paragraph 5.51**

##### Suggested Change

The end of the final sentence and reference to the SESplan paper setting out a common approach to the measurement of the 5 year land supply should be removed.

##### Reason

In responding to the consultation on the SESplan 2 Main Issues Report, the Scottish Government has questioned the consistency of the SESplan paper with SPP. This is in relation to the potential for 'double counting' of factors that should be taken into account in setting the Housing Supply Target.

Scottish Government is currently preparing guidance on development plan delivery, which will focus on housing and infrastructure. It will include advice on implementing SPP 2014 including matters relating to 'effectiveness' and housing land audits. It is due to be published in early 2015. We would expect the advice to be implemented by all authorities across Scotland.

#### **8. Page 32 – Section on Education – Paragraph 5.90**

##### Suggested Change

The first sentence of paragraph 5.90 should be removed and the second sentence combined into the following paragraph.

##### Reason

The sentence fails to reflect the complex realities associated with delivery of education provision.

#### **9. Page 37 – Policy TRAN 3 – Core Paths and Active Travel**

##### Suggested Change

The policy should be amended or supporting text provided which responds to paragraph 5.14 of National Planning Framework 3 on exemplar walking and cycling friendly settlements.

##### Reason

Paragraph 5.14 of National Planning Framework 3 encourages all local authorities to identify at least one exemplar walking and cycling friendly settlement to demonstrate how active travel network can be significantly improved in line with meeting the Scottish Government's vision for increased cycling.

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#### 10. Page 40 – Policy TCR 2 – Location of New Retail and Commercial Leisure Developments

##### Suggested Change

Change the name of the policy to ‘Town Centres First Sequential Approach’

##### Reason

The name of policy TCR 2 currently just refers to retail and commercial leisure development – whilst the policy itself also covers visitor attractions and other developments appropriate to town centres. It would be clearer if the name of the policy more fully reflected the range of uses to which it applies.

##### Suggested Change

The first sentence of the policy should be changed to read ..

“New retail, commercial leisure, visitor attractions, offices, community and cultural facilities and other developments appropriate to town centres should be located in accordance with the following sequential approach...”

##### Reason

The change should be made to ensure the town centre first sequential approach applies to the full range of uses set out in SPP (2014). SPP (2014) widened out the approach to the town centres first approach to apply it also to offices, community and cultural facilities and uses which attract significant numbers of people. This is set out at paragraphs 60 and 68 of SPP (2014).

##### Suggested Change

The section on Local Neighbourhood Centres should be moved up the sequential order set out in the policy, to be on par with Town Centres.

##### Reason

The change should be made to ensure the sequential town centres first order is consistent with that set out in SPP (2014).

SPP (2014) sets out at paragraph 68 the order of preference for the sequential approach as being:

- Town centres (including city centres and local centres)
- Edge of town centres
- Other commercial centres identified in the development plans; and
- Out-of-centre locations that are, or can be, made easily accessible by a choice of transport modes.

SPP (2014) places local centres alongside town centres in the sequential approach. The proposed policy TCR 2 sets out a policy approach where local neighbourhood centres are after out-of-centre locations. This is contrary to SPP. The LDP policy should be changed to ensure compliance with national policy.

##### Suggested Change

After the final paragraph of the policy add in the following ...

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“Proposals for a new public building or office with a gross floorspace over 2,500m<sup>2</sup> outwith a town centre and contrary to the development plan will require an assessment of the impact on the town centres.”

#### Reason

The Town Centre First Principle jointly developed by Scottish Government and COSLA encourages the public sector to continue to invest in town centres and help communities thrive. The principle is about adopting an approach to decisions that considers the vibrancy of town centres as a starting point. It asks that the health of town centres features in decision making processes.

Policy TCR2 sets out the requirement for Retail Impact Assessments, as set out in Scottish Planning Policy paragraph 71, but it does not set out the other requirement in para 71 of SPP that 71. Where a new **public building or office with a gross floorspace over 2,500m<sup>2</sup>** is proposed outwith a town centre, and is contrary to the development plan, an assessment of the impact on the town centre should be carried out.

In order to provide consistency of approach, and give certainty to applicants and developers as to the information requirements, we would request policy TCR2 be changed to add in the requirement for these assessments, as set out in SPP. By ensuring the relevant information is provided it can help ensure that the health and vibrancy of town centres is considered in informed decision making.

#### **11. Page 42 – Policy ENV 2 – Housing Development in the Countryside**

##### Suggested Change

Criteria a and b should be deleted.

##### Reason

The policy appears to set out requirements for occupancy restrictions within parts a and b. SPP (2014), at paragraph 81, is clear that occupancy restrictions should be avoided in relation to development in rural areas. Circular 3/2012 replaced the guidance defined in the chief planner letter of 4th November 2011 on restricting occupancy conditions and there is a line to this effect at paragraph 11:

‘11. This Circular replaces and revokes Circular 1/2010 and the Annex to Circular 1/2010. It also translates into policy the advice contained in the Chief Planner’s letter of November 4, 2011 regarding occupancy restrictions.’ (Circular 3/2012)’. Paragraphs 49-51 of the circular deal with occupancy restrictions in more detail and the council should give due consideration to this and redraft the policy to ensure compliance.

#### **12. Page 46 – Policy ENV 8 – Green Network and paragraph 5.103**

##### Suggested Change

Insert additional text to the second paragraph of policy ENV 8, to reflect additional priorities as set out in NPF3 for the Central Scotland Green Network:

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- Active travel
- Addressing vacant and derelict land, and
- Focusing action in disadvantaged areas

#### Reason

National Planning Framework 3 (NPF3), continues the designation of the Central Scotland Green Network (CSGN) as a national development. NPF3 (paragraph 4.13) has reprioritised the national development towards;

- active travel;
- addressing vacant and derelict land, and
- focusing action in disadvantaged areas.

The Scottish Government would expect these priorities to be appropriately reflected in local development plans within the CSGN area. As noted in the Proposed Plan (page 45) West Lothian lies within the CSGN area.

The proposed Green Network Policy ENV8 states “The priority areas will be along strategic road corridors and in areas of development restraint and landscape protection including Special Landscape Areas and Countryside Belts.” The Proposed Plan’s priorities therefore do not fully reflect those indicated by NPF3.

The insertion of additional wording within Policy ENV8 identifying the NPF3 priorities for the Green Network would ensure the policy is in accordance with NPF3.

### **13. Page 48 – Paragraphs 5.160 to 5.163**

#### Suggested Change

The text of the plan should be clear on how the Proposed Plan accords with paragraphs 89 to 91 of SPP (2014) - to identify the category of coast the West Lothian coastline falls within and the relevant approach to be taken.

#### Reason

While we appreciate that there is only 5.5km of coastline in West Lothian, the plan should clarify the approach to development within it, as set out in paragraphs 89 to 91 of SPP (2014).

### **14. Page 48 – ENV 11 – Protection of the Water Environment / Coastline and Riparian Corridors**

#### Suggested Change

In section h. of the policy, the term ‘coastal zone’ should be replaced with the term ‘marine area from mean high water springs (MHWS)’ or alternatively define coastal zone and clarify the jurisdiction of the National Marine Plan (NMP).

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#### Reason

The NMP applies from MHWS out to 200 nautical miles. The use of the phrase ‘coastal zone’ does not provide the clarity relating to the jurisdiction of the NMP, especially as ‘coastal zone’ is not defined. It may be that the Local Authority is promoting alignment between marine and terrestrial planning by referring to coastal zone – if so this would be most welcomed, however final wording should be used which reflects the importance of alignment but which does not confuse responsibilities or jurisdictions.

#### Suggested Change

In section h. of the policy the text ‘... proposals can satisfactorily demonstrate that they are compliant with the objectives of the National Marine Plan (2015)’, should be amended to read ‘... proposals can satisfactorily demonstrate that they are compliant with the objectives and policies of the National Marine Plan (2015) and forthcoming regional marine plans.’

#### Reason

The policies of the NMP are considered necessary to achieve sustainable development and use in the marine environment and to achieve its objectives, therefore use of policies should be reflected in wording. While recognising a Regional Marine Plan for this area will not be in place in the immediate future, reference to forthcoming Plans would be useful in the event that one is adopted within the lifespan of this Development Plan.

#### Suggested Change

In section h. of the policy the text ‘This principle is applicable to all marine activities, but is especially relevant to aquaculture, oil and gas, renewable energy activities and tourism.’ should be changed to read ‘This principle is applicable to all marine activity.’

#### Reason

The National Marine Plan is applicable to all marine activity and use, current and emerging and it is not useful to suggest its application is more relevant to some activity over others, although a development plan may wish to bring attention to activity which is relevant to a particular Development Plan area such as offshore renewable energy which may have onshore infrastructure associated or anticipated in an area.

#### Suggested Change

In section h. parts i. to iv. should be removed or amended to accurately convey the content of NMP policy.

#### Reason

The bullets (i) to (iv) of section h do not correctly reflect the policies of the national marine plan. the Local Authority may be wishing to paraphrase policies, but the wording chosen misrepresents the policies.

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#### 15. Page 50 – Policy ENV 13 – Pentland Hills Regional Park

##### Suggested Change

In the first paragraph of Policy ENV 13 remove the words ‘.. or in an area which contributes to its landscape setting’.

##### Reason

SPP (2014) sets out a paragraph 196 that buffer zones should not be established around areas designated for their natural heritage importance.

#### 16. Page 50 – Policy ENV 14 – Pentland Hills Regional Park – Further Protection

##### Suggested Change

In the first paragraph of Policy ENV 14 remove the words ‘.. or in an area which contributes to its landscape setting’.

##### Reason

SPP (2014) sets out a paragraph 196 that buffer zones should not be established around areas designated for their natural heritage importance.

#### 17. Page 51 – Section on Allotments / Community Growing – Paragraph 5.171

##### Suggested Change

Paragraph 5.171 refers to the West Lothian Allotment Strategy 2011 and indicates that it is due to be updated during 2015. Given the timings (with the period for representations closing on 22 Nov 2015) it would be helpful to reflect the latest position in terms of updating the Strategy so that the LDP reflects the most up-to-date position.

##### Reason

Setting out the latest position in terms of the new Allotments Strategy so that the LDP reflects the more up-to-date position, would be helpful and in line with evidence based plan making.

#### 18. Page 51 – Policy ENV 15 – Community Growing and Allotments

##### Suggested Change

Remove the word ‘only’ from the first sentence of the second paragraph of the policy.

##### Reason

SPP (2014) states at paragraph 227 that “Plans should also encourage opportunities for a range of community growing spaces.” SPP is looking for positive support for community growing. Community growing can offer multiple benefits including access to fresh healthy food, community spirit and connections and health and well-being.



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As currently worded Policy ENV15 is more negatively framed, the second line leads with “Community Growing spaces will only be supported where...”. The removal of the word ‘only’ would make the policy read more positively, and be more in line with the spirit of SPP.

#### **19. Page 52 – Policy ENV 18 – Protection of Local and National Nature Conservation Sites**

##### Suggested Change

From the first paragraph delete the words: ‘, and locally designated nature conservation sites’.

Beneath the third paragraph new text should be inserted to address how the locally identified sites would receive a level of protection commensurate with their status as set out in paragraph 169 of Scottish Planning Policy. In this regard an approach similar to that taken in policy ‘NE1: Environmental and Conservation Policies’ of the Perth and Kinross Council adopted Local Development Plan may be workable for West Lothian Council.

##### Reason

Clearer separation of the extent of protection is required for nationally and locally designated nature conservation sites to comply with SPP (2014) paragraph 196, which is clear that the level of protection given to local designations should not be as high as that given to international or national designations.

#### **20. Page 54 – Policy ENV 22 – Protection of Playing Fields and Outdoor Sports Facilities**

##### Suggested Change

Policy ENV 22 should more accurately reflect SPP (2014) paragraph 226. ENV 22 could be changed to adopt the wording of the SPP whilst being amended to reflect West Lothian’s separation of school playing fields and outdoor sports facilities.

##### Reason

The policy is not consistent with SPP (2014) which only allows development of playing fields (without compensation) where there is a clear excess of provision. Policy ENV 22 dilutes this protection by referring to an adequacy of provision.

The policy is confusing since it is worded in a manner which could read that all parts a) to d) need to be complied with before development of playing fields etc. may be permitted. SPP paragraph 226 on the other hand sets out 4 caveats, and requires that only one is complied with.

On the one hand Policy ENV 22 therefore appears less stringent than SPP since it suggests playing fields etc. may be lost where there is adequate provision as opposed to a clear excess; but on the other – close reading suggests that, in addition to there being adequate provision; replacement provision should be provided (bullet b); and that bullet points c) and d) should be complied with. There is potential that the net result could be that no compensation would be provided. This would be inconsistent with SPP unless there was in fact a clear excess of provision.

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#### 21. Page 63 – Policy NRG 1 – Climate Change and Sustainability

##### Suggested Change

The policy should respond to the requirements of Section 3F of the Town and Country Planning (Scotland) Act 1997.

The Council could consider adopting a similar approach to Policy C1 within the Aberdeenshire Proposed Plan 2015 which links carbon-dioxide emissions reductions beyond the 2007 Building Regulations to the labelling system used under section 7 of the Building Standards Technical handbook. See page 60 of that proposed plan at:

[https://www.aberdeenshire.gov.uk/media/11106/localdevelopmentplan2016-proposedplan-part2\\_000.pdf](https://www.aberdeenshire.gov.uk/media/11106/localdevelopmentplan2016-proposedplan-part2_000.pdf). Alternatively the Adopted Perth and Kinross and the Dundee Local Development plans contain useful policies that could be considered.

##### Reason

The policy is not fully compliant with Section 3F of the Town & Country Planning (Scotland) Act 1997 requirements for targeted reductions in carbon emissions from new build development. Further information on the components expected to be addressed within local development plan policies is contained within the Scottish Government's latest annual report to the Scottish Parliament on the 'Operation of Section 72 of the Climate Change (Scotland) Act 2009'.

#### 22. Page 64 – Policy NRG 2 – Solar Roof Capacity Requirements

##### Suggested Change

The policy should be reworded to stipulate that roof top solar installations defined under the policy should be used for the purposes of electricity generation and not for space heating or hot water heating, unless it can be demonstrated that improved use of insulation or low carbon or district heating is not technically feasible or financially viable in order to comply with paragraph 160 in SPP. The supporting text at paragraph 5.221 should be amended to remove the reference to policy NRG2 being aspirational.

##### Reason

This policy potentially sits at odds with SPP policy and the Government's heat hierarchy which seeks to reduce the need to heat by promoting improved insulation standards and then to use district heat networks before micro-renewable solutions are considered. The promotion of roof top solar for the purposes of space heating could prove counterproductive to Policy NRG 5 promoting heat networks by removing the critical mass required in new developments to make such networks financially viable.

The reference to the policy being aspirational should be removed as this suggests that the policy may not be applied when in fact the relevant policies of the local development plan must always be applied. To a degree all planning policies are aspirational so the supporting text does not need to state that.

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#### 23. Page 65 – Policy NRG 3 – Wind Energy Development

##### Suggested Change

We would recommend that a Wind Energy Spatial Framework, that fully complies with Table 1 in SPP, be included within the LDP. This should be supported by a policy that is in compliance with paragraph 169 of SPP (2014); using appropriate development management criteria and stipulating how developments within groups 2 and 3 of the spatial framework will be considered. The policy could also properly link to any additional information that is to be considered material and set out in Supplementary Guidance as well as referencing any supporting technical information. Guidance published by SNH provides additional detail on how this can be applied at: <http://www.snh.gov.uk/docs/A1663759.pdf>.

##### Reason

At present the proposed policy places heavy reliance on the supplementary guidance for decision making purposes and we therefore remain sceptical that this can comply with the requirements set out in SPP. Having reviewed the Draft Supplementary Guidance on Wind Energy during its consultation stage we raised a number of concerns as to its compliance with SPP. Particularly the weighting being applied to landscape capacity study considerations and the addition of further constraints within the spatial framework which were inappropriate.

We are concerned that the link between the supplementary guidance and the local development plan is tenuous. Section 27 (2) of the Development Planning Regulations (2008) and paragraph 138 of Circular 6/2013 set out clearly the links required. It is for the planning authority to satisfy itself that the requirements of relevant legislation have been met.

We note the reference to the use of the precautionary principle in assessing wind energy proposals. It should be noted, in accordance with paragraph 204 of the SPP, that the precautionary principle should only be used where nationally or internationally important landscape and natural heritage resources are potentially being impacted on.

#### 24. Page 66 – Policy NRG5 – Energy and Heat Networks

##### Suggested Change

We would recommend the Council consider adopting a similar approach to Policy C1 within the Aberdeenshire Proposed Plan 2015 which defines parameters for infrastructure linkages from the edge of development sites include to a location adjacent to the rising main of each property to allow for the future installation of metered heat.

Given the lack of use of heat maps and spatial identification of sites/areas that could offer the best opportunities for future heat networks within the proposed plan, supplementary guidance would be expected to:

- Use the heat map to consider spatial policy options that promote energy efficiency, heat distribution and the use of renewable heat sources;
- Identify spatially the opportunities for harnessing low carbon or renewable heat sources;
- Map the potential for linking sources of heat with areas of high heat demand or need, identifying areas where there is potential for new district heating networks or an extension to an existing one;

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- Consider the potential to build efficient heat supply and distribution into new and existing developments, with increasing contributions from renewable sources over time;
- Consider allocating sites at a scale and with a mix of uses that could allow district heat networks to be technically feasible and financially viable;
- Consider cross-boundary co-ordination including potential need for pipe runs beyond the site;
- Identify the potential for extending low carbon or renewable heat infrastructure in regeneration areas as an integral part of masterplanning.
- Integrate heat networks and associated energy centres within green networks and other public sector managed assets e.g. schools, hospitals, swimming pools.
- Provide guidance to support the consideration of heat related proposals, such as locating energy centres to fit with more effective layouts for housing and mixed-use communities, handling noise and pollution control, and designing in heat infrastructure required for district heating such as thermal storage units.

#### Reason

SPP is clear within paragraphs 158-160 on the requirements of LDPs to support heat networks. These requirements include:

- Supporting safeguarding of pipe runs within developments for later connection and pipework to the curtilage of development;
- Giving consideration to the provision of energy centres within new development;
- Where a district network exists, or is planned, or in areas identified as appropriate for district heating, policies may include a requirement for new development to include infrastructure for connection, providing the option to use heat from the network;
- Securing provision for heat distribution from non-renewable sources if there is potential to switch to renewable sources within the lifetime of the development;
- Encouraging micro-generation and heat recovery technologies associated with individual properties where heat networks are not viable.

At present the policy is only partially compliant with SPP and, as noted in reference **to xx above**, consider that the last bullet point here potentially sits at odds with the proposed plan's policy NRG2.

Scottish Government have recently published online planning advice to support the delivery of heat networks and to support local authorities in providing positive planning policies for their delivery. This is available to view at: <http://www.gov.scot/Resource/0048/00488003.pdf>

## 25. Page 69 – Policy EMG 2 – Flooding

#### Suggested Change

The paragraph on resilient design to limit the impact of flood risk should also state that where built development is permitted in medium to high risk areas any loss of flood storage capacity should be mitigated to achieve a neutral or better outcome. In addition the paragraph should state that land raising should only be considered in exceptional circumstances in accordance with paragraph 265 of the SPP.

#### Reason

To accord with paragraph 263 of the SPP and the section on medium to high risk in the flood risk framework. And to accord with paragraph 265 of the SPP.

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#### Suggested Change

In relation to the paragraph on flood protection schemes the provisions of the paragraph on the types of appropriate development for the location should be applied in accordance with the flood risk framework as set out in the SPP. This should be made clear in the paragraph. In addition the position that development must not be constructed until the scheme is confirmed operational by SEPA does not accord with the SPP and should be amended to state that development may be suitable provided flood protection measures already exist are under construction or are a planned measure in a current floor risk management plan.

#### Reason

Paragraph 263 of the SPP on the flood risk framework set out the types of development and locations that will be appropriate behind flood protection schemes and when it is appropriate to develop in relation to a flood protection scheme.

#### Suggested Change

This policy should include additional provision for the policy position outlined in paragraph 88 of the SPP. This states that new development requiring new defences against coastal erosion or coastal flooding will not be supported except where there is a clear justification for a departure from the general policy to avoid development in areas at risk.

#### Reason

To accord with paragraph 88 of the SPP.

#### Suggested Change

The Council should consider the inclusion of a map indicating areas at medium to high flood risk in accordance with SEPA's flood risk maps <http://map.sepa.org.uk/floodmap/map.htm> and local knowledge the council has on flood risk.

#### Reason

To provide clarity to developers on areas of flood risk.

### **26. Page 70 – Policy EMG 3 – Sustainable Drainage**

#### Suggested Change

This policy should include provision for that section of the flood risk framework applicable to surface water flooding and for the standard set out to be used as a basis for decision making.

#### Reason

To accord with paragraph 263 of the SPP.

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#### 27. Page 72 – Policy EMG 6 – Vacant, Derelict and Contaminated Land

##### Suggested Change

Insert additional text after the first paragraph of Policy EMG 6 as follows:

“The greening of vacant and derelict land is encouraged by this plan. A wide range of environmental measures to green and enhance vacant and derelict land will be promoted and supported. In addition development of or exceeding 2 hectares on vacant and derelict land for sustainable drainage systems or allotments, will be treated as national development and supported.”

##### Reason

National Planning Framework 3 (NPF3), continues the designation of the Central Scotland Green Network (CSGN) as a national development. NPF3 (paragraph 4.13) has reprioritised the national development towards three priorities including remediation of derelict land.

West Lothian is within the CSGN area, and whilst the supporting text in paragraph 5.249 of the Proposed Plan highlights that one of the objectives of the Central Scotland Green Network is to address vacant and derelict land, it would be helpful for the actual Policy EMG 6 to refer to greening of such land. Including reference within the policy itself would provide greater support for this type of project. Inclusion within the policy should also ensure a link to the Action Programme to help realise the step change on the ground which the CSGN project envisages.

#### 28. Page 73 – Policy MRW 1 – Minerals Resources and Safeguarding

##### Suggested Change

In the first paragraph replace ‘provided’ with ‘unless’.

##### Reason

The wording of the Proposed Plan only ensures safeguarding of the minerals where the criteria can be conformed with, where-as the suggested wording provides safeguarding for minerals and allows development where the criteria can be accorded with. This latter approach is more consistent with Scottish Planning Policy paragraph 237.

#### 29. Page 74 – Policy MRW 2 – Impediments to Mineral Extraction

##### Suggested Change

Amend Criterion h. to read ‘For peat extraction, in areas that have not suffered historic, significant damage through human activity or where restoration is possible of peatland areas of otherwise low conservation value.’

##### Reason

To comply with paragraph 241 of SPP, which seeks the protection of areas of peatland and only permit commercial extraction in areas suffering historic, significant damage through human activity and where the conservation value is low and restoration is impossible. The current wording of criterion H protects all peatland equally from extraction, where-as Scottish Planning Policy does not.

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#### **30. Page 77 – Policy MRW 8 – Waste Management Facilities**

##### Suggested Change

Delete the following wording from each policy ‘The council may require the operators of a site for waste management to finance the appointment, by the council, of a compliance officer to monitor the site during the currency of the planning permission.’

##### Reason

There is no legal basis for charging for the monitoring of planning conditions, which is a statutory function of Local Authorities.

#### **31. Page 78 – Policy MRW 9 – Landfill Sites**

##### Suggested Change

Delete the following wording from each policy ‘The council may require the operators of a site for waste management to finance the appointment, by the council, of a compliance officer to monitor the site during the currency of the planning permission.’

##### Reason

There is no legal basis for charging for the monitoring of planning conditions, which is a statutory function of Local Authorities.

#### **32. Page 119 – Appendix 2**

##### Suggested Change

There should be improved cross-referencing throughout the plan to the different information regarding developer contributions.

##### Reason

Appendix 2 sets out the broad types of development and locations where developer contributions are sought. It is positive that the Council are bringing this level of detail into the plan. However, information about development contribution requirements is contained in various locations in the plan: policies, supplementary text, appendix 2, the action programme and supplementary guidance. For transparency, it should clear throughout the plan where other information is located.

##### Suggested Change

The third bullet point of Appendix 2 makes reference to ‘in accordance with approved SG’. It should be amended to clarify which specific supplementary guidance should be accorded with. The connection to the supplementary guidance within the plan should also comply with the Town and Country Planning (Development Planning) (Scotland) Regulations 2008.

##### Reason

To provide clarity to stakeholders on requirements and meet section 27(2) of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008.

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#### Suggested Change

There should be clearer justification provided either in the plan, or signposts provided to where information is available which justifies the contributions required.

#### Reason

It is not clear how the infrastructure requirements, particularly those relating to education, cemetery provision and education, have been arrived at and there is no explanation how the improvements are to be funded. As currently presented, the appendix could be read as a list of wider planning objectives to be funded by contributions. If section 75 is to be used to secure these contributions, the planning authority should be mindful that Circular 3/2012 refers that obligations should only be used to overcome barriers to the grant of planning permission and the need for the contributions should arise directly from the proposed development. It also states at paragraph 21 that obligations should not be used to resolve existing deficiencies in infrastructure provision or to secure contributions to the achievements of wider planning objectives.

### **33. Page 265 – Appendix 4 – Supplementary Guidance and Planning Guidance**

#### Suggested Change

'Planning Guidance' is proposed for topics relation to 'Developer Contributions for General Infrastructure for Site Delivery' and 'Education Strategy'. Consideration should be given to these being 'Supplementary Guidance'.

#### Reason

As these documents propose to cover details of infrastructure requirements and specific / principles of developer contributions, it would be appropriate for these to be subject to consultation, as is required by legislation for supplementary guidance.