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Dear Development Plan Team

East Lothian Proposed Local Development Plan Consultation

Thank you for the opportunity to comment on the Proposed East Lothian Local Development Plan and Developer Contributions Supplementary Guidance, highlighted in your correspondence of 14 September 2016. Please find below a summary of the formal response of the Scottish Government (SG) these have been added to the online portal. Transport Scotland's formal response is included in full here, as indicated in the online response.

Town Centres

1 - Modification

Para 3.4, second sentence

"Such uses could include retail, commercial leisure uses, offices (class 2), community and cultural facilities, and potentially public buildings such as libraries, education and healthcare facilities." Change the wording "and potentially" to "and where appropriate, other".

Representation

Scottish Planning Policy (2014) (SPP), paragraph 68 states "Development plans should adopt a sequential town centre first approach when planning for uses which generate significant footfall, including retail and commercial leisure uses, offices, community and cultural facilities and, where appropriate, other public buildings such as libraries, and education and healthcare facilities."

The requested change will ensure consistency with the term used in SPP.

Using the word 'potentially' can be taken to imply a degree of discretion / option as to whether these uses are considered against the town centre first approach, whereas there should be a point where this is considered, and then it be applied where appropriate.

Providing this consistency will help ensure there town centre first approach is followed as set out in SPP.

2 - Modification

Para 3.7, second sentence Change wording from:

“While many Class 4 proposals will be appropriate in scale and character for a town centre and will normally be expected to locate there, some Class 4 proposals may be better located on land specifically allocated by the Plan for such use.”

to :

“Class 4 office proposals will normally be expected to locate in town centres, where appropriate in scale and character, however some Class 4 proposals may be located on land specifically allocated by the Plan for such use.”

Representation

Class 4 includes use as an office. Scottish Planning Policy (2014) (SPP), specifically says that the sequential approach should apply to offices. Office workers can support town centres through lunchtime shopping / activity, and benefit from the sustainable transport options which town centres offer and benefit from.

We feel the suggested change will more closely align with the spirit of the town centre first approach set out in SPP.

3 - Modification

TC2: Town and Local Centres second paragraph

Change first sentence from:

“Residential use may also be acceptable, particularly in a backland or above ground floor location.”

to :

“Residential use will be supported, particularly in backland or above ground floor locations.”

Representation

The Town Centres Review identified town centre living as one of its themes. In its response, the Scottish Government’s Town Centre Action Plan (TCAP)(2013) includes Town Centre Living as a key strand, stating the Scottish Government endorses the idea of encouraging more people to live in town centres.

Following on from the TCAP, one of Scottish Planning Policy (2014) (SPP)’s policy principles, as set out in paragraph 60, is that the planning system should consider opportunities for promoting residential use within town centres where this fits with local need and demand.

The Scottish Government’s Local Housing Strategy Guidance seeks to encourage local authorities to fully consider the role that town centres can play as residential communities.

The current wording in TC2, “Residential use may also be acceptable...” raises an element of doubt and does not set out the positive framework to promote town centre living which the Scottish Government expects.

We request the wording be changed to have a more positive tone towards living in town centres and proposals for residential use in such locations.

4 - Modification

Para 3.15, third sentence Delete words 'non-statutory' before 'supplementary guidance'.

Representation

Scottish Planning Policy (2014) (SPP), expects local authorities, working with partners to use the findings of town centre health checks to develop a strategy to deliver improvements in the town centre. To give weight to town centre strategies, by making their spatial elements part of the development plan to support their delivery, SPP paragraph 66, goes on to state "The spatial elements of town centre strategies should be included in the development plan or supplementary guidance."

Where SPP talks about 'supplementary guidance' Ministers expect this to be formal statutory supplementary guidance, as covered by section 22 of the Town and Country Planning (Scotland) Act 1997 (as amended). Circular 6/2013 'Development Planning' <http://www.gov.scot/Resource/0044/00441577.pdf> confirms paragraph 148 "non-statutory guidance should not be termed Supplementary Guidance and will not form part of the development plan."

Therefore, the Council's proposal to take forward the town centre strategies as non-statutory supplementary guidance, non-statutory guidance not to be termed Supplementary Guidance as set out the Circular, does not comply with SPP which says that the spatial elements of town centre strategies should be included in the development plan or supplementary guidance.

5 - Modification

Page 102, paragraph 4.73 - remove the first sentence.

Representation

The first sentence refers to text in a previous version of Scottish Planning Policy.

Reference could be made to the Scottish Government's Annual Report on the Operation of Section 72 of the Climate Change (Scotland) Act 2009 as published on the Scottish Government's website which provides information on how the legislative requirements can and have been implemented.

6 - Modification

Page 103, paragraph 4.81. The statement should set out the matters that will be addressed in the Wind Energy Supplementary Guidance.

Representation

To ensure consistency with Section 27(2) of the Town and Country Planning (Development Planning) (Scotland) Regulations 2008.

7 - Modification

Page 24: paragraph 2.51 should be amended to better reflect paragraph 1.46 and National Planning Framework 3.

Representation

Paragraph 2.51 prevents uses other than those defined in national development 3 on the former Cockenzie power station site. This does not fully accord with the aspiration NPF3 has for the site. Paragraph 1.46 of the proposed plan better reflects this position. National Planning Framework 3 (page 39) is clear that 'Given the particular assets of Cockenzie, if

there is insufficient land for competing proposals, we wish to see priority given to those which make best use of this location's assets, and which will bring the greatest economic benefits.'

8 - Modification

PROP ETG1 should be re drafted to include the arrangements for Cockenzie as set out on page 39 of National Planning Framework 3 reflecting that there may be insufficient land for competing proposals and that priority should go to those that make best use of the location's assets and which bring the greatest economic benefits.

Representation

Prop ETG1: Land at former Cockenzie power station does not allow for other uses of the site beyond thermal generation in the life time of NPF3 or until a thermal plant is developed and surplus land identified. This does not accord fully with the aspiration of National Planning Framework 3 for the area.

Rural Policy

9 - Modification

Page 120, paragraph 5.10: change 'Housing permitted in these circumstances will be tied to the business for which it is justified', to:

'Housing permitted in these circumstances may in exceptional circumstances be tied to the business for which it is justified'.

Representation

We refer to and expand upon our comments to an earlier draft of the proposed plan and note that no changes have been made in this regard.

We appreciate that paragraph 5.10 aims to set out the circumstances in which development outwith settlements may be appropriate so is partly in accordance with paragraph 81 of SPP. However, the second part of the paragraph sets out circumstances in which housing will be tied to businesses in every such circumstance. This would appear to require occupancy restrictions, so if this is not the case, this should be clearly explained. If this will require occupancy restrictions, it is contrary to SPP policy which states that occupancy restrictions should be avoided. Given that a policy such as this that requires them in every circumstance it is not considered that this can be considered 'avoiding the use of occupancy restrictions'.

Open Space

10 - Modification

1.47 (Central Scotland Green Network) Change:

"The Central Scotland Green Network is also a National Development which is to extend into East Lothian. It is to help maintain the environmental quality of the area and to promote active travel and healthier lifestyles."

to:

"The Central Scotland Green Network is also a National Development which **extends** into East Lothian. It is to help maintain the environmental quality of the area, **tackle vacant and derelict land** and promote active travel and healthier lifestyles."

Representation

The Central Scotland Green Network (CSGN)has been a national development, since its designation in National Planning Framework 2 in July 2009

<http://www.gov.scot/Publications/2009/07/02105627/0> . The current wording in 1.47 that the

There may be instances where a development proposed in such a location would not be necessarily benefit the immediate local area, but could have for example regional or national benefits. Firstly there is also some ambiguity around how “public benefit” would have to be defined. Secondly the wording of the policy could inadvertently prevent development where there is demonstrable benefit either in the local, national or international interest from taking place. There is a need to ensure that the policy provides for a proportionate and balanced consideration to take place on development affecting local sites and areas, better recognising the lower level of protection to be afforded to local sites and areas compared to the policy considerations for national or international sites.

Gardens and Designed Landscapes

14 - Modification:

Remove ‘Government’ from the first sentence of section 6.54 on page 135 and replace with ‘Planning’ so it reads ‘Scottish Planning Policy requires...’

Representation:

Historic Environment Scotland (HES) now takes the lead on Gardens and Designed Landscapes not the SG – see following link <https://www.historicenvironment.scot/advice-and-support/listing-scheduling-and-designations/gardens-and-designed-landscapes/what-is-the-inventory-of-gardens-and-designed-landscapes/>

Active Travel

15 - Modification

We would request that the planning authority identify at least one exemplar walking- and cycling friendly settlement in the Plan.

Representation

Paragraph 5.14 of NPF3 states that we will encourage local authorities to develop at least one exemplar walking- and cycling friendly settlement to demonstrate how active travel networks can be significantly improved.

Housing

16 - Modification

Table HOU2 (Page 67): demolitions and surplus should be shown as negative figures

Representation

Change sought to ensure clarity

17 – Modification

Reference should be made in the plan to how the additional allowance from the SESplan supplementary guidance has been taken into account.

Representation

Change sought to ensure clarity.

Developer Contributions Supplementary Guidance

18 - Modification

Supplementary Guidance. Provide detail on the methodology for defining the contribution zones, or indicate where this is set out and provide detail on how the contribution zone relates to the tests of Circular 3/2012.

Representation

Circular 3/2012 paragraph 14 requires that contributions are only sought where they meet the 5 policy tests. Because the contribution zones are establishing the need for the contribution up front in the development plan, it should be set out how these have been calculated. Particularly important is the 'relationship to the proposed development' test. If this methodology is set out in an accompanying assessment, reference could be made to this. P55 refers to demand projections, but it is not clear where these are contained.

Developer Contributions Supplementary Guidance

19 - Modification

Supplementary Guidance. P47, paragraph 4.15 states that the Council will seek to recover costs for drafting legal agreements from applicants. This reference should be removed.

Representation

There is not clear legal basis for such charges. The Fees Regulations provide for planning fees and charges but do not enable charges of this nature to be made.

It is recommended that reference to Transport Scotland being party to the formal creation of, monitoring, or managing of East Lothian Council's Transport Infrastructure Delivery Fund, as currently detailed within Policy T32, is removed.

Representation

DPMTAG Transport Appraisal

East Lothian Council is currently undertaking an appraisal of the Local Development Plan (LDP) land allocations which comprises a strategic traffic modelling exercise utilising the SEStran Regional Model, and S-Paramics micro-simulation modelling to analyse specific junctions on the A1 trunk road. The appraisal will determine the cumulative impacts of the preferred spatial strategy in line with DPMTAG requirements, identifying specific infrastructure required to mitigate impacts and informing a funding mechanism to facilitate delivery of the plan allocations. Transport Scotland has welcomed the opportunity to engage in this appraisal process which we recognise was delayed partly due to the upgrade of the SRM12 taking longer than anticipated, and partly due to the lack of certainty surrounding the Council's preferred spatial strategy.

To date, the full appraisal and associated modelling has not been completed by East Lothian Council. The strategic modelling utilising the SRM has been completed and this has informed the Proposed Plan which includes mitigation measures required at specific locations on the trunk road network including Old Craighall, Bankton, Dolphinstone and Salters Road on the A1. The micro-simulation element of the modelling has not yet been completed. On completion, this will provide more detailed information relating to the nature and scale of mitigation measures required on the A1. The inclusion of this information in the LDP would have enabled the impact of the spatial strategy on the transport network (and therefore the nature and scale of required mitigation measures) to be fully identified which would have provided greater certainty to the development community and stakeholders. The Council is undertaking further appraisal work to provide a greater level of detail on required mitigation measures and are working with all parties to enable a swift completion of this process and review of the outcomes.

While the appraisal exercise has not yet been complete, Transport Scotland has engaged with the Council throughout the appraisal process and while the level of detail included within the Proposed Plan and Action Programme requires further assessment to determine the exact nature of the interventions. The wording of the LDP in this regard states:

PROP T15 Old Craighall A1(T) Junction Improvements states that *“Relevant proposals will contribute to improvements of the roundabout and slip roads, to provide additional network capacity.....The feasibility of delivering this intervention will continue to be investigated...”*; and

PROP T17 A1(T) Interchange Improvements provides details of interventions that are required *“as a minimum”* at Salters Road, Bankton and Dolphinstone interchanges on the A1.

Given the Proposed Plan and Action Programme detail that infrastructure improvements are required, *“as a minimum”*, it is considered that this approach affords the opportunity for additional scale of improvements to be identified and delivered dependent upon the findings of the micro-simulation modelling, and the completion of the full appraisal of the LDP.

East Lothian Council has published Supplementary Guidance on Developer Contributions which defines contribution zones for transport based on the assessment of the cumulative development impact. It is for individual Councils to determine the methodology of any

developer Contribution mechanism. Transport Scotland welcomes the Supplementary Guidance which provides further detail and certainty surrounding the delivery of infrastructure for which the improvements at Salters Road, Bankton and Dolphinstone interchanges on the A1 are included.

What modifications would you like to see in the Plan?

As the outcome of the DPMTAG is not yet available it is not possible at this stage to fully endorse the plan, nor request modifications to it. We would reiterate the importance of this work to understand the impact of the plan.

Representation

PROP T18 Land Safeguard for Trunk Road Interchange at Adniston and Eastern Tranent By-pass

SPP sets out the national planning policies which reflect the Scottish Ministers' priorities for the development and use of land. It directly relates to development plans. SPP details on page 10, paragraph 30 that:

“Development Plans should:

- *Be consistent with the policies set out in this SPP*
- *Set out a spatial strategy which is both sustainable and deliverable”*

PROPT18 Land Safeguard for Trunk Road Interchange at Adniston and Eastern

Tranent By-pass states *“land for a potential new trunk road interchange at Adniston and potential eastern Tranent by-pass is safeguarded and the feasibility of delivering these interventions will continue to be investigated....”*

Paragraphs 4.31 to 4.33 and the PROPT18 provide a narrative on the potential access strategy for a new settlement at Blindwells with particular regard to the provision of a new trunk road junction. While it is accepted that the detail provided states that further investigation of such a strategy is required, it should be made clear that, any such strategy will require to be approved by Transport Scotland and be in accordance with paragraph 278 of SPP which details:

“While new junctions on trunk roads are not normally acceptable, the case for a new junction will be considered where the planning authority considers that significant economic growth or regeneration benefits can be demonstrated. New junctions will only be considered if they are designed in accordance with DMRB and where there would be no adverse impact on road safety or operational performance.”

What modifications would you like to see in the Plan

It is recommended that PROPT18 is reworded to align with SPP paragraph 278 and that reference is made to the point that the access strategy will require approval from Transport Scotland.

Representation

Prop BW2 Safeguarded Blindwells Expansion Area

SPP sets out the national planning policies which reflect the Scottish Ministers' priorities for the development and use of land. It directly relates to development plans. SPP details on page 10, paragraph 30 that:

“Development Plans should:

- *Be consistent with the policies set out in this SPP*
- *Set out a spatial strategy which is both sustainable and deliverable”*

SPP details on page 62, paragraph 274 that:

“In preparing development plans, planning authorities are expected to appraise the impact of the spatial strategy and its reasonable alternatives on the transport network, in line with Transport Scotland’s DPMTAG guidance.... Appraisals should be carried out in time to inform the spatial strategy and the strategic environmental assessment. Where there are potential issues for the strategic transport network, the appraisal should be discussed with Transport Scotland at the earliest opportunity.”

Furthermore, paragraph 275 details that:

“Development plans should identify any required new transport infrastructure or public transport services, including cycle and pedestrian routes, trunk road and rail infrastructure. The deliverability of this infrastructure, and by whom it will be delivered, should be key considerations in identifying the preferred and alternative land use strategies.”

The LDP in Policy ‘PROP BW2: Safeguarded Blindwells Expansion Area’ safeguards land for a potential future expansion of the allocated Blindwells site outlined in PROP BW1. Policy PROP BW2 sets out that during the life of the plan, the Council will investigate the potential of developing the future site in conjunction with the allocated site, preparing a Design Framework for both sites to be known together as the Blindwells Expansion Area. The Policy states that:

“The Design Framework will be the basis against which the Council will seek to confirm if a comprehensive solution for the development of that entire area exists.....including in respect of delivery mechanism for the provision and phasing of shared infrastructure as necessary to enable appropriate phasing and timing of development. If a comprehensive solution for the development of the entire area is found, it will be detailed in a Development Brief that would be adopted by the Council as Supplementary Guidance and as part of the Development Plan.

The LDP is required by the SDP to set out specific land requirements up to 2019 and 2024. The current Blindwells allocation (Policy PROP BW1) is detailed in paragraph 3.36 and Table HOU2 as contributing to the land supply post 2019. However paragraph 3.36 continues to states that *“if solutions for a larger new settlement are foundthe SDP would not prevent more housing being developed there in the short or medium term”*.

Transport Scotland is concerned with the above proposals and the terms of Policy PROP BW2. As detailed above SPP outlines the requirements for authorities to appraise their spatial strategy and any alternatives in line with DPMTAG guidance in sufficient time to fully inform the spatial strategy. This requirement enables the Council, Transport Scotland, developers and other key stakeholders to understand the implications of the LDP’s strategy on the strategic and local transport networks and for the suitable identification of mitigation measures and appropriate funding and delivery mechanisms for inclusion within the plan and Supplementary Guidance in accordance with Circular 6/2013.

East Lothian Council is currently undertaking its transport appraisal of the LDP allocations, which has therefore been unable to fully inform the LDP process. The transport appraisal will identify the specific mitigation measures required to fully deliver the LDP spatial strategy. Transport Scotland is currently working with the Council to conclude this exercise, but an agreed outcome has yet to be reached. The transport appraisal work, however, does not include the potential for the full 6000 units at Blindwells beyond the 1600 units currently allocated. Consequently, East Lothian Council has included a policy to investigate the allocation of up to 6000 additional houses with no indication of the potential impact, if the site and any required transport infrastructure can be funded or delivered and by whom, or any

information pertaining to timescales or phasing. Consequently, the addition of 6000 units to the spatial strategy could have significant implications to the strategic road and rail network which have not yet been investigated or identified.

This position is not in accordance with SPP, DPMTAG or Circular 6/2013 which details *“Matters that should not be included in Supplementary Guidance, but be within the plan, include: development proposals of more than local impact.”* In this context we feel that inclusion of such a significant site in Supplementary Guidance, rather than the Plan itself is not appropriate. This presents a significant risk, particularly without any transport modelling (to date) to assess the impact on the surrounding network in conjunction with the rest of the plan, and/or modelling to understand how the progression of this allocation through SG may ultimately affect the progress of sites allocated within the proposed plan (and the appraisal work being undertaken to understand their impact). There is no information on the future expansion of Blindwells relating to potential impact, mitigation, funding or delivery mechanism which goes against the principles of SPP requiring this information to fully inform the plan’s preferred spatial strategy. Leaving the assessment of a large scale development to be initiated subsequent to the publication and adoption of a plan and included within Supplementary Guidance, which has the potential to formally become part of the plan without being subject to Examination, is considered to be unacceptable.

What modifications would you like to see in the Plan

We recommend that Policy PROP BW2 is removed or reworded. Transport Scotland welcomes the Council beginning preparatory work to investigate the viability and deliverability of allocating a further 6000 units at Blindwells. However this work should inform the next LDP, giving sufficient time for an appropriate appraisal of the site and its impact, involving all relevant stakeholders. The potential future expansion of Blindwells is not required to satisfy the housing land requirement for this LDP and it has not been assessed in any capacity to determine its potential impacts on the strategic trunk road and rail network. SPP details that development plans should fully appraise the impact of the spatial strategy in line with DPMTAG guidance which has not been undertaken in this instance and Circular 6/2103 details that proposals of more than local impact should not be left to be included within Supplementary Guidance.

Representation

Policy PROP T10: Safeguarding Land for Platform Lengthening

SPP sets out the national planning policies which reflect the Scottish Ministers’ priorities for the development and use of land. It directly relates to development plans. SPP details on page 10, paragraph 30 that:

“Development Plans should:

- *Be consistent with the policies set out in this SPP*
- *Set out a spatial strategy which is both sustainable and deliverable”*

SPP details on page 63, paragraph 275 that:

“Agreement should be reached with Transport Scotland and Network Rail before rail proposals are included in a development plan or planning application and it should be noted that further technical assessment and design work will be required before any proposed new station can be confirmed as viable.”

The East Lothian Proposed Plan and Action Programme detail within Policy T10 *“Land is safeguarded adjacent to the existing stations at Musselburgh, Wallyford, Prestonpans, Longniddry, Drem and Dunbar to allow additional platform capacity to be provided for longer eight car trains as a minimum, as shown on the Proposals Map. Other than for platform capacity at Dunbar, relevant proposals will be required to contribute to these interventions as*

set out in the Developer Contributions Framework Supplementary Guidance in accord with Policy T32 and Policy DEL1. All proposals will be subject to HRA to ensure that effects on the qualifying interests of the Firth of Forth SPA are avoided during construction.”

East Lothian Council is currently undertaking an appraisal of the Local Development Plan (LDP) land allocations which comprises a strategic traffic modelling exercise utilising the SEStran Regional Model, and S-Paramics micro-simulation modelling. The appraisal will determine the cumulative impacts of the preferred spatial strategy in line with DPMTAG requirements, identifying specific infrastructure required to mitigate impacts and informing a funding mechanism to facilitate delivery of the plan allocations. To date, the full appraisal and associated modelling has not been completed by East Lothian Council, however the strategic modelling element utilising the SRM has been completed and this has informed the Proposed Plan. The Transport Appraisal accompanying the LDP includes mitigation measures required at specific locations as a result of the cumulative impacts of development, including identifying the need for platform extensions at Musselburgh, Wallyford, Prestonpans, Longniddry, Drem and Dunbar as a result of the residential and employment developments which would result in a considerable number of additional rail trips, putting pressure on train capacities.

Transport Scotland has been consulted on the development of the LDP and transport appraisal, previously requesting further information relating to the rationale for longer platforms given that a new 6 car service has recently been introduced. To date no evidence has been provided to Transport Scotland to demonstrate that consideration has been given to a range of potential operational solutions which has led to a conclusion that platform extensions are required to accommodate longer trains. Currently, trains on the route use Selective Door Opening (SDO) where platforms are shorter than the train length. We have not been made aware of any work undertaken to determine if, along with platform lengthening, there would be additional requirement for extension/expansion of other passenger facilities (such as ticket machines). Furthermore we haven't seen consideration on the requirement for additional rolling stock, including assessment of whether the current railway line and/or rolling stock is suitable for 8 car running.

What modifications would you like to see in the Plan

Transport Scotland do not consider there is currently a requirement for platform lengthening at Musselburgh, Wallyford, Prestonpans, Longniddry and Drem. Therefore, it is recommended that Policy T10 is removed or reworded to detail that upgrades to the stations may be required as a result of development proposals, the details of which will be determined through further study in consultation with Transport Scotland and Network Rail.

Your sincerely

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