

Midlothian Local Development Plan 2017 Action Programme**Report by Ian Johnson, Head of Communities and Economy****1 Purpose of Report**

- 1.1 This report seeks Council approval to adopt and publish the Midlothian Local Development Plan 2017 Action Programme.

2 Background

- 2.1 The Town & Country Planning (Scotland) Act 1997 as amended, requires the Council to prepare an Action Programme to accompany the Midlothian Local Development Plan (MLDP). The Action Programme sets out how the Council intends to implement the plan to which it relates. It contains a list of actions required to deliver each of the plan's policies and proposals; identifies the appropriate parties or organisations that are required to carry out the actions(s); and provides an indicative timescale for carrying out these actions. In preparing the Action Programme the Council are required to consult and consider the views of the key agencies; the Scottish Ministers; and those parties specified by name in the document. Action Programmes must be published and submitted to Scottish Ministers alongside proposed LDPs; adopted and published within three months of the Plan being adopted; and thereafter be kept under review and updated at least every two years.
- 2.2 A proposed Action Programme was prepared and published along with the Proposed MLDP in May 2015. Subsequently an Examination by a Scottish Government Reporter into the unresolved issues made in respect of the Proposed MLDP was conducted between 7 November 2016 and 5 July 2017. Council considered the Report of Examination in September 2017 and agreed, with the exception of two minor issues, to accept the recommended modifications to the Plan outlined in the Report of Examination.
- 2.3 At its meeting on 7 November 2017 Council resolved to adopt the Midlothian Local Development Plan (MLDP) 2017. In doing so Council also requested a further report to be submitted for it to consider and adopt an updated Action Programme as required by the statutory regulations relating to the preparation of development plans.
- 2.4 The deadline to adopt and publish an updated Action Programme for the MLDP 2017 is 7 February 2018. Given the Council's meeting schedule it has not been possible to publish and consult on the updated Action Programme, analyse responses received and report for approval to adopt within the prescribed timescale. However, in the circumstances the Scottish Government's Development Plans Gateway have confirmed that they will accept a copy of the Action Programme as proposed to be adopted by the due date (7th February) subject to the requisite copies of the formally adopted document being forwarded following the Council's decision on 13 February 2018.

3 Action Programme Consultation Responses

- 3.1 As required by statutory regulations, the updated Action Programme was published for consultation between 22 December 2017 and 19 January 2018. The consultation was targeted at Key Agencies, Scottish Ministers and the parties/organisations identified as having a responsibility to carry out a specific action or actions listed in the Action Programme.
- 3.2 A total of 50 responses from 11 organisations were received. A summary of the responses and recommended changes to the Action Programme is attached to this report. Copies of the responses, the summary and the updated Action Programme are available in the CMIS Members Library.

Responses

- 3.3 The responses received included comments and observations from three defined Key Agencies (Scottish Water, Scottish Environment Protection Agency and Scottish Natural Heritage); four planning consultants representing house builders, developers or landowners; Castle Rock Edinvar Housing Association; East Lothian Council; and Midlothian Community Planning Partnership.
- 3.4 There were a few general responses and these comments are noted but most focused on the policy actions, infrastructure requirements (including delivery issues) and supplementary guidance sections of the Action Programme. The comments from the Key Agencies were broadly supportive and offered to provide further assistance or advice on a range of policy topics and also a willingness to contribute to the preparation of supplementary guidance (see comment numbers 4, 8 and 14). Comments from Midlothian Community Planning Partnership (CPP) sought to identify more linkages to the CPP across the actions including liaison with relevant neighbourhood planning/targeted groups. The existing CPP structures provide an established mechanism for addressing these issues.

Policy Actions

- 3.5 Just under half the comments relating to the policy section were of a general nature and don't require any changes to the Action Programme, or are minor drafting issues such as name changes and updating the appropriate organisation involved in respect of policies ENV19 – 25.
- 3.6 SEPA and SNH expressed willingness to work with the Council to assist in monitoring the impact of the Plan. While each of these organisations are statutory consultees in the planning process and are involved in the planning application process, it would be worth giving further consideration as to what closer and more regular liaison with these bodies would consist of and how that process could be effectively managed in future.
- 3.7 SNH also suggested including supporting information from the MLDP to provide clear “way marking” of further actions required to deliver the development strategy. Similarly Savills representing Old Road Securities had suggested that information on committed sites be included to better reflect the allocations that will assist delivery of the strategy. However the Action Programme is intended to be read in conjunction with the MLDP and is to set out how the policies and proposals in the Plan will be implemented. The comments are noted but alongside annual housing and employment land audits it is considered that the Action Programme includes an appropriate

level of detail to satisfy this requirement. However, future reviews of the Action Programme may include additional information over and above that currently proposed to reflect changing circumstances and progress or lack of it in terms of delivering the strategy.

- 3.8 SNH considers that indicative timescales can be given for the grade separation of Sheriffhall roundabout now that the project has been formally announced by Ministers and has reached stage 3 Assessment in Transport Scotland's Design Manual for Roads and Bridges guidance. The Council does not have formal confirmation of the details of any agreed programme for this project. However, the infrastructure requirements identified in section 6 of the Action Programme do provide an indicative delivery period for this project. Ongoing monitoring and periodic reviews of the Action Programme will track progress and update the delivery timescale as appropriate.
- 3.9 East Lothian Council considers that neighbouring authorities should be involved in the delivery of strategic development sites and suggests the Action Programme should highlight the need for such co-operation in respect of the proposed housing site at Newton Farm south of Shawfair. It is also suggested that the Action Programme highlight the potential for Millerhill (marshalling yards) as part of a conjoined economic use with the proposed allocation in East Lothian as part of a wider cross boundary approach to implementation and future development potential in this location. The comments are noted. The Council is aware of the need to liaise and consult with neighbouring Councils in respect of development adjacent to or within proximity of adjoining administrative boundaries and would take such appropriate steps as and when they arise. However the MLDP 2017 is the adopted plan for Midlothian. Any significant departure from the agreed development strategy would require further consideration of the need to review the Plan.
- 3.10 Colliers International representing Shawfair LLP sought the inclusion of a statement relating to the impact market fluctuations will have on the delivery of the MLDP. Paragraph 3.3 of the Action Programme acknowledges this matter and indicates some of the actions and/or Supplementary Guidance identified in the current Action Programme may have to be modified and/or new actions identified.

Infrastructure Requirements/Delivery Issues

- 3.11 Agents representing Taylor Wimpey/Hallam Land management requested that the requirements relating to community facilities and green infrastructure be removed and sought clarification on the requirement for "enhanced SuDS" and potential cross boundary transport infrastructure. The Action Programme reflects the adopted MLDP 2017 in respect of infrastructure requirements, therefore it is recommended that no changes are made in this regard. In respect of the matters for clarification it is considered the MLDP provides sufficient clarity at this time. Future reviews of the Action Programme will incorporate appropriate amendments to reflect progress and/or changes that may impact progress in implementing the development strategy. It is recommended that no further changes are made in this regard.

- 3.12 Scottish Water broadly supports the requirements identified in the Action Programme and will seek to inform the Council of any mitigation required through their strategic modelling programme. They also identified necessary changes to specific sites to adequately reflect the current position in respect of water and drainage infrastructure (sites Hs8 Stobhill Road, Gorebridge, Hs11 Dalhousie South and Hs12 Hopefield Farm 2, Bonnyrigg, Hs14 Rosewell North, Rosewell, Hs18 Roslin Institute and Hs19 Roslin Extension, Roslin and Hs20 Auchendinny).
- 3.13 SEPA suggested some factual changes incorporating references to the agreed water and drainage strategy for Shawfair (secured by planning permission 15/00089/MSC) and other such strategies attached to other allocated sites. These changes have been incorporated into the updated Action Programme.
- 3.14 The Midlothian Community Planning Partnership sought to include reference to the proposed Orbital Bus route linking Higher and Further Education locations. The comments are noted. The project has policy support in terms of the current and emerging SESplan Strategic Development Plan and the Regional Transport Strategy but no commitment or funding agreed. The benefits arising from any future scheme should be identified and form part of a comprehensive project brief at the appropriate time.
- 3.15 In connection with paragraph 3.9 East Lothian Council also suggested establishing joint working arrangements (at officer level) with Midlothian Council on strategic developments with potential cross boundary impacts. The comments are noted. Applications in East Lothian are currently monitored on a regular basis and as indicated in paragraph 3.9 liaison and consultation between the Councils would take place as and when required in respect of applications considered to have a cross boundary impact. Ongoing monitoring of planning applications will inform future reviews of the Action Programme and the merits of closer collaboration between the relevant officers of both Councils.
- 3.16 Barton Wilmore representing Taylor Wimpey sought the removal of community facility and green infrastructure requirements in the plan and clarity on what is meant by “enhanced SuDS” and potential requirement for cross boundary transport infrastructure.
- 3.17 Colliers representing Shawfair LLP suggested including a statement establishing a dialogue between the Council and developers of economic land to ensure realistic consideration of future proposals. This Action Programme addresses this matter on page 4 under the policy actions relating to Policy STRAT5 Strategic Employment Land Allocations.
- 3.18 Rick Finc Associates representing Palladin Ventures sought clarity on a number of points namely: what the community facilities and recreation requirements of the plan would include; what the impact of the SESplan Cross Boundary Transport Study and associated Developer Contributions Framework would be for the site at Cauldcoats; and the landscape requirements related to the remediation of Niddrie Bing. Reference was also made to why Scottish Water was not identified as having the responsibility to provide water and drainage infrastructure. In respect of the district heating requirement there was uncertainty over what could be delivered by 2022 and why the cost of any provision should rest with the developer without public sector support.

- 3.19 The proposed sites at Cauldcoats (Hs0) and Newton Farm (Hs1) are located within the South East Edinburgh strategic development area and are considered part of the wider Shawfair area including the villages of Danderhall, Newton and Millerhill. Detailed consideration of requirements will therefore be based on the approved Shawfair Masterplan and negotiated through the planning application/Developer Obligation (S75) process. The main issue for Shawfair in respect of the cross boundary study is the grade separation of Sheriffhall roundabout which is now proceeding through Transport Scotland's assessment and design process and is likely to feature in the replacement Strategic Transport Projects Review (subject to review). The MLDP includes a developer contribution requirement to this project. Paragraph 5.18 of the Action Programme sets out Scottish Water's position in respect of water and drainage infrastructure and the requirements listed in the corresponding table indicate the necessary infrastructure needed to support the proposed development. The cost of this provision is the responsibility of the developer. The Council has commissioned feasibility work on the potential of a district heating proposal at Shawfair and is in the process of preparing Supplementary Guidance (to be published later this year) on the subject. In addition the Scottish Government's current consultation on Local Heat and Energy Efficiency Strategies (as part of its Scottish Energy Efficiency Programme <http://www.gov.scot/Publications/2017/11/6232>) will seek to provide additional guidance in this respect.
- 3.20 Montagu Evans representing Buccleuch Property suggested that the Action Programme acknowledge the proposed residential use of sites e14 and Ec2 Salter's Road, Dalkeith (application 16/00893/PPP). They also stated that there has been no market interest in site e32 Sheriffhall South for economic uses and that a flexible approach to identifying potential uses is needed. This should be reflected in the Action Programme along with the need for a dialogue with the site owners/developers. The sites at Salter's Road are allocated in the MLDP 2017 as strategic economic allocations. Notwithstanding the current application the Examination into unresolved issues to the proposed plan did not support any changes to this position. Part of site e32 has been developed as a pub restaurant and while no other investments have been secured to date the Council is aware that there have been other enquiries regarding parts of this site, including an application for a drive through restaurant and petrol station (reference 17/00537/DPP - not yet determined). The Action Programme addresses the need for dialogue with developers of economic sites as part of the policy action section (page 4, policy STRAT5 and again on page 6, policy ECON1). In addition the annual Employment Land Audit will monitor progress with these and other sites and inform any future updates of the Action Programme. As part of this process will involve contact and discussion with the relevant landowner/agent and/or developer to discuss issues affecting progress with their sites.

Supplementary Guidance

- 3.21 SEPA and SNH expressed a willingness to work with the Council in the preparation of Supplementary Guidance which relates to their respective organisational remits. Similarly East Lothian Council suggested that the Council should work closely with neighbouring authorities on Supplementary and Planning Guidance. Colliers International representing Shawfair LLP sought the inclusion of a timetable for consultation and finalisation of the suite of proposed supplementary and planning guidance. These comments are welcomed and as and when guidance is being prepared and published the Council would seek to engage with the respective organisations (and other relevant parties) in an appropriate and proportionate manner. The MLDP

identifies a substantial list of statutory Supplementary Guidance and non-statutory planning guidance on a range of topics (13 Supplementary and 7 Planning Guidance). The Supplementary Guidance on the Midlothian Green Network was published on 1 February 2018 and it is intended that throughout 2018 and into 2019 the Council will progress the remaining guidance subject to available resources. Statutory Supplementary Guidance involves a prescribed approach to preparation, publication and adoption. Planning Guidance is not subject to the same processes but the Council would wish to ensure that similar levels of consultation are undertaken. The Council is aware of potential consultation overload and therefore considers a rolling programme of publication and consultation to be reasonable and manageable.

4 Report Implications

4.1 Resource

The resource implications of preparing (and publishing) the Action Programme are provided for within current budget.

4.2 Risk

The adoption and publication of the Action Programme within the prescribed three month period of adopting the MLDP 2017 ensures adherence to the statutory procedures governing plan preparation.

4.3 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- ☒ Community safety
- ☒ Adult health, care and housing
- ☒ Getting it right for every Midlothian child
- ☒ Improving opportunities in Midlothian
- ☒ Sustainable growth
- ☐ Business transformation and Best Value
- ☐ None of the above

4.4 Key Priorities within the Single Midlothian Plan

The MLDP 2017 provides the spatial land use policy and development framework for Midlothian for the next ten years. It is a vital component in ensuring economic growth and business support, seeking to meet housing need in all tenures, and ensuring protection/enhancement of built and natural heritage resources; all within an overarching aim of securing environmental sustainability.

The Action Programme is a statutory requirement associated with MLDP 2017 and its purpose is to outline how the Council proposes to implement the MLDP. It focuses on delivering the benefits of the MLDP listed above. To this end it includes a list of actions required to deliver each of the plan's policies and proposals; the name/organisation that is to carry out the action; and the timescale for carrying out each action. It will reflect progress with particular development proposals but there is also an expectation from the Scottish Government that it will also be a key tool in instigating action and co-ordinating the activity of a range of agencies and organisations. Once adopted and published the Action Programme will be reviewed, updated, and republished at least every two years.

4.5 Impact on Performance and Outcomes

The MLDP provides the policy and development framework to support improving opportunities in Midlothian and sustainable growth. The Action Programme is a working document that sets out how the MLDP will be implemented and monitors progress to that end. Adoption and the commitment to the minimum biennial review will enable more effective monitoring of the housing and employment land supplies as well as providing an update on the progress of planned and windfall developments, and will represent the key mechanism to highlight issues and redirect the strategy if and where necessary.

4.6 Adopting a Preventative Approach

Alongside the MLDP the Action Programme will be the principal mechanism by which to monitor the performance of the MLDP and to trigger change and/or adjustments to the development strategy in order to maintain the planned investment in future growth and development in Midlothian over the period to 2027. The MLDP and Action Programme will help to inform the future spending priorities of the Council and its community planning partners as well as other public, private and voluntary sector bodies.

4.7 Involving Communities and Other Stakeholders

Consultation on the updated Action Programme was targeted to all stakeholders identified as having a responsibility in respect of the policy actions and/or infrastructure requirements of the MLDP. Comments received have been considered and included in the updated Action Programme where appropriate.

4.8 Ensuring Equalities

The Action Programme is an associated document to the MLDP. It does not raise any new issues over and above those identified in the MLDP process which has been subject of an Equalities and Human Rights Impact Assessment. It focuses on the implementation of the policies and proposals contained in the MLDP and provides a mechanism for monitoring the progress of the Plan to this end. It concentrates specifically on the actions of parties and/or organisations with a role in delivering the development plan strategy and monitoring the effectiveness of the planning policies contained in the MLDP. Therefore, the consultation on the updated document was appropriately targeted to those named parties/organisations identified in the document. Once adopted and published the Council is required to make the document available in libraries and online. In this context further, specific equalities assessment of the Action Programme is therefore not warranted.

4.9 Supporting Sustainable Development

The policy actions and infrastructure requirements identified in the Action Programme emanate from, and are included in, the Proposed MLDP which has been subject of Strategic Environmental Assessment (SEA) and the outcomes identified in an Environmental Report (including a Habitats Regulations Appraisal). The Action Programme represents a mechanism to enable implementation of the Plan and to monitor the Plan's progress. As such does not fall within the definitions of plans, strategies and programmes required to undertake SEA under the act (Environmental Assessment (Scotland) Act 2005).

4.10 IT Issues

There are no IT issues arising from this report.

5 Recommended Amendments to the Action Programme

- 5.1 Having considered all of the representations received on the draft pre-publication Action Programme, a number of relatively minor and modest amendments are recommended. It is considered that the proposed amendments provide greater accuracy and clarity of interpretation of the requirements of the adopted Midlothian Local Development Plan 2017. An inventory of these is provided in the Appendix to this report.

6 Recommendations

- 6.1 The Council is recommended to:

- a) adopt by resolution the Midlothian Local Development Plan Action Programme (2017); and
- b) require the Head of Communities and Economy to make the necessary arrangements to:
 - i. send two copies of the adopted Action Programme to Scottish Ministers.
 - ii. place copies of the adopted Action Programme in all public libraries and online; and
 - iii. publish the adopted Action Programme, including electronically.

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Background Papers:

The following papers are available in the CMIS Members Library:

- i. MLDP 2017 Updated Action Programme
- ii. MLDP 2017 Updated Action Programme - summary of responses and recommendations
- iii. MLDP 2017 Updated Action Programme – responses