

Midlothian Local Development Plan

Report by Report by Head of Communities and Economy

1 Purpose of Report

- 1.1 The purpose of this report is to inform Council of the responses to representations received to the Proposed Midlothian Local Development Plan (MLDP), to proposed changes to the plan arising from those representations and to seek approval for the submission of the proposed MLDP to the Scottish Ministers.

2 Background

- 2.1 At its meeting of 16 December 2014 the Council approved the content of the proposed MLDP subject to the addition of the housing site at Cauldcoats to the north of Shawfair (previously identified as reasonable alternative housing site) and the deletion of the housing site at Kippielaw, Easthouses.
- 2.2 The MLDP Proposed Plan was published in May 2015 with the period to make representations expiring 26 June 2015.
- 2.3 A progress report was considered at Planning Committee on 17 November 2015 and it was agreed to hold elected member workshops to consider the nature of the representations received in more detail. Workshop sessions were held on 2 and 4 February 2016. The workshops addressed the key issues arising from the representations received (including Key Agency, Community Council, individual, interest groups and organisations objections' and comments). A final drop-in session was held on 9 February 2016 to allow Members the opportunity to follow-up on any outstanding matters from the previous sessions.
- 2.4 An update report on progress was presented to the Planning Committee on 19 April 2016 which explained the remaining statutory stages of plan preparation, noting that the next major stage is the consideration of objections to the Plan by an independent Scottish Government Reporter at an Examination in Public.
- 2.5 The Planning team has summarised all representations, considered suggested modifications and prepared draft responses for each representation made. The next stage in the process is to consider the responses received and decide what, if any modifications to the plan should be made. If no modifications are made then the objections are considered "unresolved issues" and as such would be reported to and form part of an Examination into the Proposed Plan.

3 Representations Received

- 3.1 The Council received a total of 2,766 separate objections and comments to the Proposed Plan (and the Action Programme) submitted by 837 representors. In addition, a total of 20 separate opinions were expressed by 9 representors to the Revised Environmental Report which accompanies the Proposed Plan. A breakdown of the objections and comments received are attached as Appendices 1, 2, and 3 to this report.
- 3.2 All representations have been summarised and uploaded to the online local plan portal ready for publication. The summaries (including a proposed response) extend to around 600 A3 pages making it unsustainable and impractical to print and circulate individual copies with this report. Instead the list has been made available for Members electronically.
- 3.3 A summary of the representations received from the Scottish Government, Key Agencies, Community Councils and Homes for Scotland are outlined below and in further detail in Appendices 4 and 5 to this report.

Response from Scottish Government

- 3.4 The Scottish Government submitted objections to a number of parts of the plan including transport issues and transport interventions which are addressed under the Transport Scotland response below.
- 3.5 The objections focused on the wording of policies and to some associated sections of text (2.1.2 – strategy for sustainable growth, 5.1.26 – water environment and 6.2.3 – wind energy). The policies subject to objection and comment relate to strategic employment land allocations (STRAT5), town centres (TCR1), prime agricultural land (ENV4), special landscape areas (ENV6), flooding (ENV9), woodland, trees and hedges (ENV11), Interpretation of energy policy NRG3 (NRG4), heat supply sources & development with high heat demand (NRG5) and community heating (NRG6). It also sought changes to Figure 6.1 – Wind Energy and Table 7.1 Interpretation of NRG3.
- 3.6 The nature of the objections largely focused on consistency with National Planning Framework 3 and Scottish Planning Policy as well as providing more clarity on the purpose of the policy/proposal. The objections to the Renewable and Low Carbon Energy Projects (NRG) policies largely relate to new areas of planning policy, therefore it is perhaps not surprising that they have submitted a representation on the matter.
- 3.7 The Government's response did not include any reference to the housing land requirement, the housing land supply or the approach of the plan in respect of delivering the strategic housing land requirement.

Responses from Key Agencies

- 3.8 **Transport Scotland** object to the proposed access to HS1 (Newton Farm) from the A720/A68 junction; the Council's position regarding grade separating Sheriffhall roundabout and the omission of a potential rail halt at Redheugh from the transport appraisal of the Proposed Plan. They also highlighted that the outcomes of the transport appraisal had been omitted from the Action Programme and that there was insufficient information relating to the contributions required of sites Hs0 and Hs1 towards the grade separation of Sheriffhall. They also cited an incorrect reference to the ongoing SESplan cross boundary transport study.
- 3.9 **SESTRANS'** the regional transport authority, supports the Proposed Local Development Plan for Midlothian. It provides a clear vision of how the area will grow and develop and goes some way in addressing the range of issues facing the area and is focused on promoting and managing achievable sustainable growth.
- 3.10 **Scottish Enterprise** is broadly supportive of the plan and the Council's approach towards economic development. However, they do feel more could be done to protect and promote the life science sector development at 'The Bush'.
- 3.11 **Scottish Water** are broadly supportive of the Proposed Plan, but have suggested some minor amendments.
- 3.12 **Scottish Environmental Protection Agency (SEPA)** is supportive of many parts of the plan but raises objection to aspects relating to flooding and the stated need for flood risk assessment for committed and proposed development sites. SEPA objects to the committed development sites having not been subject to site assessment in the production of the Proposed Plan.
- 3.13 **Historic Environment Scotland (HES)** is not making formal representations to the plan. Instead HES offers informal commentary and advice. It states that the plan is clearly presented and structured, accessible and clearly written. The policy framework is robust and provides an adequate level of clarity.
- 3.14 **Scottish Natural Heritage (SNH)** is broadly supportive of the plan and considers it to be clearly written and generally easy to navigate. SNH agree with the plan's vision (but considers it will be challenging to deliver) and the Council's approach to sustainable place making, active travel, Green Network and designated sites.
- 3.15 The **NHS** submitted comments at the Main Issues Report stage of the plan, but made no representation in respect of the Proposed Plan.

Responses from Community Councils

- 3.16 The comments from the **Community Councils** are summarised in Appendix 5 of this report. As well as objections there were comments supporting the position of the plan in respect of removing the site at

Kippielaw/Easthouses, the Newbattle Strategic Greenspace safeguard and for not including Airfield Farm as an area of search for coal extraction.

- 3.17 Objections to the Proposed Plan, from Community Councils covered a range of issues but clearly focused on the strategy for growth and scale of development planned, and the impact this would have on infrastructure and services. Transport issues and the impact of the proposed realignment of the A701 were a concern for some as was the insufficient level of support given to Town Centres over out of town retail facilities and the lack of promoting small local opportunities. Specific objections to the housing sites at Bilston (Hs16), Penicuik (Hs22), Pomathorn Mill (Ahs4) and Wellington School (AHs5) and concern that the affordable housing sector is not well defined or provided for. Having supported the exclusion of Airfield Farm as an area of search for coal extraction there were concerns expressed that the area at Halkerston was retained in the Proposed Plan despite being identified for deletion at the Main Issues stage. In addition there were concerns expressed about the plan preparation and consultation process and lack of Supplementary Guidance to consider along with the Proposed Plan.
- 3.18 The representations submitted by the Community Councils have been considered, but it is not proposed to make any formal modifications to the proposed plan at this stage. If no modifications are made then the objections are considered “unresolved issues” and as such would be reported to and form part of the Examination into the Proposed Plan. No modifications are proposed in response to the Community Council comments for one of the following reasons:
- it is considered that the issue raised has been satisfactorily addressed in preparing the plan and the submission does not raise any new issues that are of a material nature to consider modifying the plan;
 - there is a disagreement with the proposed modifications;
 - no modifications are proposed;
 - the issue raised is a matter for consideration at the planning application stage; or
 - although there is merit in the suggested modification the planning authority is content to allow the Reporter to determine the issue through Examination rather than delay the process at this stage.

Response from Homes for Scotland

- 3.19 **Homes for Scotland** (HfS) submitted comments and objections to the Proposed Plan regarding the housing land requirement and land supply, committed development, affordable housing, developer contributions for new development, masterplans and development briefs and policy NRG3 on energy use and low and zero carbon technology. Their principal objection is to the lack of any detail as to how the plan will meet the strategic housing requirement up to 2019 and between 2019-24 and that the Council has not applied any generosity allowance to the overall housing land requirement in the plan, which in HfS opinion is not consistent with Scottish Planning

Policy. They acknowledge that the Proposed Plan meets the strategic housing land requirement set out in SESplan SPG but would not meet the increased housing land requirement that would result from a 10% generosity allowance being applied.

- 3.20 HfS welcomed the recognition given to ensuring committed sites remain deliverable as well as the general approach to affordable housing requirements although the difference in requirements from the 2003 plan (from 5-10% to 25%) may affect the deliverability of some sites. In addition viability may be affected by the lack of detail on the level of developer contributions identified in policy IMP1 and the Action Programme or revised supplementary guidance. HfS objects to the scope of energy policy NRG3 stating that planning policy should not be used to exact higher standards in terms of energy use and carbon emissions than are stipulated in through the Building Standards regime.

4 Scope for Modifying the Proposed Plan

- 4.1 The Proposed Plan as originally approved in December 2014, represents the settled opinion of the Council. Many of the matters raised through the representations have been dealt with in the preparation of the plan and therefore, do not raise any new material issues which would significantly change the Council's agreed position; are considered to be matters which are more appropriately dealt with at the planning application stage or are simply disagreements with the Council's position. In such cases these matters are ordinarily best dealt with through the independence of the Examination process. In some cases there are no modifications or changes suggested to the plan.
- 4.2 Regulations allow for modifications to be made in respect of representations received and the scope for making modifications is set out in Appendix 7 to this report. However pre-examination negotiations and notifiable modifications can cause significant delays and should not be undertaken as a matter of course but only where an authority is minded to make significant changes to the plan (paragraph 87 of Circular 6/2013: Development Planning, Appendix 7). In addition making notifiable modifications at this stage of the process (adding, removing or significantly altering any policy or proposal in the plan) would require the Council to republish the plan, offer a further opportunity to make representations and carry out a further neighbour notification process on the proposed changes. In the event that the Council were to make modifications that change the underlying aims or strategy of the Proposed Plan then it would be required to prepare and publish a totally new proposed Local Development Plan. In each case the modification process would introduce delays, increase uncertainty within the development sector (and affected communities) and incur additional cost.
- 4.3 For expediency, proceeding from the Proposed Plan to Examination, Circular 6/2013 highlights that the Examination process provides an opportunity for the Council to support a change to the plan. If an authority sees merit in a particular representation and modification they can indicate that position in their response to the Reporter (in the

Schedule 4 submission) and let them make an appropriate recommendation based on the evidence presented.

- 4.4 Having carefully considered the representations/objection received, then in the vast majority of cases it is recommended that no modifications are made to the plan at this stage. Likewise, having taken account of the opinions expressed in respect of the revised Environmental Report it is considered that they would not have significantly influenced the assessment process or outcome which would require changes to the Proposed Plan. However, in 16 cases it is considered there would be merit in the proposed changes but to modify the plan at this stage would delay the Examination and subsequent adoption process. Therefore it is recommended that the Council (through the schedule 4 submission) allow the Reporter to determine the matter at Examination. A list of these cases is attached in Appendix 6.
- 4.5 The list of summaries and responses will form the basis for identifying the unresolved issues to be submitted to Ministers along with the Proposed Plan, Action Programme and Revised Environmental Report. The list of unresolved issues will also inform the preparation of the Schedule 4 templates as part of this and the Examination process.

5 Report Implications

5.1 Resource

The cost associated with producing the Local Development Plan has to date been met within existing budgets. Budget provision has been made to cover the costs of the Examination in Public. However, if the Plan were to be modified and republished, any additional resource requirements arising from notifiable modifications, associated neighbour notification procedures and publication requirements would require supplementary budget provision.

5.2 Risk

Circular 3/2012 clearly states that while pre-examination negotiations can take place and notifiable modifications to the plan can be made, they can also result in significant delays and so should not be undertaken as a matter of course, but only where the authority is minded to make significant changes to the plan. Delays to plan preparation at this stage would:

- risk slippage, not only in the local development plan timetable but also with the emerging Strategic Development Plan (SESplan 2) timetable;
- introduce uncertainty for the development sector and existing businesses and restrict economic investment opportunities with a detrimental consequential impact on the local economy and jobs;
- continue uncertainty for communities, local organisations and interested parties affected by the proposals in the plan;
- risk increased challenge to the effective housing land supply and raise the spectre of planning by appeal.

- 5.3 Single Midlothian Plan and Business Transformation**
The development plan process is relevant to the themes of Adult health care and housing, improving opportunities in Midlothian and sustainable growth.
- 5.4 Key Priorities within the Single Midlothian Plan**
The Midlothian Local Development Plan (MLDP) 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 opportunities across Midlothian.
- 5.5 Impact on Performance and Outcomes**
This report represents the final stages of preparing the Midlothian Local Development Plan before examination and adoption. Once adopted, it will provide the policy and development framework to support improving opportunities in Midlothian and supporting sustainable growth.
- 5.6 Adopting a Preventative Approach**
The MLDP provides land use planning policy guidance for investment in future growth and development across the Council area up to 2024 and 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.
- 5.7 Involving Communities and Other Stakeholders**
The local development plan process has been subject to public consultation at the Main Issues Report stage (in accordance with the activities and timetable set out in Development Plan Scheme No. 5) and the Proposed Plan was placed on deposit for a period of representations to be made which ran throughout May and June 2015. The latest Development Plan Scheme No. 8 sets out the remaining stages of the development plan process.
- 5.8 Ensuring Equalities**
The Main Issues Report and Proposed Plan was the subject of an Equalities and Human Rights Impact Assessment and approved by Council.
- 5.9 Supporting Sustainable Development**
The MLDP is subject to Strategic Environmental Assessment. An interim Environmental Report accompanied the Main Issues Report. An updated report was prepared to accompany the Proposed Plan published in May 2015.
- 5.10 IT Issues**
There are no IT issues arising from this report.

6 Recommendations

6.1 The Council is recommended to:

- a) approve the responses to the representations and those cases identified in Appendix 7 as the recommended position in respect of modifying the Proposed Plan;
- b) make the list of summaries and responses to the representations available to view online, on the public access terminal in Fairfield House and to make it available in electronic document format on request.
- c) direct the Planning Manager to make the necessary arrangements to submit the Proposed Plan and summary of unresolved issues to Scottish Ministers by end of June 2016 (subject to liaison with the Directorate of Planning and Environmental Appeals); and
- d) direct the Planning Manager to monitor progress and update Council of any changes to the proposed submission timetable and provisional examination programme.

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Background Papers: None

