

## **Midlothian Local Development Plan: Draft Action Programme Consultation**

**Report by Mary Smith, Director Education, Communities and Economy**

### **1 Purpose of Report**

- 1.1** This report informs Council of the responses received to the pre-publication consultation on the Draft Midlothian Local Development Plan Action Programme, and seeks approval of the amendments to that Action Programme.

### **2 Background**

- 2.1** The Town Planning etc (Scotland) Act 2006 and the Town and Country Planning (Development Planning) (Scotland) Regulations 2008 introduced the requirement that Councils prepare an Action Programme to accompany the local development plan and specify the purpose of the Action Programme, which is to set out a list of policy and infrastructure requirements necessary to implement the development strategy of the plan.
- 2.2** At its meetings on 16 December 2014, Council considered a report on the Proposed Midlothian Local Development Plan. In its recommendations, Council approved the draft Proposed Action Programme for the purposes of consultation with specified parties prior to bringing back an amended Proposed Action Programme for Council approval.
- 2.3** The consultation took place between 19 December 2014 and 23 January 2015. The parties contacted and those that responded included Key Agencies, Scottish Ministers and named parties having a responsibility to carry out an action or actions. A total of 73 invitations to comment were issued and 20 of these contacts responded. Copies of the responses received have been placed in the Members' Library for information, as has a summary schedule of the 90 separate points submitted.

### **3 Responses**

- 3.1** The responses received included comments and observations from all the relevant Key Agencies, Homes for Scotland and a number of house builders and/or their agents. The responses related generally to the policy actions, infrastructure requirements and supplementary guidance

sections of the Action Programme and specifically to the housing land allocations phasing programme, the infrastructure delivery timescales and the developer contributions process.

- 3.2** Overall the consultation process and the opportunity to comment on the draft Action Programme were welcomed. The response from some of the key agencies was very positive offering to provide further assistance or advice on a range of policy topics and supplementary guidance. One house builder expressed support for the delivery of the A701 Relief Road and confirmed they would work with the Council and other landowners to achieve this as soon as possible. Several respondents considered the content of the document to be clearly set out and fairly thorough in nature. However, a few respondents were confused about the status of the draft Action Programme and timing of the consultation. They suggested it would have been preferable to consult on the Action Programme alongside the published Proposed Plan. Homes for Scotland suggested that the consultation process should be more appropriately considered as a selected information gathering exercise at this stage to be followed by the formal representation period when the implications of the Action Programme can be fully considered alongside the Proposed Local Development Plan.

### **Policy Actions**

- 3.3** A small number of responses, mainly from Key Agencies, recommended changes to the policy actions section of the Action Programme. The suggestions sought greater clarity and that the status of the policy and actions identified be reinforced to ensure the appropriate parties were involved in the requirements. Where appropriate the changes have been incorporated into the amended document.

### **Infrastructure Requirements**

- 3.4** The majority of responses received related to the infrastructure requirements section of the plan. Some minor editing of the drainage requirements on sites Hs7 (Redheugh West phase2, Gorebridge), Hs16 (Seafield Road, Bilston) and Hs17 (Pentland Plants, by Bilston) has been incorporated in response to comments from Scottish Water and in respect of Transport Scotland's comments all requirements are now written in full to avoid any confusion or misinterpretation.
- 3.5** There was general support for the way the Council propose to manage and review the delivery periods for infrastructure provision acknowledging that there may be some variation over the exact timing once the section 75 developer contributions negotiation is concluded and/or the planning consent is issued. However, a few responses suggested that there was insufficient detail in respect of the scale and unit cost of the proposed infrastructure requirements for developers to undertake informed development appraisals. The Council has provided as much information as is practically possible at this stage and would propose to provide further detail when it publishes its revised supplementary guidance on developer contributions.

- 3.6** Several responses were received regarding the planned programming of the allocated housing sites in terms of start dates and/or annual completions. The draft Housing Land Audit 2014 informed the basis for this indicative programme. Where possible, changes have been incorporated to reflect the latest information and market analysis from the individual house builders.

### **Transport Requirements**

- 3.7** Notwithstanding their general support for the recent transport appraisal of the Proposed Plan, Transport Scotland raised a number of concerns about the transport policies and infrastructure requirements of the Action Programme and the pre-publication version of the Proposed MLDP. These largely relate to the level of detail and mechanism for delivery for the identified transport interventions but also include a request for the MLDP transport appraisal documents to be made available to inform comments and clarification on the timescales for the A701 Relief Road. Transport Scotland advised that they did not support the Council's position whereby Scottish Government are identified as responsible for delivering grade separation of Sheriffhall roundabout (policy TRAN3) and consider the Council does not acknowledge any adverse impact on the capacity of this junction arising from the MLDP strategy.
- 3.8** The Council has written to Transport Scotland to clarify some of the points in its response as it considers it has addressed as much detail as is appropriate at this stage of the plan process. This especially relates to Transport Scotland's concern regarding the traffic impact of site Hs0 at Cauldcoats. However, given that this was only included in the Proposed Plan at the Council meeting on 16 December 2014 it was not included in the original transport appraisal of the MLDP. To minimise concerns it is proposed to engage with Transport Scotland in an ongoing dialogue and this will also allow, as appropriate, any emerging information from Transport Scotland's cross boundary transport modelling work to be considered.

### **Developer Contributions Process**

- 3.9** A number of responses acknowledged the need to contribute towards essential infrastructure and facilities but reminded the Council that all requirements must comply with the principles and policy tests identified in *Circular 3/2012 Planning Obligations and Good Neighbour Agreements*. In response, it is considered that the Action Programme requirements comply with the Circular.

### **Supplementary Guidance**

- 3.10** Several responses sought clarification on the status of the proposed supplementary guidance. The list of proposed supplementary guidance in the Action Programme includes a reference identifying which items to be statutory supplementary guidance (SG) or non-statutory planning guidance (pg), however, it included no explanation to the (SG) and (pg) references.

## **Other Actions**

- 3.11** A small number of respondents suggested minor amendments to the content of various sections of the document, principally to provide greater clarity. The suggested changes to the “Introduction and Background” section and the “Monitoring and Review” section have been incorporated in the amended Action Programme.

A small number of changes have required related amendments to the Proposed Plan. These are of a non-material nature and fall within the remit of the Council’s decision of 16 December 2014.

## **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**

There is a statutory requirement to prepare an Action Programme as part of the Midlothian Local Development Plan process. There is a risk of legal challenge to the MLDP if the Action Programme is not prepared and published alongside the Proposed Plan within the prescribed timescale. Early consultation at the pre-publication stage and publication alongside the Proposed MLDP will mitigate this risk.

### **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 Impact on Performance and Outcomes**

Preparation of the Action Programme and 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 developments.

### **4.5 Adopting a Preventative Approach**

When prepared and adopted alongside the MLDP, the Action Programme will provide a framework to monitor the performance of the MLDP and the mechanism 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 2024. 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.

#### **4.6 Involving Communities and Other Stakeholders**

As mentioned in paragraph 2.2 the consultation on the pre-publication draft Action Programme was targeted to all stakeholders identified as having a responsibility in respect of the policy actions and/or infrastructure requirements. Comments received have been included in the amended Action Programme where appropriate, which will be published alongside the Proposed MLDP and will be publicly available for inspection and formal representation. Everyone on the MLDP consultation database will be contacted and informed of how and where to inspect the MLDP, Action Programme and other related documents as well as how to make representations.

#### **4.7 Ensuring Equalities**

The Action Programme provides an implementation framework for the policies and proposals contained in the MLDP and identifies the 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. The consultation on the Draft Action Programme was targeted to these named parties/organisations as opposed to individuals. An Equalities and Human Rights Impact Assessment (EQHRIA) was carried out on the MLDP Proposed Plan and is available in the Members' library. Its findings can be summarised as follows:

- the impact of the Proposed Plan on the following equality target groups was positive: age, disability, people experiencing poverty or at risk of poverty, and travelling people or gypsies;
- the impact on other target groups was considered to be neutral; and
- no negative impacts were found.

As the Action Programme raises no new issues over and above those identified in the MLDP, it is considered that there is no requirement to carry out a separate EQHRIA on the Action Programme. Once approved, the finalised Action Programme will be placed on deposit alongside the Proposed MLDP for inspection and formal representations. All responses received on both documents will be subject of a further report to Council in due course.

#### **4.8 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).

#### **4.9 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. An inventory of these comprises the Appendix to this report. As the Action Programme document is substantial and was provided to Members with the agenda for the Council meeting on 16 December 2014 it has not been included with the paper for this meeting.
- 5.2** It is considered that the recommended amendments provide greater accuracy and clarity of interpretation, and therefore do not comprise any substantive change to the Proposed Midlothian Local Development Plan as approved by Council on 16 December 2014 for publication.

## **6 Recommendation**

- 6.1.** It is recommended that Council approves the proposed amendments to the Action Programme as detailed in the Appendix to this report for the purposes of formal representation alongside the Proposed Midlothian Local Development Plan, subject to any non-material editing required in preparation for publication.

**10 February 2015**

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### **Background Papers:**

- Draft Action Programme – 2014
- Pre-Publication Midlothian Local Development Plan – Proposed Plan

***Declaration Box***

***Title of Report: Midlothian Local Development Plan: Draft Action Programme Consultation***

***Meeting Presented to: Council 10 February 2015***

***Author of Report: Ian Johnson***

*I confirm that I have undertaken the following actions before submitting this report to the Council:-*

- ☒ *All resource implications have been addressed. Any financial and HR implications have been approved by the Head of Finance and Human Resources.*
- ☒ *All risk implications have been addressed.*
- ☒ *All other report implications have been addressed.*
- ☒ *My Director has endorsed the report for submission to the Council Secretariat.*

*The report has an education interest.*

## MIDLOTHIAN LOCAL DEVELOPMENT PLAN: ACTION PROGRAMME

## Inventory of Proposed Amendments

ID No.	Organisation	Contact	Date Received	AP Reference	Comment-Change	Proposed Change
1	Scottish Water	Karen Bacon	09.01.15	Hs7-Redheugh West	Change requirement to - a drainage impact required to assess impact on network. Early discussions with Scottish Water are recommended.	Change
2	Scottish Water	Karen Bacon	09.01.15	Hs16 and Hs17 Bilston	Change requirement to - Water and Drainage Impact Assessments may be required to assess impact of development on network.	Change
3	SEStran	Alastair Short	13.01.15	TRAN3	Suggest reference to regional transport strategy to re-enforce the policies and actions referred to.	Change policy action for TRAN3 and include SEStran in responsibility/involvement section.
4	Historic Scotland	William Kidd	21.01.15	ENV22	Suggest amending the purpose of ENV22 to include reference to setting. Proposed wording to refer to "the character, appearance or setting"	Agree-Change
5	Historic Scotland	William Kidd	21.01.15	ENV20, 21	Suggest that gardens and designed landscapes and battlefields considered to be nationally significant refer to fact they are included in their respective inventories. If this is not felt necessary, recommend specific reference to "nationally important" battlefields.	Agree inclusion of nationally important reference to battlefields. Reference to inventories is already included.
6	Forestry Commission Scotland	David Galloway	22.01.15	ENV11	Suggest including reference to the Government's woodland removal policy in the action column for this policy to assist decisions to remove woodland (via planning application process).	Change - include reference to Government policy.



ID No.	Organisation	Contact	Date Received	AP Reference	Comment-Change	Proposed Change
7	Transport Scotland	Adam Priestley	23.01.15 (18.42)	General	AP should provide greater detail on delivery timescales, responsible organisation for delivery and how they will be funded. Suggest removing "as above" label and insert actual requirement to avoid misinterpretation by the reader. Would welcome sight of further drafts of the AP and suggest a meeting to discuss comments and the PP in addition to ongoing strategic modelling work.	Amend AP to include full reference to requirements as suggested. Next draft will be the deposit draft and TS will be asked to participate at that stage. Propose continued liaison with Transport Scotland.
8	Taylor Wimpey/Barton Wilmore	Andrew Fleming	23.01.15	Hs16, Bilston	Concerned about the phasing programme and request a revision to the table in the AP (refer to 1.0.4). Request the PP numbers of 350 and 350 be reflected in the AP and adjust annual completions (based on HfS standard 35 units pa per builder). Start 16/17 - 10-35-70-(115)-70-70-70-70-(350)-70-70-70-20-0-(700)	The AP will only include the phasing for the allocated sites; which for Hs16 will be 350 units. Will adjust programming to account for 2 builders operating but delay start year to take account of HLA 14 programming of current Bilston site, i.e. assume unlikely to have significant overlap. Will result in 45 units (2014-19) and 305 units (2019-24).
9	Paladin Ventures/Rick Finc Associates	Rick Finc	23.01.15	Section 1 introduction & section 6 housing allocations phased programme.	Do not support the proposed programming. Consider site could be developed earlier with a start in 2016/17 - as per 14/00910/PPP.	Amend programme as suggested.

ID No.	Organisation	Contact	Date Received	AP Reference	Comment-Change	Proposed Change
10	Paladin Ventures/Rick Finc Associates	Rick Finc	23.01.15	Section 3 monitoring & review	Paladin happy to supply progress updates to Council as part of monitoring exercise. Suggests rewording of reference to updating AP in 3.0.2. Change "(if required) on a biennial basis" to "at least on a biennial basis, or more frequently where necessary"	Agree to change.
11	Paladin Ventures/Rick Finc Associates	Rick Finc	23.01.15	Section 5 supplementary guidance	It would be useful to know which guidance will be new and/or updated as well as timescale for delivery and which will fall or be re-adopted with approval of LDP	Amend paragraph 5.0.1
12	CALA Management Ltd/PPCA	Robin Matthew	23.01.15	Hs9	Considers programming of site over-optimistic and suggest setting completions back by one year - would mean 28 completions in 2016/17 and 27 in 2017/18.	Agree change.
13	Grange Estates	Graeme Patrick	23.01.15	Hs10 - Site Programming	Programme for this site in 2015/16 is unrealistic. Happy to discuss details with Council but more realistic to suggest pushing back by 12-16 months (2016/17)	Revise phasing for >2019 and 2019-2024
14	Homes for Scotland	Tammy Adams	26.01.15	Drafting	Suggest deleting "and are satisfied with the planned programming identified in the settlement plans" from end of last sentence in 1.0.4	Acknowledge as a drafting error. Remove as suggested.