



DEVELOPMENT & TRANSPORT POLICY DEVELOPMENT & SCRUTINY PANEL

SESPLAN HOUSING LAND POSITION STATEMENT AND UPDATE ON THE LAND SUPPLY POSITION IN WEST LOTHIAN

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to advise the panel of a Housing Land Supply Position Statement approved by the SESplan Joint Committee on 30 September 2019 and to provide an overview of the current land supply position in West Lothian.

B. RECOMMENDATION

It is recommended that the panel notes the contents of this report and the SESplan Housing Land Position Statement (Appendix One).

C. SUMMARY OF IMPLICATIONS

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| I Council Values | Focusing on our customers' needs; being honest, open and being honest, open and accountable; making best use of our resources; and working in partnership. |
| II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment) | <p>Strategic Development Plan 2 (SDP2) was rejected by the Minister on 16 May 2019. SDP2 was to replace SDP1 which was approved by Scottish Government in June 2013.</p> <p>It should however be noted that the Scottish Parliament passed the Planning (Scotland) Bill on 20 June 2019 with one of the consequences being the removal of requirements to prepare strategic development plans.</p> <p>There are no equality, health or risk assessment issues associated with the SG.</p> <p>There are no risk assessment issues.</p> |
| III Implications for scheme of delegation | None. |
| IV Impact on performance and performance indicators | None. |

V	Relevance to Single Outcome Agreement	Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.
VI	Resources - (Financial, Staffing and Property)	None.
VII	Consultations at PDSP	None.
VIII	Other consultations	None.

D. TERMS OF REPORT

D1 Background

On 16 May 2019 Scottish Ministers issued their decision letter advising of rejection of SDP2. The decision letter sets out three reasons for rejection of SDP2:

1. The Scottish Ministers were not satisfied that the plan had been informed by an adequate and timely transport appraisal;
2. The plan does not take sufficient account of the relationship between land use and transport; and
3. The Scottish Ministers did not support the use of supplementary guidance to resolve this issue.

The Minister found that the requirements of Scottish Planning Policy (SPP), specifically paragraphs 272-275 in relation to Development Planning had not been met and, therefore, the plan was deficient. Ministers made no specific reference to housing land and numbers.

The Planning (Scotland) Act 2019 removes requirements to prepare Strategic Development Plans; these are to be replaced by Regional Spatial Strategies prepared by one or more planning authorities acting together. A Regional Spatial Strategy will have less status than an SDP, as it is not part of the development plan. There is no requirement for LDPs to be consistent with the Regional Spatial Strategy. However, LDPs will be required to have regard to an adopted Regional Spatial Strategy.

In the absence of a new SDP and a Regional Growth Framework/Regional Spatial Strategy SDP1 continues to provide strategic policy guidance for the SESplan area. This will impact on preparation of the next round of local development plans (LDPs) across the SESplan area.

SDP1 is now more than 5 years old having been approved by the Scottish Ministers in June 2013 and the Housing Land Supplementary Guidance was Adopted in October 2014. Therefore, both the plan and the guidance are now more than 5 years old. Where a plan is more than 5 years old Scottish Planning Policy (SPP) states in paragraph 33 that, in these circumstances, the presumption in favour of development that contributes to sustainable development will be a significant material consideration in determining planning applications. Put another way, paragraph 33 states that the [housing] policies of the plan can no longer be relied on when considering planning applications for residential developments.

In the absence of a new SDP, and given the terms of Paragraph 33 of SPP further guidance is required to assist in the Development Management process. SESplan has, therefore, prepared a Position Statement on Housing to provide guidance to the SESplan member authorities when determining planning applications whilst a Regional Spatial Framework/Regional Spatial Strategy as required by the Planning (Scotland) Act 2019 are agreed.

D2 SESplan Housing Land Position Statement

The SESplan Housing Land Position Statement was approved by the SESplan Joint Committee on 30 September 2019 as a means to aid the SESplan member authorities in responding to planning applications for housing development which are viewed as being contrary to the development plan, and in the absence of an up to date development plan following the Minister's rejection of SDP2. The Position Statement is attached as Appendix One.

The Position Statement sets out those matters which the SESplan member authorities can take into account when assessing and determining planning applications for housing development which are contrary to the development plan. Those matters are:

1. the provisions and requirements of policies 7, 8 and 9 of the approved SDP1 which address housing land supply, transport and infrastructure issues;
2. the level of housing provision allocated and/or safeguarded in adopted LDPs;
3. updated information from the latest Housing Land Audit, where based on HoNDA2;
4. the Housing Needs and Demand Assessment 2015 (HoNDA2);
5. SDP2 Examination report; and
6. SDP2 Proposed Plan Housing Background Paper (October 2016).

The Position Statement will remain in force until such time as a Regional Spatial Framework/Regional Spatial Strategy and/or a new local development plan (LDP) is in place.

D3 West Lothian Council Position

The council did not raise any objection to the terms of the SESplan Housing Land Position Statement and recognises its value in terms of setting out a starting point for debate on land supply issues. However, individual authorities may wish to set out more detailed interpretations within the framework.

The position paper sets out the terms of SDP policies and the relevant paragraphs of SPP. However, as set out above the terms of Paragraph 33 of SPP mean that these policies should no longer be relied on. If this is the case it is for the decision maker to place whatever weight on other material considerations as they see fit.

It is the view of officers that this now places greater importance on the terms of Housing Needs and Demand Assessment 2 (HoNDA2) which has formed the basis of the council's land supply position for a number of years. Against HoNDA2, the council's annual housing land requirement was assessed as 711 completions per annum (based on the Wealth Distribution Scenario) as opposed to over 2,000 completions per annum which is the assessment of some reporters in recent appeal decisions in West Lothian.

Interestingly, in a response to a further information request relating to an appeal by Murray Estates against the refusal of planning consent for a mixed use development on land at Gogar in West Edinburgh the agent for the applicant sets out the status of SDP1 policies and the plan's housing supply position in the SESplan area.

That assessment is consistent with the officer view set out in this paper, and at recent planning appeals, and concludes that HoNDA2 should now form the basis of any need calculation and in doing so concludes that there is an 11 year effective land supply in West Lothian.

D4 Methodology for Calculating the Five Year Housing Land Supply

There is no agreed methodology for the calculation of the five year effective housing land supply. Scottish Government in its draft Planning Advice Delivery Note: Housing and Infrastructure set out a methodology however the Note was withdrawn by Scottish Government and has not been replaced. The method the council uses for calculating the 5 year effective housing land requirement against SDP1 is as per this guidance.

In the Examination report on SDP2 the Reporter, in a critique of SDP1 housing targets, found (para 36, page 240) *'... that analysing performance against SDP1 requirements is of little assistance to an assessment of the extent of the actual housing supply backlog. This is because SDP1 targets were based on an earlier HNDA that no longer provides the most up to date and reliable picture of housing need and demand. I agree with Homes for Scotland and the authority that if one is to look at whether a housing supply shortfall has accrued, the appropriate comparison would be between what was estimated to be required between 2012 and the present day in the 2015 HNDA and what has actually been delivered over that period'*.

As a consequence of the Reporter's findings, the Reporter recommended that table 5.1 of the SDP which outlines the housing supply targets covered the period 2012 – 2030, as opposed to the period 2018 – 2030 which was contained in SDP2 Proposed Plan.

The SDP Report of Examination has been considered by Scottish Ministers and while they found dissatisfaction with certain issues, no dissatisfaction or disagreement was found with the Reporter's findings on HoNDA2, the Reporter's conclusion on SDP1 housing targets, or the Reporter's recommendation to apply HoNDA2 from 2012 (rather than 2018 that was in the SDP Proposed Plan).

The fact that there is no agreed or definitive methodology for calculating the land supply will continue to leave it open to reporters to choose whatever methodology he or she favours from the options put before them. This lack of certainty has been raised on two occasions with the Chief Planner at the Scottish Government but unfortunately the Chief Planner has been unable to provide any comfort as to when this entirely unacceptable position will be resolved. It seems that the first opportunity for doing so will be approval of National Planning Framework 4 which is likely to be two years from now.

The council asserts that any shortfall in housing completions against SDP1 housing targets is not due to a lack of a supply of suitable housing land, it is due to the well documented economic downturn which resulted in lower mortgage availability and restricted development finance. Any housing shortfall arising in the first plan period of SESplan is, therefore, not carried forward into the second plan period and the calculation of the future five year housing requirement.

The absence of an agreed methodology for the calculation of the five year effective housing land supply continues therefore to leave the council at risk and open to inconsistency on the part of Reporters charged with determination and issue of Appeal decisions.

E. CONCLUSION

The rejection of SDP2 has led to SESplan issuing a Position Statement in relation to housing land. It is open to the SESplan member authorities to use this Statement when responding to planning applications which are contrary to the development plan and any subsequent planning appeals arising. The lack of an agreed methodology for the calculation of the five year effective housing land supply provides for inconsistency in decision-making and uncertainty for all parties involved.

F. BACKGROUND REFERENCES

None

Appendices/Attachments – One

Appendix 1: SESplan Housing Land Position Statement

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11 February 2019