



## West Lothian Council

### COUNCIL EXECUTIVE

### WEST LOTHIAN LOCAL DEVELOPMENT PLAN

### DEVELOPMENT PLAN SCHEME No.3 & CALL FOR SITES

### REPORT BY PLANNING SERVICES MANAGER

#### **A. PURPOSE OF REPORT**

The purpose of this report is to advise Members:

1. of the preparation of updated timescales for the preparation of the draft Strategic Development Plan (SDP) and note the position;
2. of an updated Development Plan Scheme (DPS No.3) for the West Lothian Local Development Plan (LDP) (The West Lothian LDP will replace the current West Lothian Local Plan);
3. that the Planning Services Manager wishes to seek the authority of the Council Executive to issue a 'call for sites' which could be considered in the preparation of the LDP and to seek views on issues for the LDP through a general questionnaire to be issued to interested parties; and
4. that the Planning Services Manager wishes to seek the authority of the Council Executive to begin consultation with key agencies such as SNH, SEPA and NHS Lothian in order to identify their requirements and meet statutory obligations for engagement during preparation of the LDP.

#### **B. RECOMMENDATION**

It is recommended that the Council Executive:

- 1) notes and endorses the draft DPS No.3 for the West Lothian LDP attached as Appendix 1 and delegates any potential minor changes to DPS No.3 to the Planning Services Manager;
- 2) notes and endorses the approach outlined above towards taking the LDP forward;
- 3) delegates to the Planning Services Manager arrangements for moving forward on the LDP as set out in this report.

#### **C. SUMMARY OF IMPLICATIONS**

##### **I Council Values**

Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; working in partnership.

- II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)**
- Preparation of a SDP and LDP are statutory requirements under the terms of the Planning etc. (Scotland) Act 2006. Once approved, the SDP will replace the approved Edinburgh and the Lothians Structure Plan 2015 (E&LSP) whilst the LDP will replace the adopted West Lothian Local Plan (WLLP). Both the SDP and the LDP will, in time, become material considerations in the determining of planning applications and when approved, will form the next development plan for West Lothian.
- The questionnaire in Appendix 3 will also include a section for the purposes of Equal Opportunities Monitoring. The Main Issues Report for the WLLDP, to be published next year, will be accompanied by a full Equality and Human Rights Impact Assessment.
- A Draft Environmental Report will be prepared to accompany the future Main Issues Report for the LDP and a full Strategic Environmental Assessment (SEA) will accompany the Proposed Plan stage of the LDP.
- III Resources - (Financial, Staffing and Property)**
- The terms of the emerging development plan for West Lothian will have financial implications for the council in terms of capital and revenue expenditure. These cannot be quantified at this stage. There may also be implications for capital receipts.
- IV Consultations**
- The report was considered at the Development and Transport Policy Development and Scrutiny Panel on 9 December and it was agreed to refer the report to the Council Executive for approval. No other consultations were required in the preparation of this report.

## **D. TERMS OF REPORT**

### **BACKGROUND**

#### Purpose of the DPS

Section 20B of the Planning etc. (Scotland) Act 2006 requires planning authorities to prepare a DPS at least annually for the SDP and LDP. The purpose of a DPS is to set out the programme for preparing, reviewing and consulting on the SDP or the LDP.

Regulation 24 of the Development Planning (Scotland) Regulations 2008 and Circular 1/2009 *Development Planning*, requires a DPS to contain a timetable which should specify the month when the council proposes to publish its Main Issues Report (MIR), publish the proposed plan and submit it to Scottish Ministers.

After adopting a DPS, the Act requires planning authorities to publish it (including electronically), send two copies to Scottish Ministers and place copies in public libraries. It should be noted that there is no requirement to consult on the content of a DPS and no provision for Ministers to approve it.

The DPS must include a participation statement (PS) which should indicate when, how and with whom consultation will take place. It should also set out the authority's proposals for public involvement in plan-making.

The revised, consolidated Scottish Planning Policy (SPP), issued in February 2010, states that **authorities should publish their DPS on an annual basis by 31 March in each particular year**. The emphasis should be on actions that have to be taken to ensure that an up-to-date development plan is in place as swiftly as possible.

The consolidated SPP states that the processes of engagement, information gathering and assessment should be "proportionate and fit for purpose" and "contracting out parts of the plan preparation, including community engagement, may offer scope for effective management of the process."

Best practice in consultation and engagement is set out in Planning Advice Note 81 *Community Engagement – Planning with People* (PAN 81). The aim is to make plan-making more open, inclusive and accessible. People are expected to be engaged early in the LDP process and PAN 81 identifies the LDP Main Issues Report stage as the means of meeting this requirement.

SESplan is the planning authority responsible for preparation of the SDP. West Lothian Council is one of the member authorities which comprise SESplan. The timescales for taking forward the SDP reflect current progress on plan preparation. This has influenced the requirement to amend the timescales set out in the DPS No.2 for the West Lothian LDP as now set out in the draft DPS No.3 attached as Appendix One.

It is understood the timetable in the draft SDP DPS No.3 sets out the following milestones and timescales for progressing the SDP:

- SESplan created [**June 2008**]
- Approval of Edinburgh and South East Scotland SDP boundary [**Nov 2008**]
- Publication of Development Plan Scheme No. 1 [**March 2009**]
- Preparation of Main Issues Report and supporting documents, commissioning and receiving background studies e.g. Green Belt study, Housing Needs and Market Assessment, Monitoring Statement, Urban Capacity Study etc; and commence strategic environmental assessment (SEA) process [**Jan 2009 – March 2010**]
- Publication of DPS No.2 [**April 2010**]
- Publication of Main Issues Report (MIR) and Interim Environmental Report (IER) [**May 2010**]
- Statutory Consultation on MIR [**May – August 2010**]
- Analysis of MIR and ER representations and publish formal response [**Sept. – Nov 2010**]

- Preparation of Proposed Plan and updated Environmental Report [**Sept 2010 – May 2011**]
- Publication of Proposed Plan including ER and Action Programme [**October 2011**]
- Formal representation period for submission of objections [**October 2011 – January 2012**]
- Analysis of formal representations [ **February - April 2012**]
- Submission of SDP to Scottish Ministers including Action Programme and ER [ **June 2012**]
- Examination in public of outstanding objections and final Ministerial decision. [**to be determined by Scottish Ministers**].

The key change to note from the previous DPS (DPS No.2) is that publication of the proposed plan is now anticipated in October 2011 as opposed to February 2011. As a result, it is anticipated by SESplan, that there will be a change in the programme for publication of the Proposed Plan, consideration of representations and submission to Scottish Ministers thereafter. Details of the final version of SDP DPS No.3 will be reported to a future Development and Transport Policy Development and Scrutiny Panel and Council Executive for noting.

Given this timescale, the earliest date that the SDP would be approved by Scottish Ministers is likely to be mid 2013.

### **PROPOSED DEVELOPMENT PLAN SCHEME No.3 FOR THE WEST LOTHIAN LDP**

With regard to the West Lothian Local Development Plan DPS, in order to meet the Scottish Government's requirement that a DPS is prepared by 31 March 2011, a draft DPS (DPS No.3) has been prepared and is attached as Appendix One. The Council Executive is asked to note that timescales for the various stages of suggested progress for the LDP have not changed significantly from DPS No.2 dated March 2010. Where changes have been made these take account of some minor changes set out in the draft SDP DPS No.3.

Given that progress on the SDP has a direct influence on the progress of the LDP, it is proposed that the West Lothian LDP DPS No.3 sets out the following timescale for preparing the LDP:

- Publication of Development Plan Scheme No.3 **31 March 2011 (or earlier)**
- Seeking expressions of interest in development sites and general questionnaire **January – April 2011**
- Preparation of Main Issues Report **Autumn 2011**
- Publication of Main Issues Report, Environmental Report, Monitoring Statement, Equalities and Human Rights Impact Assessment **Autumn 2011/Early 2012 (after publication of SESplan Proposed Plan)**
- Publish formal responses to Main Issues Report **Spring/Summer 2012**
- Publication of proposed plan including Environmental Report and Action Programme **within six months of Scottish Ministers approving the SDP**
- Examination of outstanding objections **within 12 months of the LDP being published.**

It should be noted that publication of the MIR is now likely to be around autumn next year at the earliest as opposed to summer 2011 as indicated in last year's DPS No.2, reflecting slippage in progress of the SDP. This will enable the council to assess fully the SDP Proposed Plan and for this to be taken into account in the preparation of the final version of the MIR for the LDP, now scheduled for publication in autumn 2011 at the earliest and certainly after publication of the Proposed Plan stage for SESplan.

With this timescale, the earliest date for adoption of the LDP would be late 2014, although it may be later than that.

The LDP DPS No.3 has been written in an accessible style and encourages people to register their interest in the LDP process, either in writing or electronically. A feedback questionnaire has also been included to help improve future DPS documents.

The DPS sets out the latest position with regard to the development plan in West Lothian and presents an updated indicative timetable for the LDP. This should help readers develop an understanding of the range of documents and tasks that will have to be completed in bringing forward the LDP.

The Participation Statement (PS) element of DPS No.3 continues to meet the requirements of the Act and accompanying Regulations and is informed by PAN 81 best practice recommendations. It is considered that the provisions for consultation proposed in DPS No.3 will continue to accord with and indeed extend beyond those suggested by PAN 81.

The Act requires, at the subsequent examination in public stage of the LDP, that the appointed reporter examines whether the council has conformed with, or gone beyond, the requirements of the PS that was current at the time the proposed plan was published. If the reporter is not satisfied that the planning authority has conformed to the PS, he or she may suggest (but not require) that further consultation takes place. Such a scenario could extend the timescale for bringing forward the LDP significantly. To minimise the risk of this, it is important that the details of the consultation process set out in the DPS are ambitious but also sufficiently flexible and deliverable.

## **THE WEST LOTHIAN LOCAL DEVELOPMENT PLAN (LDP)**

The West Lothian Local Plan was adopted by the council on 13 January 2009. Since that time, the focus has been on implementing the terms of the local plan, promoting supplementary planning guidance (SPG) to support the local plan, and the preparation of development briefs. It remains, however, a statutory requirement to ensure that the development plan remains up to date and that it is regularly reviewed.

Progress is now being made on the SDP and, given that it is some two years since adoption of the West Lothian Local Plan, it is now considered appropriate to progress preparatory work on the new LDP for West Lothian. The updated timetable for this is contained in the draft LDP DPS No.3 in Appendix One. It should be noted that the timescales for progressing the LDP reflect preparation of the SDP and as a result may be subject to change, therefore Members are asked to agree that any potential alterations to the LDP DPS No.3 be delegated to the Planning Services Manager.

Given that the LDP will be guided by the terms of the SDP, progress on the SDP will require to be monitored closely in order to ensure that both documents are complementary. Further, legislation requires that the replacement to the West Lothian Local Plan, the LDP, is prepared within five years of adoption of the previous plan. Essentially, this would require a new local development plan for West Lothian to be in place by January 2014. However, given that progress on the LDP is heavily reliant on progress on the SDP it is more likely that the earliest date for adoption of the LDP would be in late 2014.

Aligning preparation of the LDP with that of the SDP will also help interested parties obtain a better understanding of emerging policies and strategies. Some initial work on the LDP has begun with the publication of the monitoring report for the West Lothian Local Plan, approved by Council Executive on 23 November 2010. The West Lothian Local Plan Monitor will inform the LDP. In addition, an Issues Log to register those matters which may require consideration in the preparation of the LDP has also been established as well as an appeals register to assess appeal decisions on planning applications and the effectiveness or otherwise of the council's present development plan policies and supplementary planning guidance.

With work progressing on the SDP and with work about to progress on the Main Issues Report for the LDP, it is proposed to invite 'Expressions of Interest' in development sites from landowners and developers by inviting comments through advertising in the local press and through the council's website. Parties will have three and half months i.e. 14 weeks in which to submit Expressions of Interest, with a final deadline for comments/submissions being suggested of 29 April 2011. It is proposed that the formal advert would be placed in the local press and advertised on the website from the week beginning Monday 24 January, although the final details should be delegated to the Planning Services Manager.

This period of time is considered adequate at this stage to enable developers and other parties to submit information and is consistent with timescales undertaken by our neighbours Scottish Borders Council, who are also members of SESplan. It should be noted there will also be a further opportunity for parties to submit and make comments at the Proposed Plan stage.

In addition, it is proposed that early consultation commence with key agencies such as SNH, SEPA and NHS Lothian in order to identify their requirements and meet statutory obligations for engagement during preparation of the LDP.

As well as providing an Expression of Interests form for developers to complete, a general questionnaire on planning issues in West Lothian, accompanied by a Equalities and Human Rights Impact Assessment form, will be publicised and made available for any interested parties to complete through the website. Hard copies will also be made available from CIS offices, libraries and County Buildings.

It should be noted that it would be the intention to report to the Development and Transport Policy Development and Scrutiny Panel and the Council Executive on a regular basis on progress on the LDP.

## **E. CONCLUSION**

The DPS No.3 for the future West Lothian LDP requires to be submitted to Scottish Ministers by 31 March 2011. The draft LDP DPS No.3 is attached as Appendix One for assessment and discussion. If the Council Executive agrees to the content of the draft DPS No.3, two copies will be sent to the Scottish Government in line with the Development Plan Regulations. At the same time, hard copies will also be made available in libraries and CIS offices, at County Buildings and at the Civic Centre in Livingston as well as online on the development planning page of the councils website.

Both DPSs will be kept under review and published annually, as required by legislation. Should significant changes in the timescales to take forward the LDP become apparent, a further updated DPS can also be published.

It is hoped that the consultation seeking Expressions of Interest and the general questionnaire will begin in January as set out above, subject to approval of this report.

## **F. BACKGROUND REFERENCES**

The Development Planning (Scotland) Regulations 2008

Planning etc. (Scotland) Act 2006

Report and Appendix of DPS No.3 Scheme report to SESPLAN Project Board on 5 November 2010

Adopted West Lothian Local Plan 2009

West Lothian Local Development Plan Scheme No.1 – March 2009

West Lothian Local Development Plan Scheme No.2 – March 2010

Appendices/Attachments:

Appendix 1 – Draft Development Plan Scheme No.3 for the West Lothian Local Development Plan & Questionnaire

Appendix 2 – Draft Expressions of Interest Template

Appendix 3 – Pre Main Issues Report Questionnaire & Equal Opportunities Monitoring Form

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