

West Lothian Council
[REDACTED] - Planning Policy
Civic Centre
Howden South Road
Livingston
EH54 6FF

W.L.C.

11 JAN 2018

P&ED Support Services

Appendix 3

Our Ref: S003-WL02
Your Ref:

10th January 2018

Dear [REDACTED]

WEST LOTHIAN LOCAL DEVELOPMENT PLAN PROPOSED PLAN THE TOWN AND COUNTRY PLANNING (DEVELOPMENT PLANNING) (SCOTLAND) REGULATIONS 2008

PUBLICATION OF THE REPORT OF EXAMINATION

SITE H-LL 10 Clarendon Farm, Linlithgow

We write further to the publication of the Report on the Examination of the West Lothian Local Development Plan.

As you will be aware, in respect of Issue 15A, the Reporter has found that *"there remains considerable doubt that this site can be satisfactorily accessed"* and as a result recommended that site H-LL 10 Clarendon Farm should be deleted from the LDP in spite of the evidence of the Council and ourselves,

Enclosed is a copy of a letter we have today sent to Ministers, expressing our concern at the approach of their Reporter to this matter. As you will see, this letter sets out in some detail, our concern over the approach of their Reporter to the evidence presented, and the conclusions which they have reached.

In light of this, we would invite the Council to use their power under Section 2(c) of The Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009, to decline to make the modifications recommended under Issue 15A with respect to Site H-LL 10 Clarendon Farm, and to retain it in the LDP as an allocated site for housing.

It is our view that the Report of Examination, and our analysis set out in the attached letter demonstrates that the modification recommended (the deletion of the site from the LDP) is *"based on conclusions that the appointed person could not reasonably have reached based on the evidence considered in the course of the examination"*. It does therefore fall within the scope of those Regulations.

Please do not hesitate to contact us if you have any queries or wish to discuss this further.

Yours sincerely,

for Gladman Scotland
planningscotland@gladman.scot

enc. 10th January 2018 letter to Ministers

[REDACTED]
Minister for Local Government and Housing
Victoria Quay
Edinburgh
EH6 6QQ

Our Ref: West Lothian LDP
Your Ref: LDP-400-1

10th January 2018

Dear Minister,

**WEST LOTHIAN LOCAL DEVELOPMENT PLAN PROPOSED PLAN
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT PLANNING) (SCOTLAND)
REGULATIONS 2008**

PUBLICATION OF THE REPORT OF EXAMINATION

SITE H-LL 10 Clarendon Farm, Linlithgow

We write further to the publication of the Report on the Examination of the West Lothian Local Development Plan, dated the 11th of December 2017.

Having examined the Report, we are concerned that the conclusions of the Reporters, and by extension, Ministers are unfounded, based on a misinterpretation of the evidence and unreasonable.

In particular, this relates to the conclusions of the Reporter in response to Issue 15A, but relates to the conclusions and analysis in relation to Issues 1A, 1I, and 15B.

In their consideration of Issue 15A, the Reporters conclusion was that site H-LL 10 Clarendon Farm should be deleted because, in spite of the evidence of the Council, the Reporter finds that *"there remains considerable doubt that this site can be satisfactorily accessed"*.

In conclusions on Issue 15B, the Reporter essentially replaces site H-LL10 Clarendon Farm, with another site, Kettlestoun Mains, not allocated by the Council, and to which the Council maintained an objection throughout the examination process. In reaching that conclusion, the Reporter gives weight to the overall shortfall in meeting the housing supply target in Issue 1A as well as their deletion of site H-LL 10 in Issue 15A (which would otherwise increase the already large shortfall by a further 120 units).

The Reporters' conclusions on Issue 15A attempt to set out their reasoning for this decision, and refer at paragraph 89 on page 649, to the 2015 Revised TA produced for the Council to support their proposed LDP allocations (this was Core Document CD195 during the examination). The 2015 TA to which the Reporter refers was prepared to *"support the preferred sites emerging through the plan preparation process"* and followed on from several years' work

during which the Council progressed from a Call for Sites process, all the way through to the Proposed LDP. That work refined the sites submitted to the Council, and assessed those sites on many criteria, including, but not limited to, their transport impacts.

In deleting the site at Clarendon Farm from the West Lothian LDP, on the basis of the 2015 TA, the Reporter has improperly applied the evidence of that document and failed to properly consider the traffic impacts of the 'alternative' site which they have allocated as mitigation in terms of unit numbers.

The 2015 TA considered the traffic impact of all sites proposed for development in the Proposed LDP. That TA was itself an evolution of an earlier 2014 document, which included assessment and scoring of the sites submitted at Call for Sites stage on transport grounds (this document was also before the Reporter as Core Document CD083). In the earlier assessment, the Kettlestoun Mains site scored badly in transport terms, in particular in relation to its impacts on the local road network and its impact on station parking.

Tellingly, the Clarendon Farm site scored significantly better against these factors, yet it was their interpretation of the impact of the site on the local road network which led the Reporter to delete the Clarendon Farm site from the LDP.

The 2014 assessment notes that the site which the Reporter essentially substitutes for Clarendon Farm has a "major impact" on station parking and may "require additional car parking to be provided" and that it will have a "major impact on road capacity where no improvements can be implemented" with regard to the local road network.

This contrasts sharply with the proposed allocation at Clarendon Farm which has "no significant impact" on station parking and only a "moderate impact" on local road capacity, which can be addressed through "minor improvements".

It was these assessments, coupled with other factors, which led the Council to propose to allocate the site at Clarendon Farm but not to allocate the site at Kettlestoun Mains.

In Issue 15B, the Council offers its summary of reasons for not including the site at Kettlestoun Mains and those include its location with a proposed SLA, its potential heritage impact and notes that "the site is not considered to meet the criteria for effectiveness... physical, contamination, deficit funding, infrastructure" (page 665). These conclusions were informed by both the 2015 TA and the 2014 Modelling which preceded it.

Prior to the examination of the LDP, the Council satisfied itself (in their conclusions on the response to representations on Issue 1i) that "development in Linlithgow [on the sites proposed to be allocated by the Council] can be delivered with no net detriment to the network" (page 175) and did not propose any amendments.

In presenting this conclusion to the Reporters, the Council did highlight to the Reporter both the 2014 Modelling and the 2015 TA Update on which their conclusions were made, which were submitted as Core Documents CD083 and CD195 respectively.

Paragraph 9, on page 176 of the Report (the Reporter's conclusions on Issue 1i) further highlight the unreasonable approach taken by the Reporter to the Clarendon Farm site; they note that "with the exception of site H-LL 10 Clarendon Farm, the acceptability, or otherwise,

of detailed development proposed on allocated sites and any mitigation that may be required should ultimately be for the development management process to determine”.

That the Reporters have suggested transport mitigation for all other sites can be determined through the development management process, even in the face of similar levels of objection to access and transport impacts of sites, but deleted the site at Clarendon Farm is clearly irrational and unreasonable. Coupled with the support of the Council for this site, and the conclusions of the modelling of the call-for-sites submissions, this casts the conclusions of the Reporter in respect of issues 15A and B in serious doubt.

In response to a Further Information Request, the Council confirmed, and the Reporter notes in paragraph 87, page 648, in their conclusions on Issue 15A that *“the Council confirmed that it considers Clarendon Road is a suitable access”* and that *“the Council has now advised that no specific improvements are required to the traffic and pedestrian infrastructure at the canal bridge in association with development at this site unless it exceeds 120 units”*. The Reporter further notes that the Council considers that the *“developer has options that may be progressed and appraised through a planning application”*.

This further calls into question the consistency and reasonableness of the Reporters’ approach, especially given their earlier noted comments regarding mitigation and the role of the development management process.

At paragraph 96, page 650 of the same section, the Reporter suggests that they *“find significant cause to doubt the Council position regarding the access arrangements for this site”*. As noted above, this forensic approach by the Reporter to one single site, which had been considered by the Council in detail at application, appeal, during the writing of the LDP, and again during the examination of the LDP, compared to the relatively light-touch consideration of the site which the Reporter allocates in its place is further evidence of inconsistency and unreasonableness.

In the case of the Kettlestoun Mains site, the Reporter dismisses the concerns over transport and access by suggesting that despite the distance of the site from the town centre and public transport, and despite the additional pressure in terms of car parking and congestion, such impact is inevitable and that *“any traffic... impacts could be considered and appropriate mitigation secured via the development management process”*.

It is irrational and unreasonable that the Reporter has reached those conclusions in respect of a site to which the Council objected, but does not consider that an element of additional congestion and mitigation through the development management process is acceptable for a site which the Council supports.

The comparative analysis offered above, is intended to highlight the failures in the Reporters decision making, not to suggest that the Kettlestoun Mains site in particular be removed from the LDP.

However, the comparison is forced by the way in which the Reporter has justified the allocation of a site rejected by the Council, on the basis of their deletion of a site proposed by the Council. It is clear from the conclusions of the Reporter on Issue 1A that the Council faces a serious shortfall of housing land, both in the five-year period and across the plan-period as a whole.

This adds further weight to the deletion of a site being an essentially irrational and unreasonable conclusion to reach, especially in light of the significant overall shortfall of housing sites to meet the requirements of the SDP identified in Issue 1A.

At paragraph 47, page 72 of their conclusions on Issue 1A, the Reporters were clear that the *“proposed plan is deficient in its failure to provide a sufficient amount of land which is effective, or expected to become effective, in order to meet the housing supply target... [and that the] ... Council would be unlikely to be able to demonstrate that it is maintaining a minimum of 5-years effective land supply at all times, or it seems, from the point of adoption”*.

In light of all of the above, we would urge the Ministers to consider again the conclusions of their Reporter with regard to site H-LL 10 Clarendon Farm, and to reinstate the site into the LDP as their Reporter has reached conclusions which they could not reasonably have done so based on the evidence considered in the course of the examination. The approach taken to Issue 4U, which was raised and dealt with after the publication of the original Report shows that the DPEA can still amend the Report at this time.

We have copied this letter to West Lothian Council.

Please do not hesitate to contact us if you have any queries.

Yours sincerely,

for **Gladman Scotland**
planningscotland@gladman.scot

cc:

West Lothian Council – [REDACTED]

DPEA – [REDACTED]