



MINUTES OF THE MEETING OF EAST LoTHIAN COUNCIL

TUESDAY 6 SEPTEMBER 2016
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON

Committee Members Present:

Councillor S Akhtar	Councillor N Hampshire
Councillor D Berry	Councillor W Innes
Councillor S Brown	Councillor M Libberton
Councillor J Caldwell	Councillor P MacKenzie
Councillor S Currie	Councillor K McLeod
Councillor T Day	Councillor J McMillan
Councillor A Forrest	Councillor J McNeil
Councillor J Gillies (Convener)	Councillor T Trotter
Councillor J Goodfellow	Councillor M Veitch
Councillor D Grant	

Council Officials Present:

Mrs A Leitch, Chief Executive (Items 2 and 3)
Mr A McCrorie, Depute Chief Executive (Resources and People Services)
Mrs M Patterson, Depute Chief Executive (Partnerships and Community Services)
Mr D Small, Director of East Lothian Health & Social Care Partnership
Mr R Montgomery, Head of Infrastructure
Mr D Proudfoot, Head of Development
Mr C Clark (Items 2 and 3), Principal Environmental Protection Officer
Ms M Ferguson, Service Manager – Legal and Procurement
Mr P Forsyth, Team Manager – Assets and Regulatory (Transportation)
Ms S Fortune, Service Manager – Business Finance
Mr E John (Items 2 and 3), Service Manager – Sport, Countryside and Leisure
Ms J Mackay, Media Manager (Items 2 and 3)
Mr I McFarlane, Service Manager – Planning
Ms W McGuire, Team Leader – Strategy and Development
Ms E McLean, Service Manager – Strategic Asset and Capital Plan Management
Mr R Parker, Service Manager – Education (Strategy and Operations)
Mr D Scott (Items 2 and 3), Quality Improvement Officer (Education)
Ms P Smith (Items 2 and 3), Principal Officer, Information and Research (Education)
Mr A Stubbs, Service Manager – Roads
Ms E Wilson, Service Manager – Economic Development and Strategic Investment
Mr P Zochowski (Items 2 and 3), Principal Planner (Policy & Projects)

Visitors Present:

None

Clerks:

Ms A Smith (Item 1)
Mrs L Gillingwater (Items 2 and 3)

Apologies:

Provost L Broun-Lindsay
Councillor F McAllister
Councillor P McLennan
Councillor J Williamson

Declarations of Interest:

None

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The Council unanimously agreed to exclude the public from Item 1, which contained exempt information by virtue of Paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

Update on Commercial and Legal Implications of Musselburgh Cluster Amendment as Determined by Council on 17 November 2015

A private report was submitted by the Depute Chief Executive (Partnerships and Community Services) advising the Council on the commercial and legal aspects of the proposed implementation of the Musselburgh Cluster amendment to Land Use Allocation MH1 of the draft Proposed Local Development Plan as determined by the Council on 17 November 2015. The Council agreed to approve the report.

PUBLIC

The public business commenced in the Corn Exchange, Haddington, at 11 am. The Depute Provost opened the meeting by welcoming all those present, after which the Clerk and Legal Adviser made a number of announcements in relation to health and safety, advice for the press and public in attendance, the timings for the meeting, and advice to Members as regards declaring views on specific sites included in the LDP.

2. EAST LOTHIAN PROPOSED LOCAL DEVELOPMENT PLAN – ASSOCIATED DOCUMENTS FOR APPROVAL (FOR REPRESENTATION AND CONSULTATION, AS APPROPRIATE)

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) seeking approval of the finalised Proposed Local Development Plan (LDP) to submit for representation. The report also sought approval of the accompanying Draft Action Programme and Environmental Report for consultation, and asked the Council to note the accompanying Draft Habitat Regulations Assessment and Equalities Impact Assessment.

The Head of Development reminded Members of the LDP process to date, advising that a settled view on development sites had been reached at the Council meeting of 17 November 2015. Following that meeting, a significant amount of technical work had been undertaken to support the delivery of the Plan and, in view of this, he suggested that no further debate around the spatial growth strategy or the sites should take place, other than those subject to the amendments approved on 17 November 2015.

The Service Manager – Planning, Iain McFarlane, then presented the report. He reminded Members of the amendments approved in November 2015, and provided the updated position in respect of those amendments. He summarised a number of key aspects of the report, including development planning considerations, considerations relating to prematurity and prejudice, the draft action programme, supporting technical information, and the procedures and timescales associated with the delivery of the proposed LDP.

Councillor Berry questioned why a number of aspects of the proposed LDP had changed since the version presented to Members in November 2015, mainly in relation to improvements to the rail infrastructure. Mr McFarlane advised that this proposal had been highlighted in SESplan Strategic Development Plan 2 (SDP2), which had been reported to the Council in August 2016. Councillor Berry remarked that he had raised concerns at that meeting about the proposed four-track section of rail line in East Lothian. As regards employment land in North Berwick, Councillor Berry asked why a number of proposals in his amendment of 17 November 2015 had been rejected. Mr McFarlane explained that, in relation to these, it had been made clear at the November meeting that Class 2 or 4 business use may be supported, subject to consideration of any proposal, and that there was therefore no requirement to include an allocation for this site. Regarding NK14, he reported that it would be inappropriate to allocate this site for geodiversity and landscape impact reasons.

In response to a number of questions from Councillor Currie on the allocation of sites and the growth strategy, Mr McFarlane confirmed that it was for the Council to determine the sites for housing developments, subject to the requirements of the SDP and of the Scottish Government's National Planning Framework (NPF) and Scottish Planning Policy (SPP). He advised that SDP supplementary guidance had been modified by Scottish Ministers prior to approval, and that it supported growth in the areas of greatest capacity, which in the case of East Lothian, was the west of the county. As regards SDP2, he outlined the strategy approved by Council in August 2016, noting that a compact growth strategy may continue to

be supported, but it would have to consider growth in different areas to those approved in the proposed LDP if there was no further capacity for growth.

Councillor Currie also questioned the ability of the Planning Committee to refuse applications for sites identified in the LDP. Mr McFarlane explained that the legislation allowed for consideration of individual planning applications and that the LDP allocations did not constitute approval of planning permission in principle. He added that each planning application had to be considered on its own merits and that assessments would depend on such matters as delivery of associated infrastructure and design of developments. He also referred to the design briefs (to be considered as part of Item 3), which set out how the Council would expect to see sites developed.

On the allocation of affordable housing, Mr McFarlane advised that the Housing Needs and Demands Assessment (HNDA) for SDP2 makes a distinction as regards tenures, and that it had identified a need for more than 25% of homes to be classed as affordable. However, for the purpose of this LDP, officers were obliged to set out a plan with an allocation of 25% affordable housing, compliant with Scottish Planning Policy. Mr Proudfoot indicated that this issue could be discussed in detail as part of Item 3, but noted that over the life of the LDP, there would be an opportunity to influence and deliver affordable housing at a pace and scale to meet demand.

Concerning the timescales for adopting the LDP, Mr McFarlane anticipated that, depending on the scale and complexity of the consultation responses and any required modifications, the LDP could be approved by early 2018, if not earlier.

Councillor Currie also asked a question in relation to developer contributions. Mr McFarlane explained that developer contributions could be used as capital funding and for essential infrastructure, but not for revenue funding. He suggested that it was for the Council to put a case to the Scottish Government for additional capital and revenue funding. Sarah Fortune, Service Manager – Business Finance, added that the Council's Financial Strategy made reference to accelerated growth, and that revenue and other resource implications of any new developments would need to be taken into account.

Councillor Akhtar asked about the Council's position with respect to fracking and opencast mining. Mr McFarlane advised that the Council had to identify East Lothian's coalfield, but reminded Members of the Council's view that there were no suitable opportunities for opencast mining. However, he noted that it was important to have a policy on opencast mining and other forms of extraction, including fracking. He referred to the Scottish Government's moratorium on fracking, and the need for the Council to have a policy on fracking to allow for the assessment of any future applications if the moratorium were to be lifted.

Councillor MacKenzie asked if the 'Countryside Around Town' designation was robust. Mr McFarlane informed him that this designation was acceptable in terms of SPP and the SDP, and that it was used in this case to set out future direction. He added that it would be reviewed as part of any further development of existing settlements.

Councillor Goodfellow asked if it was possible for the Council to give preference to planning applications for brownfield sites over those for greenfield sites. Mr McFarlane informed him that through SPP, there is encouragement to develop brownfield sites first; however, in the case of East Lothian, there were no significant brownfield sites available, and the Council was obliged to ensure that there was a sufficient housing land supply.

The Convener rejected a request by Councillor Berry to ask further questions. Councillor Berry requested that his objection to this refusal be recorded.

Councillor Hampshire opened the debate by thanking Douglas Proudfoot and his Planning Team, and officers from other service areas for their work in producing the documentation associated with the proposed Local Development Plan. He emphasised the importance of the Council approving the proposed LDP. He made reference to the wide-ranging consultation, and noted that the Council was in discussion with the Scottish Government as regards support for the delivery of the required infrastructure. He commended the proposed LDP to the Council.

Councillor Day expressed concern at the unprecedented scale of the development proposed, the potential impact on communities and, in particular, the impact on the transport infrastructure, which he believed would not be addressed through the interventions proposed. He spoke in support of the compact growth strategy, commenting that development should be situated as close as possible to the employment market. He declared that he would support the proposed LDP in spite of his concerns outlined above and of those in relation to a number of the site allocations.

Councillor Veitch echoed Councillor Day's concerns as regards infrastructure requirements, arguing that the Scottish Government would have to take responsibility for improvements to the trunk road and rail networks. He welcomed improvements to a number of railway station car parks and the proposal for a new station at East Linton. He also commended the policy on wind turbines and the safeguarding of land for power generation at Torness. However, he voiced his concern at the overall number of homes required.

With reference to the character of East Lothian, Councillor MacKenzie spoke of the importance of appropriate house design and the need to retain the sense of community. He feared that the scale of development in the west of the county would be a "violent assault" on the landscape of East Lothian, and on that basis, he declared that he would not be supporting the proposed LDP.

Councillor Berry remarked that the proposed development might be considered as "Edinburgh overspill". His view was that the proposed housing could be accommodated as long as the corresponding infrastructure was put in place, but feared that this would not be realised. He also spoke of the importance of increased employment opportunities within East Lothian, but criticised what he saw as an insufficient allocation of employment land in North Berwick and the missed opportunities for the former Cockenzie Power Station site. He questioned the definition of "affordable housing" and suggested that the only way of providing this was through Council-owned rented properties. He declared that he would not be supporting the proposed LDP.

Councillor Currie voiced his opposition at the strategy to locate the majority of housing in the west of the county, and expressed his concern at increased pressure on the A1 and what he saw as insufficient interventions in respect of the transport infrastructure. He described the proposals as a "tragedy for Musselburgh". He claimed that the proposed Plan failed to deliver what was in the best interests of the people of East Lothian and stated that he would not support it.

Councillor Goodfellow stated that he agreed with most of the proposed Plan; however, he did have concerns as regards a number of the allocations in his own ward. He too had worries about the transport infrastructure, and of development of greenfield sites. He advised that he would support the proposed Plan in order to protect communities in his ward.

Councillor McMillan spoke in support of the proposed Plan, and paid tribute to officers for their work. He argued that the proposals would help to support and enhance communities, as well as protecting the rural economy. He believed that the proposed Plan was forward-looking and should be supported, despite there being a number of valid concerns.

Councillor Akhtar commented that the allocation of houses must be done a way to protect the environment and stop indiscriminate development and over-development. She highlighted the need to develop health, education and transport services in a sustainable way to meet demand.

Councillor Grant remarked that successive governments had failed to deliver improvements to the infrastructure and that this issue would now need to be resolved. He accepted that the Council had had to make difficult decisions regarding site allocations, but argued that an LDP was needed in order to maintain a five-year housing land supply. Despite his misgivings, he stated that he would support the proposed Plan.

Councillor Innes reminded the meeting that it was an SNP government that had set the housing allocation for East Lothian and that the Council had approved the compact growth strategy as part of the SDP process when the SNP [and Liberal Democrats] were in Administration. He emphasised the importance of the Council agreeing a Local Development Plan in order to protect East Lothian in the future.

Councillor McNeil noted his support for the proposed Plan, and believed that despite Councillor Currie's comments, the Musselburgh community would also support it.

The Convener then moved to the vote on the recommendations as set out in the report:

For: 13
Against: 5
Abstentions: 1

Decision

The Council agreed:

- i. to approve the amended Proposed Local Development Plan (LDP) for representation;
- ii. to approve the Draft Action Programme and Environmental Report for consultation;
- iii. to note the accompanying Draft Habitat Regulations Assessment and the Equalities Impact Assessment;
- iv. to delegate authority to the Head of Development to amend the Proposed LDP and associated documents in respect of non-material editorial amendments, corrections of factual error and presentational changes; and
- v. to delegate authority to the Head of Development the consideration of representations to the Proposed LDP and associated documents, noting that responses to representations in the form of 'Schedule 4' documents, including any non-notifiable modifications to the Proposed LDP, would be brought to Council prior to submission of the Plan to Scottish Ministers for examination.

Sederunt: Councillor Forrest left the meeting.

3. EAST LOTHIAN PROPOSED LOCAL DEVELOPMENT PLAN – CONSULTATION DRAFT SUPPLEMENTARY GUIDANCE AND CONSULTATION DRAFT SUPPLEMENTARY PLANNING GUIDANCE FOR APPROVAL

A report was submitted by the Depute Chief Executive (Partnerships and Community Services) seeking approval, for consultation, of draft Supplementary Guidance and Supplementary Planning Guidance associated with the finalised Proposed Local Development Plan (LDP):

- Draft Developer Contributions Framework
- Draft Affordable Housing Quota and Tenure Mix
- Draft Development Briefs for proposed development allocations

The report advised that these associated documents would, after consultation and finalisation, provide for the interpretation and implementation of the relevant policies of the Proposed LDP.

Iain McFarlane, Service Manager – Planning, presented the report, advising that the Developer Contributions Framework had been drawn up in conjunction with a number of Council services, and that work was ongoing with other stakeholders and the development industry. He highlighted the need for change as regards infrastructure provision in order to deliver the LDP, noting that the proposed framework set out where interventions would be required, and the potential costs associated with them. He advised that the framework covered transport, education, health and social care and employment facilities. He stated that the proposed framework provided clarity on infrastructure requirements and should assist developers in their assessment of the viability of developments

Councillor Akhtar asked if the Scottish Government had provided any feedback on the proposed guidance. Mr McFarlane advised that feedback had been received as part of the MIR consultation; there had been some concerns expressed initially about some aspects of the guidance, but this position had changed as a result of the independent planning review.

In response to questions from Councillor McMillan concerning developer contributions, Mr McFarlane explained that the proposed policies would allow the Council to deal with developer contributions in a fairer way. He noted that Scottish Government officials had worked constructively with the Council, and that discussions had been very positive and forward-looking.

Councillor Berry raised a number of questions in relation to the draft Developer Contribution Framework. Mr McFarlane advised that contributions would be calculated in accordance with land values, the complexity and extent of the required intervention and the number of houses being delivered.

Councillor Hampshire proposed that a workshop should be arranged to allow Members the opportunity to question the documentation in detail. This suggestion was welcomed by other Members.

Mr Proudfoot reminded Members that they were being asked to approve the guidance documents for consultation. He welcomed feedback from Members on the draft Developer Contribution Framework. He drew attention to p. 11 of the document, which provided a summary of the framework. He also advised of engagement with Scottish Government officials, in order to ensure that the framework met the requirements of their guidance and policies. Responding to concerns raised by Councillor Berry, Mr Proudfoot referred him to various areas within the document which set out transport infrastructure contribution zones, and to the supporting documentation, available in the Members' Library.

On investment in health and social care services, David Small, Director of Health and Social Care, informed Members that the NHS had recently invested in services in a number of areas in East Lothian, with several other areas, including North Berwick and Haddington, earmarked for development. He stressed that it was not appropriate to expect developers to contribute to the cost of solving existing problems. He added that health provision issues in Musselburgh were related to recruitment and retention, and that the primary care facility had the capacity to accommodate the predicted population growth. He accepted that in some areas, increased housing development had resulted in inadequate health care capacity.

Responding to questions from Councillor Currie regarding the use of developer contributions for high school provision, Mr Proudfoot provided an explanation about 'growth zones' and how education contributions could be used within certain geographic areas. He believed that the proposed Framework was fair, transparent and allowed the Council a degree of flexibility.

Councillor Currie also asked how extending schools that were part of the PPP contract would be handled. Liz McLean, Service Manager – Strategic Assets and Capital Plan Management, advised that the PPP contracts had provision for changes, and referred to a recent extension to Ross High School. She explained that the new build element for a school could be funded separately and could then be added to the contract for maintenance and facilities management. Councillor Currie expressed concern about providing capital funding for part of a building that would then be added to the ongoing maintenance contract. Ms McLean added that that the Council did not have to do this, but that the provision existed.

Councillor Goodfellow asked if education contributions were required in respect of retirement housing developments and one-bedroom properties. Mr McFarlane advised that developers would be required to make a contribution for one-bedroom properties but not for developments that were specifically built as retirement housing.

Esther Wilson, Service Manager – Economic Development and Strategic Investment, went on to advise Members about the draft Affordable Housing Quota and Tenure Mix Supplementary Planning Guidance, which supported HOU3 and HOU4 of the proposed LDP and complied with SPP and Planning Advice Note (PAN) 2/2010. She noted that amendments would be required to Appendix 2 before being issued for consultation. Ms Wilson set out the process for determining housing land requirements, and the quotas for affordable housing, as per the Housing Need and Demand Assessment (HNDA). She pointed out that, in the short term, there was an annual affordable housing requirement of 41%, with the primary requirement for social rented housing, as identified in HNDA1 (2009–2032). She noted that the draft SPG sets a requirement of 25% affordable housing in developments of five or more units, in accordance with SPP, and that the Council would seek to secure delivery of these units on-site. Ms Wilson then advised of the various tenures that would be considered in respect of affordable housing, noting that the Council's preference was for social rented housing. She concluded her presentation by advising that the Supplementary Planning Guidance also covered design, layout and house types.

Councillor Hampshire proposed that a seminar be organised, involving affordable housing providers, developers and councillors, to debate the delivery of policies. This proposal was welcomed by other Members.

In response to a question from Councillor Currie as regards issues to be included in the consultation, Ms Wilson noted that it would not be competent to include some of his suggestions, such as the Council's compulsory purchase powers, as part of the proposed Supplementary Planning Guidance. However, this could be considered as part of the development of the next Local Housing Strategy.

Councillor Currie asked a number of other questions regarding affordable housing provision and the criteria used for LCHO. Mr McFarlane explained that affordable housing quotas were a matter for government, and reiterated that the current requirement had been set at a maximum of 25%. As regards the mortgage multiplier, Ms Wilson advised that the methodology could be discussed at the proposed housing seminar, but stressed that there had to be safeguards in place.

Councillor Berry expressed concern that the backlog of housing list applicants was not being addressed, nor was there evidence that there was a focus on the areas in greatest need of affordable housing. He argued that the majority of 'affordable houses' were not affordable for most people and that there was not an appropriate mix of tenures to meet demand. Ms Wilson pointed out that the HNDA figures took account of the backlog, adding that the Council could not impose a quota of over 25% affordable housing. Councillor Berry voiced his opposition to this position, suggesting that the Council could choose to build additional houses. Ms Wilson also advised that a commuted sum would only be acceptable where the viability of the proposed development was compromised or providing affordable homes on-site was not practical. Wendy McGuire, Team Leader – Strategy and Development, added that, currently, commuted sums could be used to deliver affordable housing anywhere in East Lothian, but that it was proposed to restrict it to the ward where the development was taking place; this issue would form part of the consultation that was about to commence.

Mr McFarlane then turned to the draft Development Briefs, advising of a recent consultation with residents in Gladsmuir, Humbie and East Saltoun, and noting that the responses to this consultation would be formalised through the forthcoming consultation process. He noted that work on the Development Briefs had been done in conjunction with Scottish Natural Heritage and that further work would be undertaken with landowners and developers to ensure that proposed developments reflected the guidance.

Councillor Hampshire repeated his request for a Members' workshop, in view of the extent of the detail in the documentation. Councillor Berry questioned why Members had not been involved in discussions on the documentation prior to the meeting. Councillor Hampshire reminded him of the various opportunities Members had been given to contribute to the process. Mr McFarlane advised that he was happy to organise a workshop for Members.

Councillor Trotter welcomed the consultation that had taken place as regards the design briefs for Humbie and East Saltoun, and also the opportunity for further consultation.

Councillor Berry expressed concern that it was now too late to influence the LDP. The Chief Executive reiterated that there had been a number of briefing sessions for Members during the past three years, which had provided adequate opportunities for Member input.

Councillor Berry argued that the proposals did not reflect the identity of East Lothian's settlements nor the wishes of residents, and suggested that there should be a settlement statement for every settlement in the county. He repeated that he had not had the opportunity to present his views on this, and that he had not been involved in the process.

Councillor Currie commented on the importance of the documents under consideration. He remarked that any consultation had to be credible and meaningful. He highlighted the need to provide affordable housing, raising concerns about the affordability of low cost home ownership (LCHO) properties, and advocating that there should be more rental properties available. He also questioned how developer contributions for schools might be used, and sought clarity on how decisions would be made as regards development of schools included in the PPP contract.

Councillor Akhtar welcomed the report, commenting that the Council was aware of the need for more affordable housing, and that it was being proactive in its approach.

Referring to comments made by Councillors Berry and Currie in relation to affordable housing, Councillor Goodfellow pointed out that the latest release of affordable housing in North Berwick would have a mixture of tenures, which would be of interest to a wide variety of potential occupants, including those looking to buy their first property.

Concluding the debate, Councillor McMillan spoke in support of the proposed housing seminar and the consultation with residents in Humble and East Saltoun on the development briefs. He believed that there had been ample opportunity to contribute to the process, and welcomed the further period of consultation.

Decision

The Council agreed:

- i. to approve for consultation the draft Developer Contributions Framework Supplementary Guidance;
- ii. to approve for consultation the draft Affordable Housing Quota and Tenure Mix Supplementary Guidance; and
- iii. to approve for consultation the draft Development Briefs Supplementary Planning Guidance.

Signed

Depute Provost Jim Gillies
Depute Convener of the Council