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To be read in conjunction with Report to ELC dated 29/05/18 titled East Lothian Local Development Plan 2018

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**EAST LOTHIAN LOCAL DEVELOPMENT PLAN 2018
PROPOSED EAST LOTHIAN LOCAL DEVELOPMENT PLAN
ASSESSMENT OF REPORT OF EXAMINATION: OFFICER SUMMARIES
AND RECOMMENDATIONS**

Issue 1	Introduction	
Development plan reference:	Chapter 1: Introduction (pages 1-10)	Officer(s) Jenny Sheerin / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

LANDSCAPE, NATURAL AND CULTURAL HERITAGE, PAGE 2

The Report of Examination notes that the Council considers it correct to highlight that settlements in the east are near the limit of what can be achieved in the way of expansion without significantly changing their character, setting and identity. Gladman Developments suggested that the relevant statement at paragraph 1.15 (pg2) was too broad to be accepted. The Report of Examination concluded that the statement does not exclude the scope for further expansion and that careful planning for future development will be required. Therefore no modification is recommended.

Officers recommend that these conclusions are accepted by the Council.

POPULATION AND HOUSEHOLDS, PAGE 3

The Report of Examination recommends that no post-examination modification is made in response to representation from RSPB that any development of brownfield land takes into account existing biodiversity features and mitigates against their potential loss. Policies NH1 to NH5 of the plan and the criteria within policies DP1, DP2 and DP4, provide sufficient measures to ensure biodiversity is fully assessed on specific sites and as part of the design process. The suggested best practice, in the form of a biodiversity checklist, is a matter for the Council to consider in the implementation of LDP1.

The representation by Fisherrow Waterfront Group concerns the spatial strategy of the plan and the level of growth directed to Musselburgh compared with previous levels. The Report of Examination endorses the proposed compact growth strategy. This strategy primarily focuses development on the main settlements within the west of the strategic development area which is considered to maximise the use of infrastructure capacity within the west rather than require provision elsewhere. The strategy also looks to support the regeneration potential of existing communities, particularly those within the former coal field area within the west of East Lothian. This area is recognised as a core part of the Edinburgh housing and labour market areas, with high mobile demand and high demand for affordable housing, all of which would ensure a greater likelihood of delivery of new housing and employment development. The Report of Examination

considers this to be an appropriate response to the development pressures faced within the area. No modification is recommended.

Officers recommend that these conclusions are accepted by the Council.

ENERGY AND RESOURCES, PAGE 6

The Report of Examination notes that paragraph 1.37 of LDP1 provides a description of the pattern of wind energy development within East Lothian. The suggested replacement of this paragraph would introduce a more general statement regarding Scottish Government's commitment to increasing the use of renewable energy sources. The Report of Examination notes that the potential for repowering existing sites is referred to in paragraph 1.37 of the plan and supported within Policy WD5, subject to meeting other relevant policy criteria. The remaining policy framework provides scope to consider all applications for wind farms consistent with the spatial framework within the plan which is consistent with Scottish Planning Policy. No modification is recommended.

Officers recommend that these conclusions are accepted by the Council.

SUMMARY, PAGE 6

The Report of Examination recommends that no post-examination modification is made to introduce specific references to built heritage being at risk if development is not introduced sensitively. The Report of Examination highlights that the plan is to be read as a whole and the protection and enhancement afforded to such features is already accounted for within the section on cultural heritage and within the relevant policies.

Officers recommend that these conclusions are accepted by the Council.

NATIONAL PLANNING FRAMEWORK (NPF) AND SCOTTISH PLANNING POLICY, PAGE 7

The Report of Examination notes that the Central Scotland Green Network is a National Development within NPF3. The Council explains that the statement in paragraph 1.47 of LDP1 essentially refers to the concept of the green network which is to extend into East Lothian rather than any physical extension into the area. The Report of Examination notes that LDP1 confirms at paragraph 5.25 that the green network extends within and between settlements and into the

countryside and along the coast. For consistency therefore, a modification is recommended to paragraph 1.47 (Modification 1).

Officers recommend that these conclusions and recommended post-examination modification 1 are accepted by the Council.

The Report of Examination also notes that NPF3 indicates that the priorities for the lead organisations involved in the green network should include promoting active travel, addressing vacant and derelict land and focusing action in disadvantaged areas, to maximise community and health benefits. Therefore the reporter accepts Scottish Government's suggestion that an additional reference to tackling vacant and derelict land is included within LDP1 and recommends a modification to that effect (Modification 2).

Officers recommend that these conclusions and recommended post-examination modification 2 are accepted by the Council.

COUNCIL PLAN, SINGLE OUTCOME AGREEMENT AND OTHER PLANS, POLICIES AND STRATEGIES, PAGE 8

The Report of Examination does not consider that the addition of references to the advice of Historic Environment Scotland and Scottish Natural Heritage being material considerations is required. Such matters are for the implementation of the plan and the Reporter is satisfied that a suitable policy framework is in place within the plan to respond to cultural heritage issues as they arise therefore no modification is recommended.

Officers recommend that these conclusions are accepted by the Council.

VISION, AIMS, OBJECTIVES, OPPORTUNITIES, PAGE 9 AND 10

The Report of Examination notes that a number of representations to this part of the plan criticise the lack of a long-term vision and the lack of clear outcomes that will deliver the vision over the next 15 years. The plan has to marry the strategic requirements of SESplan with the area's local aims and objectives as they relate to land use planning. Overall, the Report of Examination finds that the plan contains a vision which is consistent with SESplan and which provides for the future growth of the area over a suitable timeframe. No modifications have been recommended.

Officers recommend that these conclusions are accepted by the Council.

Save East Linton from Excessive Expansion is critical of the spatial strategy in that it increases the need to travel. The Report of Examination notes that the plan seeks to locate development where public transport can serve it best in order to minimise environmental impacts and where it promotes a reduction in travel and overall travel distances. No modifications have been recommended. The comments by East Lothian Liberal Democrat Party regarding the involvement of the public and the level of resources to planning departments, is not a matter for the Examination. The Council has ensured that the involvement of the public in the preparation of the plan has been adequate. The additional suggestion by David Campbell is not considered necessary given that the plan already contains the objective (on page 10) of ensuring that the area's high quality environment and its special identity is protected and enhanced. No modifications have been recommended.

Officers recommend that these conclusions are accepted by the Council.

INTRODUCTION MISCELLANEOUS

The Report of Examination notes that representation suggests that the introduction should be modified to make clear that the planning system 'must' support the transition to a low carbon economy, to reflect NPF3 (para 2.7) and SPP (2014) (para 152). The plan, incorporating recommended modifications under Issues 22a and 22b, sufficiently reflects the aims of NPF3 and Scottish Planning Policy for transition to a low carbon economy. Therefore no modification is recommended.

Officers recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In paragraph 1.47, amending the second sentence to read:

"The Central Scotland Green Network is also a National Development which extends into East Lothian."

2. In paragraph 1.47, amending the third sentence to read:

"It is to help maintain the environmental quality of the area, tackle vacant and derelict land, and promote active travel and healthier lifestyles."

Officers recommend that these post-examination modifications 1 and 2 are accepted by the Council.

Issue 2	Spatial Strategy	
Development plan reference:	Spatial Strategy (pages 11 – 14)	Officer(s) A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>BACKGROUND</p> <p>The representations on this issue concern a number of matters: the overall impact of development; the choice of spatial strategy; the location of longer term development; specific amendments to the main strategy diagram; and other matters.</p> <p>OVERALL IMPACT OF THE LEVEL OF DEVELOPMENT PROPOSED</p> <p>The representations raise concerns that the level of development planned for is too high, particularly in the west of East Lothian. They consider that this area is unsustainable and proposed development would have detrimental effect on infrastructure, open space, green belt and on cultural heritage and quality of life. Concerns are expressed about the loss of prime quality agricultural land, the suburban density of proposed housing, the coalescence of settlements, and that brownfield land should be used before greenfield land.</p> <p>In response to these issues, the Report of Examination notes that LDP1 must plan to deliver 10,050 homes by 2024 and 76 hectares of employment land, and it is satisfied that LDP1 does this. Scottish Planning Policy (SPP) identifies that the loss of prime quality agricultural land is acceptable when this is an essential component of the settlement strategy; the unavoidable loss of such land to meet SDP1 development requirements in appropriate locations is also acknowledged by LDP1. The Report of Examination notes that LDP1 plans to develop homes at higher density through Policy DP3. This will make an efficient use of land and other resources and help create mixed communities, consistent with SPP.</p> <p>The Report of Examination notes that LDP1 plans appropriately to deliver infrastructure to accommodate the impacts of development in the area. It finds the Council’s overall approach to be a suitable response the pressures it faces.</p> <p>Officers recommend that these conclusions are accepted by the Council.</p>		

THE CHOICE OF STRATEGY APPROACH

The Report of Examination acknowledges that SDP1 prioritises the East Coast Strategic Development Area as the location for new development within East Lothian. It notes that SDP1 does not set a limit on the expansion of existing settlements or confirm whether new development should be concentrated or spread evenly across East Lothian. It further notes that SDP1 highlights the significant pressure for housing growth in East Lothian and the high level of out-commuting to access a wider range of jobs and services.

The Report of Examination notes that LDP1 needs to respond to SDP1 development requirements and consider how best to accommodate them in the area. In this respect, the Report of Examination points to the LDP1 Main Issues Report (MIR) and the options for the spatial strategy discussed within it: a compact spatial strategy or a dispersed spatial strategy. The preferred approach was the compact spatial strategy and this was progressed into proposed LDP1. The Report of Examination notes that the selected spatial strategy within the proposed LDP is expected to:

- maximise the use of existing and new infrastructure provision in the west rather than require new provision elsewhere;
- minimise the environmental impacts of LDP1 by making use of existing public transport in the west and minimising the distances that needs to be travelled;
- help regenerate communities in the former western East Lothian coalfield, which is also recognised to be within the Edinburgh housing and labour market areas;
- balance the need for new development land through appropriate green belt land releases so the setting and identity of settlements can continue to be conserved – this is further underpinned by the introduction of Countryside Around Town designations in locations outwith the green belt;

In respect of the growth around Musselburgh, the Report of Examination considers that cross boundary working will be required to deliver transport network improvements. However, the scale of growth proposed around Musselburgh and within Edinburgh and Midlothian would not harm the overall character and identity of the settlement or the economic potential of its town centre to such a degree that would justify diverting this development elsewhere within East Lothian. The Report of Examination notes the package of infrastructure interventions that will mitigate the impacts of the overall spatial strategy, including transportation measures and air quality measures within Musselburgh town centre. The Report of Examination also notes the promotion of sustainable modes of travel (walking, cycling and public transport) in support of the strategy, which is consistent with SPP.

The Report of Examination does not consider the compact strategy to be divisive in terms of the amount of development that it identifies in the west of East Lothian compared to the east. It notes that whilst a distribution of development further east would reduce the need for green belt land releases, the scale of development required in this LDP is such that impacts on the landscape setting of settlements beyond the green belt and within coastal areas would arise if a more dispersed strategy were to be followed. Other effects of a more dispersed spatial strategy are also highlighted, such as increasing the need for as well as the distances that need to be travelled. It

also notes that there is no evidence to suggest that the compact spatial strategy would increase house prices in the east and constrain the provision of affordable housing in these locations.

The Report of Examination states that the compact spatial strategy has emerged from a detailed analysis of the character of the area and reflects the overall objectives of LDP1, and is a sustainable settlement strategy.

The Report of Examination also supports the vast majority of the allocations within the LDP, with the exception of MH13 Howe Mire, TT15: Humbie North and TT16 East Saltoun. The strategy allows for and the plan would provide for some additional housing within certain settlements outwith the SDA in the east. The Report of Examination finds this to be a measured response to the level of housing need and demand in the area and in response to the relative attributes of the settlements.

The general distribution of the housing proposed within LDP1 (as recommended to be modified) shows the majority (circa 11,800 units) identified within the SDA with the relative proportion of 72% in the west and 28% in the east. Housing development proposed outwith the SDA would represent 12% of the total. Development is promoted outwith the SDA at key settlements with a higher level of services and amenities, but is held back elsewhere. Overall, substantially less development is allocated in the eastern part of the SDA and outwith the SDA (37%), than the west (63%).

The Report of Examination also finds that LDP1 provides an appropriate level of detail given its geographic coverage, sufficient to convey the proposed spatial strategy. Overall, no modifications are recommended to the spatial strategy of LDP1.

Officers recommend that these conclusions are accepted by the Council.

THE LOCATION OF LONGER TERM DEVELOPMENT

Whilst some of the representations suggest that the compact spatial strategy provides only a short term vision until infrastructure can be delivered in the east, the Report of Examination notes that it provides for the continued development beyond 2024 of sites at Musselburgh, Tranent, Wallyford and Haddington. Land is safeguarded for an expansion of Blindwells.

However, whilst a number of other references were made within the proposed LDP as to the potential locations for longer term development opportunities, the Report of Examination does not accept that LDP1 should include reference to such opportunities for development into the longer term, in particular at Drem. It therefore recommends at Issue 6: Tranent, at Issue 7: Haddington, at Issue 8: Dunbar and at Issue 9: North Berwick that such references be deleted from LDP1 and at

Issue 13: New Sites that Land at Eweford should not be allocated or safeguarded for future development.

Officers recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

None

Issue 3	Musselburgh Cluster	
Development plan reference:	Musselburgh Cluster (pages 15-22)	Officer(s) Paul Zochowski / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>One mixed use allocation is recommended to be deleted and removed; Proposal MH13: Land at Howe Mire, Wallyford along with its preceding text in paragraphs 2.38-2.40.</p> <p>One policy is recommended to be deleted, namely Policy MH17: Development Briefs. There are no changes to any of the education or transport proposals. There is a consequential change to the employment proposals in Musselburgh with the deletion of the employment element of Proposal MH13.</p> <p>MUSSELBURGH CLUSTER INTRODUCTION</p> <p>No modifications proposed. The reporter agrees that the designation of a green belt to support the spatial strategy is an appropriate way to direct development to the most appropriate locations while supporting regeneration, protecting and enhancing the character, landscape setting and identity of Musselburgh and protecting and giving access to open space and that no additional protected land status is needed in the green belt.</p> <p>Officers recommend that this conclusion is accepted by the Council.</p> <p>PROP MH1: LAND AT CRAIGHALL, MUSSELBURGH</p> <p>The Examination Report recommends a modification to divide the text of this proposal into separate paragraphs to convey the different elements. The reporter considers that the cumulative impacts of development around Musselburgh are unavoidable with the compact growth spatial strategy that the report endorses. The reporter agrees that proposal MH1 adequately allocates land for economic uses by Queen Margaret University without the need for a specific allocation for the university or to specifically take account of its plans. The reporter agrees that the need for flexibility with regard to potential funding solutions for earlier delivery of necessary transport infrastructure to service employment land across the site rules out any need for a development trigger for the site, including for the delivery of the enhanced junction for the site. The reporter agrees that proposal MH1 should continue to include indicative housing numbers and that Craighall will sit below Shawfair in terms of the hierarchy of centres. The reporter agrees that the balance of uses is right, that any reduction in the numbers of houses across the site could affect its viability and that the site should come forward with a comprehensive masterplan for its entire area.</p>		

Officers recommend that this conclusion and recommended post-examination modification 1 are accepted by the Council.

PROP MH2: LAND AT OLD CRAIGHALL VILLAGE

The Examination report recommends a modification to add a sentence to safeguard the setting of category A listed Monkton House and category B listed Monkton Gardens in the development of a masterplan or proposals for this site. No modification to the boundary of Proposal MH2 is supported to ensure that the setting of listed buildings and a scheduled monument is not harmed.

Officers recommend that this conclusion and recommended post-examination modification 2 are accepted by the Council.

PROP MH3: LAND AT OLD CRAIGHALL JUNCTION SOUTH WEST

No modifications proposed. The reporter agrees that the site has to be developed to satisfy the spatial strategy that is endorsed and to provide a range and choice of employment sites. the reporter anticipates that cross boundary issues may need to be addressed further as detailed work on infrastructure issues progresses. The reporter agrees that this site is not in clear view of Monkton House and is well located for employment uses.

Officers recommend that this conclusion is accepted by the Council.

PROP MH5: FORMER EDENHALL HOSPITAL SITE

No modifications proposed. The reporter agrees that the site covers the former hospital and does not allow for a vehicle access from Carberry Road.

Officers recommend that this conclusion is accepted by the Council.

PROP MH8: LEVENHALL

No modifications proposed. The reporter agrees that the site is suitable for inclusion as an allocation required to meet the housing requirement identified in the plan for circa 65 homes as stated in the plan.

Officers recommend that this conclusion is accepted by the Council.

PROP MH9 LAND AT WALLYFORD

No modifications proposed. The reporter agrees that the site is consistent with the spatial strategy of the plan and that sufficient measures are proposed that deal with traffic generation and natural heritage issues.

Officers recommend that this conclusion is accepted by the Council.

PROP MH10: LAND AT DOLPHINSTONE

No modifications proposed. The reporter considers that the site forms a logical extension to MH9, that the total number of units allocated is appropriate, that landscape concerns can be overcome, and that the site should not revert to a strategic reserve and rather should be allocated. The reporter has agreed that Housing Land Audit 2017 is a reasonable basis on which to base the land supply calculations within the plan and that there is not likely to be a shortfall in the five-year housing land supply.

Officers recommend that this conclusion is accepted by the Council.

PROP MH11: NEW SECONDARY SCHOOL ESTABLISHMENT

The Examination report recommends a modification to ensure that a flood risk assessment is a prerequisite of any development site for the new secondary school at Wallyford. The reporter accepts the Council decision of 20 December 2016 and the school development strategy outlined in the plan and concludes that Proposals MH9 and MH10 and MH11 are appropriate.

Officers recommend that this conclusion and recommended post-examination modification 3 are accepted by the Council.

PROP MUSSELBURGH 12 BARBACHLAW

No modifications proposed. The reporter concludes that the proposal is acceptable and that there are adequate measures in place to deliver the greyhound stadium as well as the housing elements of the proposal.

Officers recommend that this conclusion is accepted by the Council.

PROP MH13 LAND AT HOWE MIRE

The Examination report recommends the deletion of this proposal and the preceding text in paragraphs 2.38-2.40. The reporter considers that the site is an inappropriate one due to unacceptable impacts on the historic battlefield, green belt and setting of Wallyford and should be removed from the plan. The employment component of Proposal MH13 is also deleted and is not replaced, the reporter considering that there is sufficient land allocated for employment within the plan.

Officers recommend that this conclusion and recommended post-examination modification 4 are accepted by the Council.

PROP MH14 LAND AT WHITECRAIG SOUTH

No modifications proposed. The reporter accepts and endorses the spatial strategy that requires sites such as this and considers this site to be a suitable allocation for residential development which will make a contribution to the housing requirement of the plan.

Officers recommend that this conclusion is accepted by the Council.

PROP MH15 LAND AT WHITECRAIG NORTH

No modifications proposed. Sites are required around Musselburgh to support the compact growth spatial strategy that the report endorses. The reporter agrees with the Council that the site can be satisfactorily landscaped to form a new edge to the settlement and green belt boundary and is satisfied that sufficient measures are proposed to deal with traffic impacts from the development. The reporter concludes that the site capacity should remain as circa 200 noting that capacities are indicative and based on a nominal 30 dwellings per hectare noting that additional allocation of housing is not needed to provide for the housing requirement within the plan. The reporter also agrees with the Council that the location for the access can be determined once further technical work is submitted at planning application stage.

Officers recommend that this conclusion is accepted by the Council.

POLICY MY17: DEVELOPMENT BRIEFS

The Examination report recommends that Policy MH17 be deleted. The Reporter concludes that Policy MH17 is too restrictive. Following the adoption of the Development Briefs, new information could be identified by a prospective developer that justifies a departure from the Development Brief. Policy DP4 covers requirement for masterplans. The Council has agreed that there is a discrepancy between Policy DP4 (which requires only major developments to submit a masterplan) and Policy MH17 (which requires any allocated site to submit a masterplan). For clarity, POLICY MH17 should be deleted.

Officers recommend that this conclusion and recommended post-examination modification 6 are accepted by the Council.

PROP MH18: LEVENHALL LINKS TO PRESTONPANS AREA FOR HABITAT IMPROVEMENT

No modifications proposed. The reporter considers that the designation of a local nature reserve at Levenhall Links is not appropriate at this time, and that the management of the area will be a matter for the implementation of the plan.

Officers recommend that this conclusion is accepted by the Council.

MUSSELBURGH CLUSTER MISCELLANEOUS

The Examination report recommends a modification to paragraphs 2.36 relating to proposal MH11 and paragraph 2.45 to ensure that all sites included in Table MH1 have up to date information including flood risk assessments to ensure compliance with current legislation and the policy provisions of the plan. These are sites that were either first allocated by previous plans or form part of the established housing land supply. The reporter agrees with the position of Scottish Environment Protection Agency that a flood risk assessment is required for sites MH10 and MH11 and for Brunton Wireworks in Table MH1 and recommends a modification to reflect this. Sites listed in Table MH1 will require to have updated information including flood risk assessment where necessary to ensure compliance with current legislation and the policy provisions of the plan.

Officers recommend that this conclusion and recommended post-examination modification 5 are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. Altering the text within PROP MH1: Land at Craighall, Musselburgh to comprise separate paragraphs as follows:

“Land at Craighall is allocated for a mixed use development including 1,500 homes, around 41 ha employment land, a new local centre, a new primary school and community uses as well as infrastructure and associated works.

Approximately 21ha of land to the north west of Queen Margaret University is allocated for economic uses that support the key sectors of learning, life sciences and food and drink. The servicing of this land will be enabled by housing development on other parts of the Craighall site and this will be a subject of a legal agreement associated with the entire site.

The 55ha of land to the east of Millerhill Marshalling Yards between the freight rail loop and south of the A1 is allocated for mixed use development including circa 800 homes and around 20ha of employment land to which Policy EMP1 will apply: access to this land will be from the A1 via a modified junction with an underpass of the A1 at Queen Margaret Drive. This, in combination with existing bridges of the east coast rail line and rail freight loop, and bus access from land at Newcraighall and the transport network within the Craighall site, must significantly improve connections to the site and through it to the surrounding area, particularly for bus based public transport.

Approximately 1.5ha of land to the north west of Queen Margaret University, south of Musselburgh Station, is safeguarded as part of this proposal for any future improvement of

Musselburgh rail station, which shall become more accessible and able to be better served by bus as a result of the improved connections.

The 21ha of land to the south of the A1 at Old Craighall is allocated for a mixed use, predominantly housing development which has capacity for circa 350 homes once sufficient land for the required local centre and primary school is identified.

The 15ha of land to the east of Queen Margaret University and north of the A1 is allocated for housing and has capacity for circa 350 homes: access to these sites will be from the local road network.

The 3ha of land to the north east of Queen Margaret University is allocated for mixed use development, potentially including housing and employment uses.

A comprehensive masterplan for the entire allocated site that conforms to relevant

Development Brief will be required as part of any planning application for the allocated land, accompanied by a single legal agreement for the entire allocated site. A Habitats

Regulation Appraisal and if necessary Appropriate Assessment of the proposal will also be necessary, in accordance with Policy NH1 of this Plan. Any development here is subject to the mitigation of any development related impacts, including on a proportionate basis for any cumulative impacts with other proposals including on the transport network, on education and community facilities, and on air quality as appropriate.”

2. Adding a new fourth sentence to PROP MH2 as follows:

“The safeguarding of the setting of the category A listed Monkton House and category B listed Monkton Gardens should be a consideration in the development of a masterplan or proposals for this site.”

3. In paragraph 2.36, adding the following sentence at the end: “A Flood Risk Assessment will be required for this site.”
4. Deleting PROP MH13: Land at Howe Mire, Wallyford and the accompanying text in paragraphs 2.38, 2.39 and 2.40.
5. In paragraph 2.45, inserting third and fourth sentences as follows:

“Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up to date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan.”

6. Deleting Policy MH17: Development Briefs.

Officers recommend that post-examination modifications 1-6 be accepted by the Council.

Issue 04	Prestonpans Cluster	
Development plan reference:	Prestonpans /Cockenzie / Port Seaton /Longniddry Cluster (pgs 23-26)	Officer(s) Marek Mackowiak / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

No sites were removed or added. There were no changes to site capacities, including mixed use sites. There are no new, deleted or modified infrastructure requirements, and no change to the context of infrastructure delivery or site specific infrastructure items. There were no changes to any of the housing, education or transport proposals. One policy was deleted, namely Policy PS3: Development Briefs. There is also a recommendation to delete Proposal OS5 from the plan (for cemetery extensions). The matter of cemetery provision is dealt with in Issue 17: Open Space.

STRATEGY MAP

No modification was recommended to the strategy map.

Officer recommend that this conclusion is accepted by the Council.

INTRODUCTION

In the Introduction, the Report considers that Policies TC1: Town Centre First Principle, TC2: Town and Local Centres and TC3: Protection of Local Facilities provide an appropriate framework to support the protection and enhancement of local services and facilities within the town and local centres.

The Report confirms that Policy NH1: Protection of Internationally Designated Sites sufficiently protects the Firth of Forth Special Protection Area against any development that could result in likely significant effects on the integrity of the site (including any development at the site of the former Cockenzie Power Station).

The Reporter notes the comments made by Wemyss and March Estate with regard to the platform lengthening proposal at Prestonpans and Longniddry stations, but considers the conclusions within Issue 18c address issues raised in this representation.

The Report considers that the wording of Proposal EGT1: Land at former Cockenzie Power Station does not accord fully with the aspiration of NPF3 (This matter is considered in Issue 22a: Energy

Generation and Transmission). For that reason the Report recommends a modification to paragraph 2.51.

Officers recommend that this conclusion and the associated recommended post-examination modification 1 is accepted by the Council.

PROP PS1: Longniddry South

The Report agrees with the council that the site is located within a sustainable location and it is an important component of the settlement strategy and therefore the proposal accords with paragraph 80 of Scottish Planning Policy. The Report also considers that plan's response in relation to this proposal is adequate and its policy framework appropriate for decision making. The Report concludes that this site is suitable for inclusion as an allocation for residential development and is required to help meet the housing requirement identified within the plan. The Report also acknowledges that the council is minded to grant planning permission in principle for the site, subject to a section 75 legal agreement. As a result **no modification is recommended** in response to submitted representations.

Officer recommend that this conclusion is accepted by the Council.

PROP PS2: LAND AT DOLPHINGSTONE NORTH

The Report agrees with the council that the spatial strategy of the plan accords with the presumption in favour of development that contributes to sustainable development, as set out within Scottish Planning Policy. The Report also confirms that a robust site assessment process was undertaken and that the plan contains policies that provide an appropriate framework for decision making. Notwithstanding this, the Report notes that given the concerns expressed by the Scottish Environment Protection Agency (SEPA) regarding the need for a flood risk assessment to accompany planning applications at the site and the council's acknowledgement of the flood risk issues, a modification is therefore recommended to paragraph 2.60 of the Plan.

Officers recommend that this conclusion and the associated recommended post-examination modification 2 is accepted by the Council.

POLICY PS3: DEVELOPMENT BRIEFS

It is acknowledged that there is an inconsistency between Policy DP4: Major Development Sites, which requires only major development sites to submit a masterplan, and this, which requires any

allocated site to submit a masterplan. DP4 provides the approach preferred by the Council. It is therefore recommended that Policy PS3 be deleted.

Officers recommend that this conclusion and the associated recommended post-examination modification 4 is accepted by the Council.

PRESTONPANS CLUSTER MISCELLANEOUS

SEPA objected to the inclusion of sites within Table PS1 since it was unclear if they have been subject to SEA, and the majority have not had SFRA. These sites were allocated in previous local plans or are part of the established land supply. Since adoption of the previous local plan, flood risk has increased due to higher rainfall. The Council confirms that West Seaside has not been subject to SFRA or up to date flood risk assessment through planning application and that it would be prudent that this site and Seton East Steading are subject to flood risk assessment. The other sites are either operating employment sites, or housing sites which are complete, under construction or subject of planning permission, and are not at risk of flooding. SPP requires SFRA to inform choices about development location. Despite policy safeguards in Policy NH11: Flood Risk, for clarity an amendment to paragraph 2.62 is recommended.

Officers recommend that this conclusion and the associated recommended post-examination modification 3 is accepted by the Council.

The Report confirms that the inclusion of a site promoted by Hugh Crawford within the Seton Mains settlement boundary is not appropriate since it is not well related to existing development or integrated with the settlement, the boundary of which has been defined closely around existing properties. As a result no modification is recommended in response to submitted representations.

Officer recommend that this conclusion is accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. Deleting paragraph 2.51 and replacing it with the following text:

“National Planning Framework 3 recognises that the Cockenzie and Torness area is a potentially important energy hub and therefore Cockenzie is safeguarded as a site for future thermal generation. It is acknowledged within NPF3 that Cockenzie may present significant opportunities for renewable energy related investment. As a result, NPF3 expects developers, the council and the key agencies to work together to ensure that best use is made of the existing land and infrastructure in the area. In accordance with NPF3, given the particular assets of Cockenzie, the plan requires that if there is insufficient land for competing proposals,

that priority is given to those which make the best use of Cockenzies assets and which will bring the greatest economic benefits.”

2. In paragraph 2.60, inserting the following sentence at the end: “A Flood Risk Assessment will be necessary for this site.”

3. In paragraph 2.62, inserting third and fourth sentences as follows:

“Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up to date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan.”

4. Deleting Policy PS3: Development Briefs.

Officers recommend that these post-examination modifications are accepted by the Council.

Issue 5	Blindwells Cluster	
Development plan reference:	Blindwells Cluster (pages 27-30)	Officer(s) A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>BLINDWELLS CLUSTER INTRODUCTION</p> <p>The Report of Examination concludes that it is not appropriate to seek developer contributions towards the closure of the St Germain's level crossing. Network Rail will be consulted on relevant planning applications and their comments will be taken into account.</p> <p>Officers recommend that this conclusion is accepted by the Council.</p> <p>PROPOSAL BW1: BLINDWELLS NEW SETTLEMENT</p> <p>The Report of Examination notes SDP1 supports the development of a new settlement at Blindwells and the 1,600 homes already committed at BW1. It further notes the SDP1 vision for a larger new settlement there, and that LDP1 is to define the area of land within which this can be delivered; comprehensive solutions are to be identified for how a single new settlement can be developed within that area. It notes that Blindwells new settlement is within the SDP1 strategic development area and aligns with the spatial strategy of LDP1. It notes that the Strategic Environmental Assessment Environmental Report does not identify significant constraints to development and that previously developed land would be used.</p> <p>The Report of Examination acknowledges the minded to grant status of the current planning application and the anticipated start date of 2020/21 set out in the agreed 2017 Housing Land Audit. The Report of Examination concludes that the site is suitable as a location for development, and that it will help meet the residential and employment land requirements of SDP1. Since LDP1 is to be read as a whole, the Report of Examination concludes that adequate safeguards will exist to protect, conserve and, where appropriate, enhance natural heritage. No modification to LDP1 is therefore recommended in respect of BW1.</p> <p>Officers recommend that this conclusion is accepted by the Council.</p>		

PROPOSAL BW2: SAFEGUARDED BLINDWELLS EXPANSION AREA

Paragraph 2.9 of LDP1 indicates that the vision of the Council is to expand Blindwells further east to a size of around 6,000 homes, with more employment land and other mixed land uses including a sub-regional town centre. To deliver this a comprehensive solution with appropriate phasing and timing of development and provision of infrastructure, services and facilities, is considered essential. SDP1 has a vision is for a new settlement there of 4,600 dwellings, and it is expected that LDP1 will require comprehensive solutions to be identified that will deliver the whole settlement and define the allocation within which it will be delivered.

LDP1 sets out a process by which the Blindwells Expansion Area is intended to be brought forward and confirms that a comprehensive solution for a larger Blindwells has not yet been found, but that the Council remains committed to try and secure such a solution for the whole area encompassed by Proposals BW1 and BW2 (the Blindwells Development Area). Nonetheless, the proposed LDP also acknowledged that if such a comprehensive solution cannot be found, the concept of expanding Blindwells may need to be deleted from the spatial strategy.

To try and find a comprehensive solution for the Blindwells Development Area, the Council proposed to prepare a Design Framework (as referred to in Policy BW3) as non-statutory supplementary guidance. This is to provide the context for the Council to engage and collaborate with relevant landowners, key agencies and other stakeholders, and to provide a vehicle through which they too could collaborate together. Following this, if a comprehensive solution involving the relevant landowners can be agreed, and this is accepted by the Council, it intends prepare a Development Brief as statutory Supplementary Guidance to confirm the allocation of Proposal BW2 to allow a single planning application, masterplan and Section 75 legal agreement to be prepared. In that context, the proposed LDP acknowledged that the site of proposal BW2 should not be allocated but should be safeguarded at this time, and the Report of Examination agrees with that approach.

However, the Report of Examination is not persuaded that the adoption by the Council of statutory Supplementary Guidance in respect of the Blindwells Expansion Area to retrospectively confirm the allocation of the BW2 land after the LDP is adopted would be appropriate, as was set out within the proposed LDP. This proposed procedural mechanism was consulted on by the Council at the Main Issues Report stage and included within the proposed LDP and therefore subject to its representation period. Notwithstanding this, the Report of Examination concludes that it would not be consistent with the relevant regulations and circular. This is because, even though the root policies within the LDP itself were clear about the scale and nature of development that could be realised by the mechanism (and thus were subject to wide ranging consultation), that such a procedural approach should be used in order to confirm development proposals of only local significance, which the expansion of Blindwells would not be.

Transport Scotland also raised concerns at proposed LDP stage that this approach could have significant implications for the strategic road and rail network. It considered that the transport assessment for the expansion of Blindwells, which would have the potential to become part of the plan through Supplementary Guidance, should not be left subsequent to the plan's adoption. The

Report of Examination accepts Transport Scotland's position on this, the reasons for which are set out in paragraphs 14 to 19 of the Report of Examination.

Taylor Wimpey and Hargreaves Services Ltd also sought amendments to BW2 to include a caveat that the development brief (rather than the LDP) specify the infrastructure requirements for the expansion area. They also comment under the miscellaneous section of this issue that amplification of the anticipated scope and outcome of the development brief is required. Hargreaves Services Ltd further requested that the need for a single planning application and legal agreement is removed from BW2 given that there would be an overarching design framework that all landowners will have an input to; the same submission states the representee would support the allocation of land only within their control for development.

Additionally, the Report of Examination notes that SDP1 does not expect any more than the 1,600 dwellings already committed to be delivered prior to 2032, although if a comprehensive solution can be found, additional earlier completions may be possible. However, it also notes that it is not possible to know at this stage over what period Proposal BW2 may be able to contribute. While LDP1 seeks to identify a longer term position with regard to Blindwells, the Report of Examination concludes that sufficient land is allocated within LDP1 (as recommended to be modified) to satisfy SDP1. Provision for the allocation of additional sites is therefore not required - SDP1s Housing Requirements extend only to 2024.

The Report of Examination notes the Council's readiness to progress the Blindwells Development Area, but against the above backdrop concludes that it is not necessary to make provision within the plan at this time for the whole site. Such an approach, it concludes, would not be consistent with the Town & Country Planning (Development Planning) (Scotland) Regulations 2008 or Circular 6/2013: Development Planning.

The Report of Examination therefore recommends that all references within Proposal BW2 to adopted statutory Supplementary Guidance confirming the allocation of the safeguarded Blindwells Expansion Area should be deleted. This also includes similar statements made in Policy BW3 and paragraphs 2.9, 2.75, 2.80, 2.81 and 3.36 of the plan. Since BW2 is to remain safeguarded and not allocated, no hook exists within LDP1 to establish the development brief as statutory Supplementary Guidance and such references to it should also be deleted from BW2. Consequently, the Report of Examination goes on to recommend that references in Proposal BW2 that lend support to any proposal conforming to the brief, along with any required assessments, should be deleted. Similarly, it recommends deleting statements that endorse the submission of a single masterplan and legal agreement as such statements are not necessary at this stage (since the intention is that these matters should be addressed through a review of the development plan).

Midlothian Council's concerns relate to the potential loss of retail trips from other centres if a sub-regional town centre is established in association with the expansion of Blindwells. The Report of Examination does not dismiss the potential for the establishment of such a town centre to be explored, but the scale of such a centre is to be a matter for the allocation of BW2 and for a future local development plan. In the absence of any strategic context provided by SESplan to establish

another sub-regional town centre, it is recommend that the reference to 'sub-regional' in paragraphs 2.9, 2.10 and 2.71 is deleted from LDP1.

Since the plan is to be read as a whole, the Report of Examination concludes that adequate safeguards will exist to protect, conserve and where appropriate enhance the cultural and natural heritage in the area. Since the area is recommended to be safeguarded, the Report of Examination recognises that further assessment will be required before any allocation can be confirmed.

Overall, the Report of Examination accepts that retaining a safeguarded status for BW2 will assist negotiations towards a comprehensive solution for the entire Blindwells Development Area. Importantly, however, the Report of Examination notes that at the time the proposed LDP was prepared, landowners were not wholly aligned with one another. It nonetheless concludes that there is compelling arguments for Proposal BW2 to remain safeguarded while solutions are investigated, and to help inform a future review of the local development plan that can confirm or not the allocation of the site.

Officers recommend that these conclusions and the recommended post-examination modifications 1 - 12 are accepted by the Council.

PROPOSAL BW3: BLINDWELLS AREA DESIGN FRAMEWORK

Proposals BW2 and BW3 refer to the preparation of a design framework to provide a vision for the new settlement. It will be led by the Council and provide the basis on which to determine whether a comprehensive solution for the development exists. Ensuring such a solution exists would be consistent with SESplan. The Report of Examination recommends no modification to this proposal.

Officers recommend that this conclusion is accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In paragraph 2.9, deleting the text "sub-regional" within the third sentence.
2. In paragraph 2.9, deleting the penultimate sentence.
3. In paragraph 2.10, deleting the text "sub-regional" within the last sentence.
4. In paragraph 2.71, deleting the text "sub-regional" within the second sentence.

5. In paragraph 2.75, deleting the text “and would be adopted by the Council as Supplementary Guidance” in the third sentence.
6. In paragraph 2.75, deleting the last two sentences.
7. Amending the third paragraph of PROP BW2 to read:

“If a comprehensive solution for the development of the entire area is found, it will be detailed in a Development Brief. This brief will also detail the delivery mechanisms for the provision of shared infrastructure as necessary to enable an appropriate phasing and timing of development, including the identification of areas of land to which the associated legal agreement would relate. The preparation of this brief will be led by the Council working collaboratively with others, including relevant landowners, the Key Agencies and other stakeholders.”

8. Deleting the entire fourth paragraph within PROP BW2: Safeguarded Blindwells Expansion Area commencing: “Once such Supplementary Guidance has been adopted by the Council, this will confirm the allocation of the safeguarded Blindwells Expansion Area...”
9. In paragraph 2.80, amending the last sentence to read:

“For the avoidance of doubt, this non-statutory supplementary planning guidance will be additional to the Development Framework already adopted for Proposal BW1.”

10. In paragraph 2.81, deleting the following text from the last sentence:

“which if adopted by the Council as Supplementary Guidance, would confirm the allocation of the safeguarded Blindwells Expansion Area to contribute to the development of a larger new settlement as Blindwells.”

11. Amending the second sentence of Policy BW3: Blindwells Area Design Framework to read:

“For the avoidance of doubt, this non-statutory supplementary planning guidance will be additional to the Development Framework already adopted for Proposal BW1.”

12. In paragraph 3.36, deleting the sentence commencing: “ However, if such a solution is found as this LDP is operative....”

Officers recommend that the recommended post-examination modifications 1 - 12 are accepted by the Council.

Issue 6	Tranent Cluster	
Development plan reference:	Tranent Cluster	Officer(s) Christine Galvin /A Stewart

1. Summary of Reporters Conclusions and Recommendations:

Two housing allocations are recommended to be deleted, namely PROP TT15 (Humbie North) and PROP TT16 (East Saltoun). Proposal PROP TT1 (Windygoul South) is to be changed from a mixed use allocation to a housing only allocation of circa 550 homes to reflect that this is the use proposed to be developed there as education and community uses are to be located off this site. One Policy is to be deleted, namely POL TT17: Development Briefs. There is also a recommendation to delete Proposal OS5 from the plan (for cemetery extensions). The matter of cemetery provision is dealt with in Issue 17: Open Space.

STRATEGY MAP

On the Tranent Cluster Strategy Map and Inset Map 35 (Tranent) the Reporter recommends to remove the mixed-use annotation for PROP TT1 (Windygoul South) and identify the site as a housing allocation (*modification 1*). The term mixed-use was used to describe the site to reflect that an expansion of Windygoul Primary School is also proposed, however, this is separately addressed through proposal TT2 (Windygoul Primary School Expansion Land). Modification 1 is proposed in the interests of clarity.

Officers recommend that these conclusions and the recommended post-examination modification 1 are accepted by the Council.

No modification was recommended to the strategy map to include land adjacent to the Gladsmuir Junction as a site for roadside services. Given the location of the site in the open countryside it is necessary to safeguard the area from inappropriate employment uses. Any future proposal can be considered through determination of a planning application. Policy DC1 will apply.

Officers recommend that these conclusions are accepted by the Council.

INTRODUCTION

Delete the second 'and' from the first sentence of paragraph 2.82 (modification 2) to remove the typographical error.

Officers recommend that these conclusions and the recommended post-examination modification 2 are accepted by the Council.

In paragraph 2.84 replace the forth sentence with 'The opportunity for or provision of a link road between the B6371 and the B6414 must not be prejudiced through the development of either of these sites.' (modification 3). This is to increase clarity to demonstrate that the need for the link road does not prevent the allocation of Proposal TT1.

Officers recommend that these conclusions and the recommended post-examination modification 3 are accepted by the Council.

A modification to paragraph 2.85 is proposed to provide a more accurate description of the current position with regard to the future provision of the Tranent eastern bypass. Replace paragraph 2.85 with the following: 'The plan identifies that there may be the potential for a new trunk road interchange to be provided at Adniston which could support the provision of the Tranent eastern bypass. The Council is investigating the feasibility of the interchange and the bypass. To ensure that the long-term ability to effectively consider potential delivery is not prejudiced, land is safeguarded for a new trunk road interchange at Adniston and for potential road alignment from it to the A199, B6371 and B6414.' (modification 4)

Officers recommend that these conclusions and the recommended post-examination modification 4 are accepted by the Council.

PROP TT1: HOUSING AT WINDYGOUL SOUTH, TRANENT

The reporter agrees that the site has been adequately scrutinised for inclusion as a land allocation. However, the plan is not clear on the Council's intention regarding density, so a modification is proposed. In paragraph 2.90 replace the second sentence with 'As a result of the location of the site, in accordance with Policy DP3, the density of the housing development should make efficient use of land, reflecting its accessibility to services and facilities without compromising the character and appearance of the development' (modification 5) and delete the third and fourth sentences (modification 6).

Officers recommend that these conclusions and the recommended post-examination modifications 5 and 6 are accepted by the Council.

As currently written Site PROP TT1 states that it will include community uses, when in fact, they will take place at Proposal TT2. Site PROP TT1 is recommended to be removed as a mixed use

allocation and allocated for housing, circa 550 homes. Modification 7 requires replacing the first sentence in PROP TT1 With 'land at Windygoul South is allocated for circa 550 homes.'

Officers recommend that these conclusions and the recommended post-examination modification 7 are accepted by the Council.

In this respect it is proposed that a modification be made to replace paragraph 2.92 with the following: 'PROP TT2 will provide for the expansion of Windygoul Primary School campus in line with PROP ED4, to accommodate the impacts generated by PROP TT1 and other housing sites in the school's catchment area. It will also provide community facilities in line with PROP CF1 and PROP OS7.' (modification 8)

Officers recommend that these conclusions and the recommended post-examination modification 8 are accepted by the Council.

PROP TT2: WINDYGOUL PRIMARY SCHOOL EXPANSION LAND

The area required for school expansion is defined on the proposals map and within the draft SPG: Developer Contributions Framework, however, for clarity and consistency the size of the site should be clearly referred to within the proposal and it is recommended that in PROP TT2 the following text be added to the first sentence: 'Approximately 1.12 ha of' (modification 9).

Officers recommend that these conclusions and the recommended post-examination modification 9 are accepted by the Council.

PROP TT3: EMPLOYMENT AT WINDYGOUL SOUTH, TRANENT

No modifications proposed. The Reporter agrees that the site is necessary in order to comply with the requirements of the strategic development plan to provide a range of employment sites to meet future employment needs.

Officers recommend that these conclusions are accepted by the Council.

PROP TT4: LAMMERMOOR TERRACE, TRANENT

No modification proposed. The reporter considered an outstanding issue to increase the housing numbers on the site, but concluded that the use of the term 'circa 120 homes' is an approximate figure which could change. The final capacity of the site should be determined as part of the development management process.

Officers recommend that these conclusions are accepted by the Council.

PROP TT5: BANKPARK GROVE, TRANENT

No modification proposed. Having considered the outstanding representations on access, traffic, air quality, woodland and community facilities, historic mine workings and views the reporter is satisfied that the site is suitable for inclusion as an allocation for residential development and is required to meet the housing requirement identified within the plan.

Officers recommend that these conclusions are accepted by the Council.

PROP TT7: MACMERRY NORTH

No modification proposed. The reporter acknowledges that the site is large when considered in the context of the current housing within Macmerry but concludes that it will not dominate the settlement and will round off the north-western edge. In terms for the request to increase housing numbers at the site from 150 to 200 units the Report of Examination recommends no modification. The housing land supply is sufficient to meet and exceed the housing requirement over the period to 2024 without the need to find additional housing land at this time, consequently the site boundary should remain as proposed.

Officers recommend that these conclusions are accepted by the Council.

PROP TT9: GLADSMUIR EAST

No modification proposed. Issues of access will be determined through assessment of a planning application. The reporter recommends no changes to the plan.

Officers recommend that these conclusions are accepted by the Council.

PROP TT10 LIMEYLANDS ROAD, ORMISTON

No modification proposed. The reporter concludes that the plan should continue to refer to the need for a masterplan and proposes no changes.

Officers recommend that these conclusions are accepted by the Council.

PROP TT11: ELPHINSTONE WEST

No modification proposed. The outstanding issue refers to the Development Brief and not the plan.

Officers recommend that these conclusions are accepted by the Council.

PROP TT12: WOODHALL ROAD, WESTER PENCAITLAND

No modification proposed. The reporter concludes that issues around amenity, Conservation Area, nature conservation, highway safety, parking, height and density will be considered in detail through the assessment of a planning application. The site has been subject to strategic environmental assessment and a transport appraisal and the reporter is satisfied that the site is suitable for inclusion as an allocation for residential development and is required to help meet the housing requirement identified within the plan.

Officers recommend that these conclusions are accepted by the Council.

PROP TT13: LEMPOCKWELLS, WESTER PENCAITLAND

No modification proposed. There are a number of policies within the plan that will ensure that matters such as highway impact and amenity are considered fully through the assessment of a

planning application. The reporter recommends no change to the allocation. Whilst it is acknowledged that 120 dwellings on the site would reflect the scheme with planning permission, Proposal TT13 states that the site will deliver circa 115 homes, 120 would fall within this margin.

Officers recommend that these conclusions are accepted by the Council.

PROP TT14: PARK VIEW, EASTER PENCAITLAND

No modifications proposed. After considering outstanding issues on flooding, trees, highway safety, amenity and impact on the Conservation Area and surrounding designated historic landscape the reporter concludes that this site is suitable for inclusion as an allocation for residential development and is required to help meet the housing requirement identified within the plan.

Officers recommend that these conclusions are accepted by the Council.

PROP TT15: HUMBIE NORTH

The examination report recommends that the Council remove housing allocation PROP TT15 (Humbie North) from the plan and delete Paragraph 2.105 (modification 10). The Reporter concludes that the site is not suitable for housing development at this time. The scale of the proposed site is excessive and would almost double the size of the village, which has limited services, therefore it would not relate reasonably to the rest of the village. The Examination report states that the evidence does not suggest that housing development is needed to sustain the number of pupils at the school. The site is programmed within the Housing Land Audit (2017) for development within the period 2020/22. Issue 12: Planning for housing considers the housing land supply position. The Reporter concludes that removal of this site will not have a significant impact on the supply of housing to meet the requirement over the period to 2024.

Officers recommend that these conclusions and the recommended post-examination modification 10 are accepted by the Council.

PROP TT16: EAST SALTOUN

The examination report recommends that the Council remove housing allocation PROP TT16 (East Saltoun) from the plan and delete Paragraph 2.106 (modification 11). The reporter concludes that the site is not suitable for housing development at this time. East Saltoun is a small

rural village with very limited services. The proposal would significantly increase the size of the settlement. The proposal may have significant impacts on the character of the village and on the Conservation Area. There are limited services and no evidence to suggest that the proposal is needed to sustain the number of pupils at the primary school. The site is programmed for development within the period 2020/23 within the Council's Housing Land Audit (2017). Issue 12 considers the housing land supply position. Removal of this site will not have a significant impact on the supply of housing to meet the requirement over the period to 2024.

Officers recommend that these conclusions and the recommended post-examination modification 11 are accepted by the Council.

POLICY TT17: DEVELOPMENT BRIEFS

The Examination report recommends that Policy TT17 be deleted (modification 13). The Reporter concludes that Policy TT17 is too restrictive. Following the adoption of the Development Briefs, new information could be identified by a prospective developer that justifies a departure from the Development Brief. Policy DP4 covers requirement for masterplans. The Council has agreed that there is a discrepancy between Policy DP4 (which requires only major developments to submit a masterplan and Proposal TT17 (which requires any allocated site to submit a masterplan). For clarity, POLICY TT17 should be deleted.

Officers recommend that these conclusions and the recommended post-examination modification 13 are accepted by the Council.

TRANENT CLUSTER MISCELLANEOUS

SEPA has raised concerns that the sites included in Table TT1 (Tranent Cluster Established housing and employment sites summary) may not have been subject to Strategic Environmental Assessment. The Council confirmed that all sites in Table TT1 are either operating employment sites or housing sites which are complete, under construction, with planning permission or the subject of a planning application. The reporter concludes that any emerging legislative requirements, including any unknown flood risk, would involve consultation with the relevant statutory bodies at the planning application stage. Suitable policy safeguards are also contained within the plan, including Policy NH11: flood risk. However, for clarity the Reporter recommends inserting a third and fourth sentence to paragraph 2.108 (Modification 12) as follows: 'Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up to date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan.'

Officers recommend that these conclusions and the recommended post-examination modification 12 are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. On the Tranent Cluster Strategy Map and Inset Map 35 (Tranent) removing the mixed-use annotation for PROP TT1 (Windygoul South) and identifying the site as a housing allocation.
2. In paragraph 2.82, deleting the second "and" from the first sentence.
3. In paragraph 2.84, replacing the fourth sentence with:

"The opportunity for or provision of a link road between the B6371 and the B6414 must not be prejudiced through the development of either of these sites".

4. Replacing paragraph 2.85 with the following:

"The Plan identifies that there may be the potential for a new trunk road interchange to be provided at Adniston which could support the provision of the Tranent eastern bypass. The Council is investigating the feasibility of the interchange and the bypass. To ensure that the long-term ability to effectively consider potential delivery is not prejudiced, land is safeguarded for a new trunk road interchange at Adniston and for potential road alignment from it to the A199, B6371 and B6414."

5. In paragraph 2.90, replacing the second sentence with:

"As a result of the location of the site, in accordance with Policy DP3, the density of the housing development should make efficient use of land, reflecting its accessibility to services and facilities without compromising the character and appearance of the development".

6. In paragraph 2.90, deleting the third and fourth sentences.

7. In PROP TT1, replacing the first sentence with: "Land at Windygoul South is allocated for circa 550 homes".

8. Replacing paragraph 2.92 with the following:

"PROP TT2 will provide for the expansion of Windygoul Primary School campus in line with PROP ED4, to accommodate the impacts generated by PROP TT1 and other housing sites in the school's catchment area. It will also provide community facilities in line with PROP CF1 and PROP OS7."

9. In PROP TT2, adding the following text to the start of the first sentence: “Approximately 1.12 ha of”.

10. Deleting paragraph 2.105 and PROP TT15: Humbie North.

11. Deleting paragraph 2.106 and PROP TT16: East Saltoun.

12. In paragraph 2.108, inserting third and fourth sentences as follows:

“Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up to date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan.”

13. Deleting Policy TT17: Development Briefs.

Officers recommended that post-examination modifications 1-13 be accepted by the Council.

Issue 07	Haddington Cluster	
Development plan reference:	Haddington Cluster (pages 39-43)	Officer(s) Marek Mackowiak / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>No sites were removed or added. There were no changes to sites' capacity, including mixed use sites. There are no new, deleted or modified infrastructure requirements, and no change to the context of infrastructure delivery or site specific infrastructure items. There were no changes to any of the housing, employment or education proposals. There is also a recommendation to delete Proposal OS5 from the plan (for cemetery extensions). The matter of cemetery provision is dealt with in Issue 17: Open Space.</p> <p>STRATEGY MAP</p> <p>In response to In-Site Property Solutions Ltd request that the plan is modified to reflect the latest planning status of Proposal HN4, namely that the site has been granted planning permission for both the residential development and the nursing home. No modification was recommended to the strategy map, as the Report confirms that in this instance, a care home may be considered to be an employment generating use and therefore may be supported by other policies within the proposed plan. Therefore, no amendments with regard to Proposal HN4 are necessary.</p> <p>Officers recommend that these conclusions are accepted by the Council.</p> <p>INTRODUCTION</p> <p>In the Introduction, the Report considers that Policies TC1: Town Centre First Principle, TC2: Town and Local Centres and TC3: Protection of Local Facilities provide an appropriate framework to support the protection and enhancement of local services and facilities within Haddington.</p> <p>The Report confirms that Policies HSC1: Health Care Sites and Proposal HSC2: Health Care Facilities sufficiently support the wider provision of locally accessible health care facilities in the area.</p> <p>The Report considers that the level of contribution for affordable housing expected from a market site as set out in Policy HOU3: Affordable Housing Quota and the necessary level of contribution towards infrastructure provision for planned development as set out in Policy DEL1 are appropriate.</p>		

The Report confirms that 24 hectares of land allocated for employment uses in the Haddington cluster within areas generally accessible to local residents is sufficient to meet the employment needs of the area.

The Report also concludes that identification of the open land to the north of the Tyne as important to Haddington's character and setting is justified and that Policy DC8: Countryside Around Towns designation should not be modified.

Officers recommend that these conclusions are accepted by the Council.

PROP HN1: LETHAM MAINS

The Report notes the concerns regarding the allocation of Proposal HN1, specifically its highway impacts, but agrees with the council that sufficient consideration has been given to mitigate these impacts as part of the preparation of the plan and phasing arrangements that will be determined as part of the planning application process. With regard to the scale of Proposal HN1 and disturbance to wildlife and the historic setting of the hamlet of four properties at Letham House, the Report notes that the detailed issues relating to environment and habitat considerations have been assessed appropriately through the detailed planning processes. Also, the Report considers that if there are any changes to the proposals, these issues will again be considered through the planning application process. As a result no modification is recommended in response to submitted representations.

Officers recommend that these conclusions are accepted by the Council.

PROP HN2: LETHAM MAINS EXPANSION

In response to the representation by Ms E Macdonald in respect of coalescence, loss of community identity and negative impacts on tourism the Report considers that the plan sets out a suitable policy framework to ensure these impacts can be mitigated. The Reporter also notes that the spatial strategy of the plan focuses the majority of new development in the west of East Lothian as the most accessible part of the area and proposes to allocate sites that are or can be integrated with sustainable transport options. The Reporter agrees with the council that the spatial approach of the plan accords with the presumption in favour of development that contributes to sustainable development, as set out within Scottish Planning Policy. As a result no modification is recommended in response to this representation.

The reporter agrees with the SEPA's objection to Proposal HN2 and considers that the plan should be amended to include a requirement for a flood risk assessment to accompany planning

applications at the site. Therefore, the Reporter recommends to amend paragraph 2.119 to require the submission of a flood risk assessment.

Officers recommend that this conclusion and the associated recommended post-examination modification 2 is accepted by the Council.

The Report considers that the cumulative impact of Proposal HN1 and HN2 on highway capacity was adequately assessed by the Council's Transport Appraisal that has identified that with mitigation, sites identified within the plan can be accommodated on the local road network.

With regard to the impact of the proposed development on the neighbouring smallholdings, the Reporter agrees that future development should respect the character of the area and notes that Paragraph 2.119 of the plan refers to the smallholdings and also the need for a masterplan to ensure the development is integrated into its surroundings. The Report also notes that the council has prepared a draft development brief which includes requirements to mitigate the impact of the proposal on the surrounding area and wildlife.

The Report notes that as part of the council's site assessment process alternative sites to the east of the town were assessed and found to be more constrained than the preferred allocations. As a result no modification is recommended in response to submitted representations.

Officers recommend that these conclusions are accepted by the Council.

PROP HN4: LAND AT GATESIDE EAST

In-Site Property Solutions Ltd request that the plan is modified to reflect the latest planning status of Proposal HN4, namely that the site has been granted planning permission for both the residential development and the nursing home. The Report confirms that in this instance, a care home may be considered to be an employment generating use and therefore may be supported by other policies within the proposed plan. Therefore, no amendments with regard to Proposal HN4 are necessary. The Report recommends no modification.

Officers recommend that these conclusions are accepted by the Council.

PROP HN5: LAND AT GATESIDE WEST

The Reporter agrees with the SEPA's objection to Proposal HN5 and considers that the plan should be amended to include a requirement for a flood risk assessment to accompany planning applications at the site. Therefore, the Reporter recommends to amend paragraph 2.122 to require the submission of a flood risk assessment.

Officers recommend that this conclusion and the associated recommended post-examination modification 3 is accepted by the Council.

The Report considers that it is not necessary for the supporting text to seek to limit the employment generating use within the site to that of a pub/restaurant, particularly when this is not referred to within the proposal. Therefore, the Reporter recommends to amend paragraph 2.122 to remove specific reference to a pub/restaurant.

Officers recommend that this conclusion and the associated recommended post-examination modification 4 is accepted by the Council.

PROP HN7: LAND AT ALDERSTON

The Report considers that since construction is underway at the proposed site it is not necessary to modify Proposal HN7 to address the SEPA's request for Proposal HN7 to be amended to include a requirement for a flood risk assessment to accompany planning applications at the site. The Report recommends no modification.

Officers recommend that these conclusions are accepted by the Council.

PROP HN8: Land at Peppercraig East

The Report does not support the request to remove the requirement for a comprehensive masterplan for the whole site. Nor does it consider it appropriate to include additional text to Proposal HN8 to require that mitigation measures, including all required developer obligations, will be established as part of the consideration of each individual planning application. The Reporter agrees with the council that the plan should be read as a whole and that Policy DEL1: Infrastructure and Facilities and the draft Supplementary Guidance: Developer Contributions Framework sets out the types of infrastructure interventions that development will be required to contribute to. The Report recommends no modification

Officers recommend that these conclusions are accepted by the Council.

HADDINGTON CLUSTER MISCELLANEOUS

SEPA objected to the inclusion of sites within Table HN1 since it was unclear if they have been subject to SEA, and the majority have not had SFRA. These sites were allocated in previous local

plans or are part of the established land supply. Since adoption of the previous local plan, flood risk has increased due to higher rainfall. The Council confirms that one of the sites identified within Table HN1 has not subject to Strategic Flood Risk Assessment or subject to a flood risk assessment as part of a planning application process. However, the council confirms that this site, Gifford Grange, is not known to be at risk of flooding. The other sites in the table are either operating employment sites or housing sites which are complete, under construction, with planning permission or the subject of a planning application. Whilst noting SEPA's response which indicates that the site at Gifford Garage would not require a flood risk assessment, for clarity the Report recommends an amendment to paragraph 2.127 to make clear that technical work will be required at planning application stage.

Officers recommend that this conclusion and the associated recommended post-examination modification 5 is accepted by the Council.

The Report agrees with the request from Haddington and District Amenity Society to delete a statement within the plan to the Dovecot area being the only remaining suitable area for the future expansion of Haddington. The Report confirms that the plan does not allocate the wider Dovecot area for development or seek to safeguard it for longer term development. The Report recommends a modification at paragraph 2.114 to remove this statement.

Officers recommend that this conclusion and the associated recommended post-examination modification 1 is accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In paragraph 2.114, deleting the first sentence.
2. In paragraph 2.119 adding the following as a new sentence immediately prior to the final sentence: "A Flood Risk Assessment will be necessary at this site."
3. In paragraph 2.122 adding the following as a new sentence at the end of the paragraph: "A Flood Risk Assessment will be necessary at this site."
4. In paragraph 2.122 deleting the following text from the end of the first sentence: "including a pub/restaurant, to reflect existing planning permissions".
5. In paragraph 2.127, inserting third and fourth sentences as follows:

"Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up to date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan."

Officers recommend that these post-examination modifications are accepted by the Council.

Issue 8	Dunbar Cluster	
Development plan reference:	Dunbar Cluster (pages 45-50)	Officer(s) Marek Mackowiak / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

No sites were removed, but a site at Newtonlees Farm is recommended to be added. There were no changes to sites' capacity, including mixed use sites. There are no new, deleted or modified infrastructure requirements, and no change to the context of infrastructure delivery or site specific infrastructure items. There were no changes to any of the housing, employment or education proposals. There is also a recommendation to delete Proposal OS5 from the plan (for cemetery extensions). The matter of cemetery provision is dealt with in Issue 17: Open Space.

STRATEGY MAP

In accordance with the Report of Examination's recommendations at Issue 13: New Sites, where it concludes that Land at Newtonlees Farm should be added to the LDP, the Report also recommends the addition of the site Land at Newtonlees Farm to the Dunbar Cluster Strategy Map. Also as mentioned above Proposal OS5 is recommended for deletion.

Officers recommend that these conclusions are accepted by the Council.

PROP DR1: Hallhill South West

The Report considers the layout of roads and paths within this development should follow the approach used in other recent development in Dunbar which derives from the government's publication Designing Streets and the council's own guidance. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

PROP DR2: Hallhill North

Railway underpass

The Report agrees with the council that an additional pedestrian/cycle underpass beneath the East Coast Main Line is required to the north of site DR2 to ensure satisfactory access is available to other parts of the town. The Reporter considers that there is sufficient justification for the

underpass and that it would benefit residents, including those of site DR2. The Report supports the plan's requirement that the developer of site DR2 should make a contribution to its construction. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

Concerns raised by Martin Hotchkiss

The Report considers it appropriate for vehicular access to this site to be taken from the Hallhill South West site (DR1) and not Beveridge Row, which is below the standard required to serve a development of the scale. The Report also supports the plan's measures to retain the east-west track through the site protect it by appropriate traffic calming measures. The Reporter also notes that the site is within the government's recommended maximum walking threshold of many local services and facilities and that traffic and transport modelling at the regional level have not indicated a need for traffic interventions in Dunbar. The Report also confirms that the potential impacts on wildlife, historic environment and flooding issues have been assessed by the council as acceptable (subject to mitigation measures) and that the plan contains policies that provide an appropriate framework to protect educational and other facilities.

The Report also notes that the inclusion of the woodland east of Lochend Kennels and the panhandle of land running east from the main site would allow these areas to be designed into the scheme as a whole rather than being treated as left-overs. Also, this approach can ensure that pedestrian safety, for school children and others, is taken into account. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

PROP DR3: HALLHILL HEALTHY LIVING CENTRE EXPANSION LAND

The Report considers there is sufficient evidence to justify Proposal CF1 for a full size grass pitch and two team changing rooms in this location are required to serve an expanded Dunbar Grammar School. The Report considers the required facilities in relation to the council's draft Open Space and Sports Pitch Strategy 2012 and notes that Dunbar Grammar School needs to expand in order to accommodate the additional pupils expected to come from new housing in the locality. As a result, upgrading of an existing pitch at the school to allow more intensive use would not be sufficient. The Report concludes that the justification for an additional shared use pitch therefore arises from increased use for both education and the local community. This mitigation would be in the form of developer contributions on a proportionate basis for cumulative impacts with proposals which are located within the Sports Facilities Contribution Zone (DR1, DR2, DR4, DR5 and DR6). No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

PROP DR5: NEWTONLEES

The Reporter submits that since planning permission has been granted for this site and construction is almost complete, it is too late for him to consider the concerns expressed by the representees. Notwithstanding this, the Reporter notes that the council used a Transport Assessment to demonstrate how the road network could cope with the extra traffic given some mitigation measures and a draft development brief for the site in order to show how it can integrate into its surrounding. Also, the Report notes that developer contributions will be required towards school expansion. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

PROP DR8: PENCRAIG HILL, EAST LINTON

The Report notes that since the local development plan was submitted for examination, a planning application has been lodged for 93 houses and 20 flats on the land identified as Proposal DR8. At appeal, a notice of intention to grant permission has been issued, which is subject to the completion of a legal agreement to secure affordable housing and developer contributions. Nevertheless, the Reporter considers that the site's proximity to a proposed new station (Proposal T12) and its acceptable environmental, economic and social impacts, are mitigating factors in proposing this greenfield allocation. The Report concludes that Proposal DR8 is suitable for inclusion as an allocation for residential development and is required to help meet the housing requirement identified in the plan. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

PROP DR10: INNERWICK EAST

The Report considers that it is the responsibility of the water and energy companies to resolve existing problems with respect to water and electricity supply at Innerwick East. It also notes that of the two water treatment works serving the village, Castle Moffat has available capacity and that Scottish Water has been consulted on the proposed plan and has raised no objection. The Report does not consider the described electricity supply problems as intractable. The Report accepts that there is sufficient capacity at Innerwick Primary School to accommodate the additional pupils projected from the proposed development and that traffic related issues are capable of resolution and should not obstruct the proposal. In response to the suggestion an alternative site to the east of the village the Reporter considers that it has not been subject to assessment like the allocated sites, but it is in agricultural use, has a pipeline running through and has not been promoted for development. The Report concludes that it has no basis to prefer that site. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

PROP DR11: St John's Street, Spott

In relation to representations, the Report agrees with the council's view that St John's Street is wide enough to cope with additional traffic from the proposed development. The Reporter also considers that the impact of the proposal on drainage, school and health provision and character of the village are not significant or can be mitigated.

In relation to an alternative site that has been suggested between Spott Village Hall and Spott Church, the Report notes that this site lies in a more sensitive location of the conservation area and has not been promoted for development. The Report concludes that overall, Proposal DR11 is suitable for inclusion as an allocation for residential development. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

DUNBAR CLUSTER MISCELLANEOUS

Design

The Report notes that whilst the council has increased the standard density of housing since earlier developments in the area, it has open space standards, design standards, development briefs, etc. to ensure that sense of place and openness are addressed in development proposals. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

Infrastructure and facilities

In response to representations on matters relating to infrastructure and facilities, the Report considers that the plan sets out a suitable policy framework to ensure that infrastructure and facilities such as schools, playing pitches and health services are provided to meet the needs of occupants of the proposed new houses. The Report also considers that the plan's general policies and proposals for the care and housing of elderly residents are sufficient in setting the context for local provision. The Reporter concludes that suitability and feasibility of developing affordable housing on urban brownfield sites will vary from location to location and requires to be considered on a site specific basis. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

Communications across the railway line

The concerns expressed about vehicular, pedestrian and cycle links across the rail line are discussed earlier in the Report. The Reporter considers that sufficient measures are included within the plan to improve those links. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

Flood risk/Strategic Environmental Assessment

SEPA objected to the inclusion of sites within Table DR1 since it was unclear if they have been subject to SEA, and the majority have not had SFRA. These sites were allocated in previous local plans or are part of the established land supply. Since adoption of the previous local plan, flood risk has increased due to higher rainfall. Whilst none of the sites identified within Table DR1 are known to be at risk of flooding, to ensure clarity in how the council will deal with such matters in relation to any evolving situation with the physical environment and flood risk the Report recommends an amendment to paragraph 2.149 to reflect that technical work will be needed at planning application stage.

Officers recommend that this conclusion and the associated recommended post-examination modification 2 is accepted by the Council.

In response to SEPA's clarification that, within the Dunbar Cluster, flood risk is a potential issue at site DR3 only, the Report recommends that paragraph 2.139, referring to that site, should be amended accordingly to include the need for a Flood Risk Assessment.

Officers recommend that this conclusion and the associated recommended post-examination modification 1 is accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In paragraph 2.139, adding the following sentences at the end:

“Should any culverted watercourses be found on the site, there should be no development on top of them. Advice should be sought from SEPA in respect of any planning applications.”

2. In paragraph 2.149, inserting third and fourth sentences as follows:

“Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up-to-date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan.”

Also as part of issue 13 New Sites:

Modify the local development plan by:

1. Adding a housing proposal for Land at Newtonlees Farm, Dunbar, as promoted in representation 0213/3 by Gladman Developments. A new paragraph should be added within the Dunbar Cluster: Main Development Proposals section of the plan stating:

“Land at Newtonlees Farm, Dunbar is allocated for residential development incorporating circa 115 homes and cemetery, with associated access, infrastructure, landscape and open space.”

2. Amending the Spatial Strategy for the Dunbar Cluster map to show the site - Land at Newtonlees Farm, Dunbar.

Officers recommend that these post-examination modifications are accepted by the Council.

Issue 9	North Berwick Cluster	
Development plan reference:	North Berwick Cluster (pages 51-56)	Officer(s) Jean Squires / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

No sites were removed or added. There were no changes to site capacities, including mixed use and employment sites. There are no new, deleted or modified infrastructure requirements, and no change to the context of infrastructure delivery or site specific infrastructure items. There are no changes to any of the housing, education or transport proposals. One policy was deleted, namely Policy NK12: Development Briefs. Sites at Gullane are considered separately at Issue 9a. There is also a recommendation to delete Proposal OS5 from the plan (for cemetery extensions). The matter of cemetery provision is dealt with in Issue 17: Open Space.

STRATEGY MAP

No modification recommended. Representation was made that land at Williamstone Farm should be included within the settlement boundary. However since the land appears more rural than urban (and the area suggested for inclusion within the urban area is larger than the area subject to a planning permission for residential development) it is not recommended for inclusion within the urban area.

Officers recommend that these conclusions are accepted by the Council.

INTRODUCTION

In the Introduction, the Report considers plan policies provide a framework that seeks to protect North Berwick as vibrant town centre. It notes the masterplan for Mains Farm (NK1) includes business use, and that developer contributions are provided for. The management of road capacity and traffic generation is considered acceptable. The approved masterplan for Mains Farm includes business use and the level of open space, sporting facilities and affordable housing. Education is provided through expansion of North Berwick High School. Developer contributions are required by the plan and Supplementary Guidance. This approach is appropriate. Dirleton Castle is a Category A listed building and Scheduled Monument and it is appropriate for the plan to refer to views to and from it. No modifications are proposed.

Paragraph 2.154 indicates there may be a long term development opportunity at Drem. The plan neither allocates nor safeguards Drem and this should to be considered through a future LDP. To

avoid confusion on the status of Drem references to it as a longer term development should be deleted (see also Issue 13: New Sites). It is recommended that references to Drem as a longer term development are deleted (Modification 1).

Officers recommend that this conclusion and the associated recommended post-examination modification 1 is accepted by the Council.

PROP NK1: MAINS FARM, NORTH BERWICK

No modification recommended. Representation was made on landscape and biodiversity issues, and SEPA made representation on flood risk due to the potential for a watercourse to be culverted on the western boundary of the site. However, planning permission has been granted and work commenced on site so no modification is recommended.

Officers recommend that these conclusions are accepted by the Council.

PROP NK4: LAND AT TANTALLON ROAD, NORTH BERWICK

No modification recommended. Representation concerned impacts on the setting of North Berwick Law and pedestrian and cycle access through the site. Planning permission has been granted for the site. Were a revised proposal to be submitted, the Council would again be required to consider impacts on the setting of North Berwick Law and pedestrian and cycle access through other policies of the plan.

Officers recommend that these conclusions are accepted by the Council.

PROP NK5: LAND AT FERRYGATE FARM

No modification recommended. Representation was made on pedestrian and cycle routes at this site. Planning permission has been granted which includes a safer route to school, and the site is under construction.

Officers recommend that these conclusions are accepted by the Council.

PROP NK10: ABERLADY WEST, ABERLADY

No modification recommended. The Council is minded to grant planning permission. Coalescence was considered in the draft ER, and other policies of the plan, including DC8: Countryside around Towns, seek to prevent this and protect community identity. The Council state a new link road is required through the site; the Report agrees with the Council that road safety matters raised should be dealt with in assessment of the planning application. Developer contributions will be sought to improve the quality of a grass pitch. The site is considered suitable as an allocation for residential development.

Officers recommend that these conclusions are accepted by the Council.

PROP NK11: CASTLEMANS, DIRLETON

An amendment to include views *from* the Castle is recommended (Modification 2). No other modification is recommended. The Reporter agrees that a badly designed scheme could negatively impact Dirleton Castle, its landscape setting and the Conservation Area, however proposals would be assessed against cultural heritage policies included in the plan to protect heritage assets. It will be possible to design a scheme which does not affect the heritage assets, which plan policies on design and others will help secure. However, paragraph 2.170 only refers to views *to* the Castle, and views from it are also important. There is no existing deficiency as regards the playing field, so contributions cannot currently be sought. With regard to lack of existing facilities in the village, those that are there are protected through Policy TC3: Protection of Local Facilities. The plan provides for flexibility in density.

Officers recommend that this conclusion and the associated recommended post-examination modification 2 is accepted by the Council.

POLICY NK12: DEVELOPMENT BRIEFS

It is recommended that Policy NK12 be deleted (Modification 4). It is acknowledged that there is an inconsistency between Policy DP4: Major Development Sites, which requires only major development sites to submit a masterplan, and this, which requires any allocated site to submit a masterplan. DP4 provides the approach preferred by the Council. (See also Issue 30)

Officers recommend that this conclusion and the associated recommended post-examination modification 4 is accepted by the Council.

NORTH BERWICK MISCELLANEOUS

North Berwick as one of East Lothian's main towns and a range of facilities is an appropriate focus for development. The plan identifies infrastructure and resource constraints here and makes appropriate provision through Policy DEL1. No modification is recommended as regards representations on the area's suitability or lack of infrastructure.

The plan does not allocate or safeguard Drem therefore no modification is made with regard to representation on resisting development here. However, at Issue 13, and paragraph 11 of this issue, the Report of Examination concludes that it would be premature to consider Drem a suitable option of long term growth at this time, and therefore recommends that the final two sentences of paragraph 2.54 of the proposed LDP that signpost this be deleted from the LDP (Modification 1).

At Dirleton, as above Policy DEL1 makes provision for infrastructure; educational capacity is or can be made available, public transport and road capacity are addressed through policies included Policy T1: Development Location and Accessibility and Policy T2. The plan provides in Policies OS1, OS3 and OS4 for protection and provision of open space, while DC10: The Green Network promotes active travel and access to the countryside. No modification is recommended in response to representation on these issues.

On the East Fortune Hospital site, the Reporter considers Policy DC5: Housing as Enabling Development reflects that housing in the countryside may exceptionally be supported where it will fund the restoration of a listed building. No change is therefore necessary.

No change is recommended to the inclusion of Athelstaneford Glebe within Table NK1: North Berwick Established Housing and Employment Sites summary. Although allocated since 1998 and without planning consent, its development would round off the settlement and there are limited constraints.

Officers recommend that these conclusions and recommended post-examination 1 are accepted by the Council.

An amendment to paragraph 2.172 is recommended (Modification 3). This will clarify the position on flood risk assessment, despite safeguards in Policy NH11: Flood Risk. SEPA had objected to the inclusion of sites within Table NK1. These sites were allocated in previous local plans or are part of the established land supply. It is unclear if they have been subject to SEA, and the majority have not had SFRA. Since adoption of the previous local plan, flood risk has increased due to higher rainfall. The Council states one site has not been subject to SFRA or had up-to-date flood risk assessment through planning application. The other sites are either operating employment sites, or housing sites which are complete, under construction or subject of planning permission, and are not at risk of flooding. SPP requires SFRA to inform choices about development location.

Officers recommend that this conclusion and the associated recommended post-examination modification 3 is accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommendations are to modify the local development plan by:

1. In paragraph 2.154, delete the final two sentences. The sentences to be deleted are:

"However, in the long term, a significant scale of mixed use development here may present an opportunity for road realignment and the relocation of Drem Station. Primary education solutions would be required together with additional campus land at North Berwick High School".
2. In paragraph 2.170, amending the end of the final sentence to read "views to and from Dirleton Castle".
3. In paragraph 2.172, inserting third and fourth sentences as follows: "Since they were previously allocated, these sites may be affected by legislative and regulatory changes, as well as identified changes to the physical environment including updated flood risk mapping. Up to date information, including flood risk assessment where necessary, will require to be submitted to ensure compliance with current legislation and the policy provisions of the plan".
4. Deleting Policy NH12: Development Briefs.

Officer recommendation is that all the above post-examination modifications be accepted by Council.

Issue 9a	North Berwick Cluster – Sites in Gullane	
Development plan reference:	Sites in Gullane (pages 54-55)	Officer(s) Jean Squires / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

No modifications are recommended on this issue i.e. all four proposed housing sites at Gullane are retained as presented in the proposed LDP. Issues specific to each of the sites are considered first, followed by the cumulative impacts of all four sites.

PROPOSAL NK6: FORMER FIRE TRAINING SCHOOL, GULLANE

No modification recommended. Representations were considered seeking the removal of the proposal, the reduction in housing numbers, and the removal of a reference to a vehicular route between the C111 road and Muirfield Drive, and the inclusion of the site within a countryside around towns area. Planning permission has been granted for this site and development has commenced.

Officers recommend that these conclusions are accepted by the Council.

PROPOSAL NK7: SALTCOATS, GULLANE

No modification proposed. Cala requested that site capacity should be around 150 units. The Report of Examination notes that as it is clear that the number stated in the plan are approximate and that a scheme could be approved with higher or lower numbers.

Officers recommend that these conclusions are accepted by the Council.

PROPOSAL NK8: FENTOUN GAIT EAST, GULLANE

No modification proposed. Representations were made on the overall suitability of the site for development, as well as more detailed matters. With regard to the landscape setting of Greywalls,

the plan identifies that the site is important to its setting. The site is not within or adjacent to the Conservation Area, and views from it of the site are limited. It is considered possible, as the Council argued and is outlined in the draft development brief, to develop a limited scale of housing development without affecting designated historic assets. The site would not meet the objectives of the Countryside Around Town designation. It would be possible to create a strong settlement edge. Safe access for pedestrians can be provided. The site is not within any site designated for natural heritage interest, and protection of Natura 2000 sites is secured through requirement for Habitat Regulation Assessment. Construction noise can be controlled through condition of planning consent. Previous advice on use of the land is not material to the Examination. The developer would be required to secure the right to develop any land not in their ownership. With regard to representations referring to a planning appeal decided in 2000, the process of examining a proposed LDP is different, and the planning policy context has also changed. The site is suitable for residential development and is required to meet the housing requirement.

Officers recommend that these conclusions are accepted by the Council.

PROPOSAL NK9: FENTON GAIT SOUTH, GULLANE

No modification proposed. The draft site development brief identifies appropriate access to the site and road and road safety measures. This will ensure highway matters are fully considered in any subsequent planning application.

Officers recommend that these conclusions are accepted by the Council.

COMBINED IMPACTS OF PROP NK6, PROP NK7, PROP NK8 AND PROP NK9

Representations on the cumulative impact of allocation of all four sites were received. The Council is minded to grant planning permission for development at sites NK7 and NK8. No modification is proposed.

Officers recommend that these conclusions are accepted by the Council.

Strategic approach

Representations were made that the level of development proposed is too high for Gullane and should be built in places with the infrastructure and environment to support development. The spatial strategy of the plan focusses the majority of development in the west as the most accessible part of the area. The spatial approach also supports some new development in

accessible parts of the east of the area, where infrastructure solutions have been found and landscape capacity allows. The Council submitted that Gullane has the second highest level of amenities and services of the SDP's East Lothian Coastal Assessment area. Technical assessments show that Gullane has the capacity to accommodate the level of development shown in the plan. The spatial approach is in line with SPPs presumption in favour of sustainable development. Representation was made that NK6 as a brownfield site should be developed prior to allocation of greenfield sites, and the Report of Examination notes that development is underway there.

Officers recommend that these conclusions are accepted by the Council.

Lack of services, infrastructure and employment

Gullane has a good level of services and all sites are within 1600m of local facilities. Mitigation measures have been identified for transport impacts while other plan policies seek to ensure new development has no significant impact on roads and supports active and public transport improvements. Parking with Gullane appears adequate and provision has been made for improvement at stations. Employment allocations are not included at Gullane though the Council states employment including in tourism is available, while there is employment land allocated at North Berwick. Infrastructure and resource constraints have been identified and Policy DEL1 Infrastructure and Facilities Provision requires that developers make appropriate provision for that required as a result of their development. Sufficient consideration has therefore been given to infrastructure requirements. The NHS has a duty to ensure all residents can register with a GP, and the plan supports locally accessible health care facilities. The Report notes the Council states there is capacity at Gullane Primary School and North Berwick High School, with provision in the plan for expansion if required.

Historic and natural environment

None of the sites are within or adjacent to Gullane Conservation Area and views to and from it are limited. An appropriate scheme could be developed for NK7, which would have the largest impact. The sites are not within areas designated for local or national landscape interest and the draft Environment Report does not highlight adverse landscape impacts. NK7 is visually prominent, but could be integrated into the landscape. A satisfactory settlement edge could be provided for all sites, as shown in the draft Development Briefs. The sites are not within areas designated for natural heritage interest. The natural environment policies of the plan will ensure this is taken into consideration, and the proposals are required to be considered under the Habitats Regulations to protect the Firth of Forth Special Protection Area. None of the sites are shown to be at risk of river or coastal flooding. The sites are located within sustainable locations as part of the LDPs settlement strategy therefore loss of prime agricultural land is acceptable. The proposals does not affect rare soil identified to the west of PROP NK7, nor were they identified as being locally important geological sites.

Other matters

Policy HOU3 requires 25% of the total number of dwellings proposed for each site to be affordable. Noise from construction can be controlled through planning conditions. The loss of a private view is not a material consideration.

Overall, the Report considers Proposals NK6, NK7, Nk8 and KN9 are suitable for inclusion as allocations for residential development and are needed to meet the housing requirement. As a result, no modifications are recommended.

Officers recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

None

Issue 10	General Urban Development Policies	
Development plan reference:	Growing Our Economy & Communities: General Urban Development Policies pages 57-59	Officer(s) Paul Zochowski / Richard Baty / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>There were three modifications made by the reporter to clarify paragraph text, amend Policy EMP1 and to confirm expected status of Town Centre Strategies as statutory Supplementary Guidance.</p> <p>POLICY TC1: TOWN CENTRE FIRST PRINCIPLE</p> <p>In response to representation by the Post Office the reporter concluded that the plan adequately protects existing Class 4, 5 and 6 land uses that are already in town centres from individual planning applications seeking changes of use / against existing interests. The reporter accepted modifications suggested by Scottish Government to clarify the wording of paragraph 3.4, the effect of which will be to bring other public buildings such as libraries, education and healthcare facilities into the sequential town centre first approach.</p> <p>The first modification is to paragraph 3.4 in the preceding text to Policy TC1: Town Centre First Principle to ensure a closer fit with SPP by replacing the word 'potentially' with the words 'where appropriate' when considering the application of the sequential approach to libraries, schools and healthcare facilities; this modification does not change the intended meaning of or application of Policy TC1. The second modification is to paragraph 3.7, also in the preceding text to Policy TC1: Town Centre First Principle, and again to ensure a closer fit with SPP, to state that Class 4 office proposals will normally be expected to locate in town centres where they are appropriate in scale and character, yet some class 4 proposals may also be located on land specifically allocated for such use. Again, this modification does not change the intended meaning of or application of Policy TC1.</p> <p>Officers recommend that these conclusions and recommended post-examination modification 1 and 2 are accepted by the Council.</p> <p>POLICY TC2:TOWN AND LOCAL CENTRES</p> <p>No modifications proposed. In respect of concerns raised by Scottish Government about the proposed approach to residential uses in town centres the reporter concluded that the approach taken by the council in Policy TC2, to only permit the change of use of a ground floor premises in a town and local centre to residential use where there is evidence that the premises is no longer viable as a town or local centre use, is rational and appropriate and does not compromise SPP.</p>		

Officers recommend that these conclusions are accepted by the Council.

POLICY RCA1: RESIDENTIAL CHARACTER AND AMENITY

No modifications proposed. The reporter concluded that both Policy RCA1 and Policy DC8 Countryside Around Towns focus on different types of location but have similar objectives, albeit that they focus on different types of location.

Officers recommend that these conclusions are accepted by the Council.

GENERAL URBAN DEVELOPMENT POLICIES MISCELLANEOUS

Food Growing: No modifications proposed. The reporter did not accept that urban crofts required a policy in the plan and agreed with the council that the matter is about small scale food production in an urban area examples of which could include allotments or community growing areas, that Policy OS6: Allotment Provision and Policy DC8 Countryside Around Towns already provide and protect green infrastructure to protect food growing within and around urban areas.

Officers recommend that these conclusions are accepted by the Council.

Musselburgh Town Centre: No modifications proposed. The reporter concludes that the Musselburgh Town Centre Strategy, Air Quality Management Plan and other policies of the plan including transport and cultural heritage policies have led to proposals to improve the town centre in respect of roads, parking, crossings and how road space is used and form part of the town centre strategy. There are adequate policies in the plan to assess proposals for all types of development including roads and no further modification is necessary.

Officers recommend that these conclusions are accepted by the Council.

Enabling Development: No modifications proposed. The reporter concludes that there is no need to add a reference to Policy DC5: Housing as Enabling Development to paragraph 3.26 as it would not carry any greater weight than other plan policies read as a whole.

Officers recommend that these conclusions are accepted by the Council.

Town Centre Strategies as statutory supplementary guidance: the reporter concludes that the spatial element of town centre strategies should be included in the plan or statutory supplementary guidance, in line with SPP, and recognises that the plan does cover several spatial matters relating to town centres. However, the reporter concludes that because town centre strategies have not yet been prepared for all town centres it is not possible to say that all spatial issues are covered and therefore they should be adopted as statutory supplementary guidance, even though they will contain non-spatial town centre matters as well. Modification proposed to paragraph 3.15 to remove the word '*non*' before 'statutory supplementary guidance'.

Officers recommend that these conclusions and recommended post-examination modification 3 are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In paragraph 3.4, amending second sentence to read as follows:

"Such uses could include retail, commercial leisure uses, offices (Class 2), community and cultural facilities, and, where appropriate, other public buildings such as libraries, education and healthcare facilities."

2. In paragraph 3.7, amending the second sentence to read as follows:

"Class 4 office proposals will normally be expected to locate in town centres, where appropriate in scale and character, however some Class 4 proposals may be located on land specifically allocated by the plan for such use".

3. In paragraph 3.15, amending third sentence to read as follows:

"These will be progressed once the plan is operative and will be taken forward as statutory supplementary guidance".

Officers recommend that recommended post-examination modifications 1-3 are accepted by the Council.

Issue 11	Planning for Employment and Tourism	
Development plan reference:	Growing Our Economy & Communities : Planning for Employment and Tourism (Pages 60-64)	Officer(s) Paul Zochowski / Richard Baty / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>POLICY EMP1: BUSINESS AND EMPLOYMENT LOCATIONS</p> <p>In respect of representation by North Berwick and East Lammermuir Community Councils that further employment sites should be allocated in the plan in the North Berwick area and in support of business infrastructure in rural settings, the reporter concludes that there is no specific strategic basis for adding employment sites, that the plan has allocated two hectares of new land for employment in North Berwick above the two hectares of operational supply in the town, that there is no evidence that the sites are unsuitable and makes no further allocation. In respect of rural areas the reporter notes that Spott Road is a strategic employment site and that the plan generally supports home-working, live-work units, micro-business and community business hubs. However, the reporter has modified Policy EMP1 to add a new sentence to make clear that the policy applies to the employment element of all sites allocated for employment use including mixed use sites that include employment use. Policy EMP1 of the plan is proposed to be modified with a new sentence at the end to read: "This policy applies to the employment element of all sites in the plan which are allocated for employment use, including mixed use sites that include employment use." This is a helpful change that provides additional clarity to LDP1 since it applies the same degree of policy weight for Policy EMP1 to the employment component of mixed use sites as it does to sites allocated specifically for employment use.</p> <p>Officers recommend that these conclusions and recommended post-examination modification 1 are accepted by the Council.</p> <p>POLICY EMP2: OPERATIONAL HARBOURS</p> <p>Sport Scotland had suggested that recreational uses should be preferred uses for harbours but the reporter agreed with the Council's approach to give preference to fishing or other industry connected with the harbour and only consider other uses if these preferred uses are not prejudiced. No modifications proposed.</p> <p>Officers recommend that these conclusions are accepted by the Council</p>		

TABLE EMP1: EMPLOYMENT SITES AND PROPOSALS BY CLUSTER AREA

Wallyford: the reporter recommended the deletion of PROP MH13 Land at Howe Mire that would have had an employment land component of 1 hectare but did not replace the employment land element lost on the basis that there is sufficient land allocated elsewhere by LDP1 for employment in excess of the SDP1 76 hectare employment land requirement.

Officers recommend that these conclusions are accepted by the Council

Cockenzie: Scottish Power had sought the designation of the Cockenzie power station site for employment purposes under policy EMP1: Business and Employment Locations but the reporter agrees with the council that Policy EMP1 is a relatively permissive employment policy in comparison to NPF3's specific aspirations for the Cockenzie site which would be undermined by application of Policy EMP1.

Officers recommend that these conclusions are accepted by the Council

PLANNING FOR EMPLOYMENT MISCELLANEOUS

A representation from Scottish Power Generation sought a new policy for assessing employment proposals on land not allocated for that purpose, in the event that its representations at Issue 22a are not accepted. The reporter agreed with the Council and concluded it would be inappropriate for the future of the Cockenzie site to be determined in a piecemeal fashion under such a policy. No modifications proposed.

Officers recommend that these conclusions are accepted by the Council

A representation from the East Lothian Liberal Democrat Party sought more encouragement in the plan for the local economy. The reporter concluded that there was no basis for concluding that the Council's approach in the plan to foster local employment was inadequate. No modifications proposed.

Officers recommend that these conclusions are accepted by the Council

TOWN AND VILLAGE CENTRES; RETAIL

A representation from the Musselburgh Area Partnership expressed concern that local infrastructure will not cope with the proposed population increase. The reporter notes the council's response that developer contributions will be required for some infrastructure, that retail growth and regeneration can result from increased local population and that some allocations require local retail or other community provision. The reporter therefore concludes that the addition of specific references to regeneration of village streets or increased retail provision would not add anything beneficial to the plan. No modifications proposed.

Officers recommend that these conclusions are accepted by the Council

TOURISM BACKGROUND

The reporter agrees that there is no requirement for a cross reference to the policy on enabling housing development (LDP1 Policy DC5: Housing as Enabling Development) in this introductory paragraph. No modifications proposed.

Officers recommend that these conclusions are accepted by the Council

NATIONAL INVENTORY OF GARDENS AND DESIGNED LANDSCAPES

The reporter has confirmed a modification to remove reference to Archerfield Estate in Policy TOUR1: Archerfield Estate and preceding paragraph 3.27 as it and Elvingston Estate were deleted by Historic Environment Scotland during the course of the Examination as National Inventory of Gardens and Designed Landscapes entries and policy CH6 will no longer apply in these locations.

Officers recommend that these conclusions and recommended post-examination modification 2 and 3 are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. Adding a final sentence to Policy EMP1 as follows:

"This policy applies to the employment element of all sites in the plan which are allocated for employment use, including mixed use sites that include employment use."

2. In paragraph 3.27, deleting the fifth sentence commencing: “Archerfield Estate is also included...”
3. Deleting the last sentence of Policy TOUR1: Archerfield Estate, Dirleton.

It is recommended that modifications 1 - 3 are accepted by the Council.

Issue 12	Planning for Housing	
Development plan reference:	Growing Our Communities	Officer(s) A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>BACKGROUND</p> <p>The Report of Examination states that the Local Development Plan (LDP1) must, by law, be consistent with the Strategic Development Plan (SDP1), which is supported by statutory Supplementary Guidance: Housing Land (SG). The Report of Examination also notes that Scottish Planning Policy (SPP) is a material consideration for LDP1.</p> <p>SDP1 Policy 5 identifies the ‘Housing Requirements’ for the south east Scotland city region. The associated SG identifies ‘Housing Land Requirements’ for East Lothian. In this context, LDP1 is required to allocate sufficient housing land so as to enable the delivery of 10,050 homes in the period 2009 – 2024, of which 6,250 homes should be capable of development in the period to 2019 and the other 3,800 homes in the period 2019 – 2024. The housing need and demand for the period 2024 – 2032 is identified as 3,820 homes.</p> <p>The Report of Examination notes that SDP1 expects a significant number of homes to be delivered on the established housing land supply, but that development on some of these sites may be delayed or not be deliverable at all. It therefore notes that further new housing land allocations may be required to meet the Housing Requirements of SDP1 up to 2024, and that the overall capacity of the housing land supply may need to be greater than the scale of the Housing Requirements set for each local development plan area.</p> <p>Into the longer term beyond 2024, committed sites are expected to continue to be developed into this period and other opportunities for growth may also be identified by local development plans. For the period 2024 to 2032, existing sites which are assessed as constrained, but also capable of delivering house completions over this period, should be safeguarded.</p> <p>HOUSING LAND REQUIREMENT & SUPPLY</p> <p><i>Terminology</i></p> <p>The Report of Examination acknowledges that SDP1 and its SG were prepared under a previous version of SPP (2010), and that the new version of SPP (2014) is the up-to-date statement of</p>		

national planning policy. The Report of Examination notes that LDP1 must, by law, be consistent with SDP1, and that SPP2014 should be treated as a material consideration.

The Report of Examination acknowledges that there are different terminologies used in these two versions of SPP. It states that because of this, the matter of establishing conformity of LDP1 with SDP1 and the up-to-date SPP2014 is not straightforward. However, the Report of Examination notes that there are some similarities in the meaning of the terms 'Housing Requirement' (as used within SPP 2010) and 'Housing Supply Target' (as used within SPP 2014). Both of these terms are used to express *'the number of new homes planned to be built within an area'*.

On one hand, SPP2010 did not prescribe a methodology to set out how much land should be allocated, if any, above the Housing Requirement figure. There was therefore no clear method or calculation in SPP2010 for how to predetermine a figure for the Housing Land Requirement – i.e. to identify the overall amount of land to be allocated to ensure that the number of homes planned to be built in the area can be delivered. Yet because of the way SDP1 and its SG are drafted they imply some additional land above the SDP1 Housing Requirement figure should be allocated by LDP1 to ensure that the number of homes planned to be built in East Lothian, can be delivered; however, neither SDP1 or its SG provide a methodology or calculation for how much additional should be allocated either.

On the other hand, SPP2014 is clear that it requires an additional generosity margin of between 10-20% to be added to the Housing Supply Target (similar to the Housing Requirement). Importantly, SPP2014 is also clear that within SDP areas it is the role of an SDP to add generosity, not an LDP - it is for SDPs to predetermine a level of generosity within the supply of housing land that should be allocated by LDPs. The overall amount of land to be allocated by an LDP is to be known as the Housing Land Requirement – i.e. an amount of land which has added flexibility above the Housing Supply Target to ensure that the number of homes planned to be built in an area can be delivered. However, SPP2014 provides no clear guidance on how any such margin of generosity should be calculated and justified.

Many of the representations to the proposed LDP were of the view that the SDP1 Housing Land Requirement should be increased by a further 10-20% as expected by SPP2014, whereas the Council considered that this would be inappropriate. The Council took this view because SDP1 Policy 5 identifies the Housing Requirements for the city region, and because SDP1s associated SG already identifies Housing Land Requirements for East Lothian – i.e. the SDP had already prescribed a figure for the Housing Land Requirement. The Council therefore argued that LDP1 cannot set its own Housing Land Requirements (under SPP2010 or SPP 2014) and that LDP1 needs to be consistent with SDP1 and its SG in the use of terminology. The Report of Examination generally agrees with the Council's position on these matters.

Another main reason the Council took this view on the use of terminology within LDP1 is because PAN 2/2010 (Scottish Government advice on how to assess the effectiveness of housing land) advises that the adequacy of the five-year effective housing land supply is to be compared (measured against) the Housing Land Requirement figure. This means that if the approach to determining the Housing Land Requirement set out in SPP2014 is applied with the advice on

assessing the adequacy of the five year effective housing land supply set out in PAN2/2010 this would make the maintenance of such a supply unnecessarily challenging for the Council (by an additional 10 -20%). The Report of Examination acknowledges that there is ambiguity on the use of terms in PAN 2/2010 (that was published with SPP2010) that could result in an inappropriate read-across between the definition and application of terms relevant to how the five year effective housing land supply should be calculated.

In effect, if the approach to this suggested by some of the representations were followed, the outcome would have been that more housing land may need to have been allocated overall and more housing land would need to be effective when LDP1 is operative than necessary to allow the number of new homes SDP1 planned to be built, to be delivered. This would therefore also have increased the likelihood of a shortfall of effective housing land arising during the lifetime of LDP1.

In line with paragraphs 28 and 29, 32 – 35 and 125 of SPP2014, such an improper use / application of terminology could then lead to approval of planning permission for housing on sites when there was not a shortfall of effective housing land and where the principle of residential development is not supported by the LDP. Facilitating this outcome through the improper use of terminology within LDP1 was clearly a policy outcome that the Council was seeking to avoid.

As explained above, the Report of Examination notes that LDP1 must, by law, be consistent with SDP1, and that SPP2014 should be treated as a material consideration. The Report of Examination therefore recommends that where reference is made within LDP1 to SDP1 'Housing Land Requirements' that these be replaced with the term 'Housing Requirements'. A further recommended modification is to amend the LDP1 Glossary definition of Housing Land Requirement to clarify that it provides additional generosity above the Housing Requirement figure.

These recommended post-examination modifications essentially rectify the improper use of terminology within SDP1s Supplementary Guidance: Housing Land that had to be reflected within proposed LDP1 by the Council (to ensure conformity with SDP1). The recommended post-examination modifications are therefore helpful to the Council. They would ensure that the correct terminology is used within LDP1, and that they will be applied properly when the LDP is operative. This will particularly be so when the Council is calculating the adequacy of the five year effective housing land supply (when considered with other associated recommended post examination modifications 5 and 6 set out within Issue 12 of the Report of Examination).

Officers therefore recommend that these conclusions and post-examination modification 1 and 14 are accepted by the Council.

The need for generosity

As explained above, SESplan's Supplementary Guidance: Housing Land (SG) sets Housing Land Requirements for LDP1. However, the Report of Examination notes that Policy 5 of SDP1 requires

LDP1 to allocate sufficient land that is capable of becoming effective to deliver the Housing Requirements for each plan period as confirmed within the SG.

The Report of Examination therefore notes that this points to the intended role of the SG as being to set Housing Requirements for local development plans, and not to set Housing Land Requirements (as it purports to do). The implication of this is that SDP1 expects more land than is set out as the Housing Land Requirement within SESplan's SG for each local development plan area to be allocated within those areas to ensure that the intended Housing Requirements for each area can be met.

However, as also explained above:

- there is no methodology for determining an appropriate figure for the Housing Land Requirement within SDP1 or its Supplementary Guidance: Housing Land, nor within SPP2010 or PAN2/2010 (under which SDP1 was prepared); and
- Although SPP2014 suggest a generosity margin of between 10-20% above the Housing Supply Target Figure (a term that the Examination report recommends be interpreted as though it were the Housing Requirement figure), it does not provide a description for **how** an appropriate generosity margin within this range should be calculated and justified.

In recognition of this, the Council devised its own approach to add what it considered to be an appropriate amount of generosity to the **supply** of housing land. By adding generosity to the supply of housing land, rather than pre-determine a figure for the Housing Land Requirement, the Council sought to avoid the undesirable and unintended consequences of the improper use of terminology on the five-year effective housing land supply calculation, which could have arisen from the transposition error within SESplan's Supplementary Guidance: Housing Land. This approach also enabled the Council to take into account SPP2014 as a material consideration.

Accordingly, the Council selected new housing sites to add to the established housing land supply until the cumulative contribution of dwelling completions that could be anticipated from each of them met and exceeded the SDP1 Housing Land Requirements (thus SDP1 Housing Requirements) set by SESplan's SG by around 10 to 20%. The Report of Examination accepts the principle of how the Council approached the matter of providing generosity – i.e. by increasing the supply of housing land above the SDP1 Housing Land Requirements (and thus SDP1 Housing Requirements) to provide a generous supply of housing land. The Report of Examination states there is nothing fundamentally wrong with the principle of the Council's approach to this, in the circumstances. This conclusion is further supported since it involved an underlying assessment of the deliverability of the housing land supply on a site-by-site basis.

Overall, the Report of Examination concludes that the principle of adding generosity to the SDP1 Housing Requirement should be followed. The Report of Examination further notes that the method for doing this followed by the Council is not wholly consistent with SPP2014 (because generosity was added to the supply of housing land, and not to predetermine a Housing Land Requirement that would need to be met by site allocations). However, the Report of Examination

states that if the approach set out in SPP2014 was followed it is unlikely that there would have been a different outcome (in terms of the overall capacity of the housing land supply).

Officers therefore recommend that these conclusions are accepted by the Council.

Level of generosity

The Report of Examination notes that significant increases in the levels of dwelling completions are expected to meet SDP1 Housing Requirements. The Council argued that due to the slow down in the housing market, that the rate of house building was not as expected and that the SDP1 Housing Requirements are now unlikely to be met. Many of the representations acknowledge this overall point, albeit that the reason for the delay in delivering new homes was largely directed at the Council.

The Report of Examination notes that the delivery of sites within the established housing land supply has taken longer than expected. It notes that there are stark differences between the programming of sites set out within Housing Technical Note 1 (published with the proposed LDP) and the agreed 2017 Housing Land Audit. Development on some of the sites has been delayed to the extent that 59% of the programmed completions that were anticipated to occur in the period 2019/24 by Technical Note 1 is now anticipated to be 82% within the 2017 Housing Land Audit. However, the Report of Examination expects the adoption of the plan to increase confidence around the delivery of sites from now on.

The Report of Examination notes that the main purpose in adding generosity is to account for underperformance in the delivery of sites with the aim of ensuring the Housing Requirement can be met. Ideally, the level of generosity should reflect the confidence that this will be achieved. The Report of Examination therefore concludes that the level of generosity should be at the upper end of the 10-20% range set out by SPP2014. It is recommended that a generosity margin of 17.6% is a reasonable margin to apply. This takes into account all the proposed LDP allocations promoted by the Council, and the recommended deletion of 3 sites and the addition of one other site as set out within Issue 3, Issue 6 and Issue 13 respectively.

On this matter, it is further concluded that it would not be appropriate to add more sites to increase this generosity margin further, since this would be unlikely to increase the number of new homes built, based on the particular circumstances of this plan.

Officers therefore recommend that these conclusion are accepted by the Council.

Accounting for shortfalls in the supply

The Report of Examination notes that it was not the intention of SPP2010 to include an interim Housing Requirement to the end of year 7 (2019), but this was introduced by SDP1 and its Supplementary Guidance: Housing Land. It further notes the Council's position that the adequacy of the five year effective housing land supply should only be measured against the Housing Requirement set to the end of year 12 (2024), taking onto account the interim Housing Requirement.

The Report of Examination acknowledges that, based on the 2017 housing land audit, there is likely to be a shortfall in the effective housing land supply to meet the interim Housing Requirement to the end of year 7 (2019) of 1,533 units. However, the Report of Examination considers this point in the context of the reality of the current situation. This includes delays to development plan preparation timescales at strategic and local level and, to help mitigate this, the introduction of the Council's Interim Planning Guidance: Housing Land Supply. It also acknowledges that economic and housing market conditions since 2008 undoubtedly affected the strategic investment decisions by house builders and capacity in the construction sector, thus the number of dwelling completions achieved since then. It accepts that the rate of new house building that has occurred in south east Scotland since 2008 has been slower than anticipated by SDP1.

Notwithstanding this, the Report of Examination accepts that an ambitious build programme is necessary to meet the Housing Requirements for East Lothian, and that it is not unreasonable to plan for this given the levels of need and demand set out within the Housing Need and Demand Assessment. However, the Report of Examination notes that there is general agreement between the Council and some representations that, because of the time remaining up to 2019, the addition of further sites to the supply of housing land would be unlikely to deliver new homes in the timescales necessary. Overall, the Report of Examination concludes that the delivery of a sufficient number of homes to meet the SDP1 'interim' housing requirement to 2019 is now unlikely to be possible, and therefore that the allocation or release of any additional housing sites in order to meet that 'interim' requirement would be inappropriate at this stage.

This conclusion may also be material to the Report of Examination's recommendation to remove sites from the overall supply of housing land at Issue 3 (Proposal MH13 Howe Mire (170 homes) and at Issue 6 (Proposal TT16: East Salton (75 homes) and Proposal TT15 Humbie (20 homes)). This is because one of the Council's original reasons for including these sites within proposed LDP1 was to assist in meeting the 'interim' Housing Requirement to 2019. Due to the slippage in the development of the sites; however, because of the Report of Examination's conclusions above, they are now no longer required to achieve this objective. This, combined with the other reasons provided in respect of each site, may have persuaded the Reporter to remove them for LDP1 as allocations.

Notwithstanding this conclusion, the Report of Examination is of the view that the whole plan period 2009 to 2024 should be considered as part of this examination to establish whether a sufficient supply of housing land exists within the plan.

Officers therefore recommend that these conclusions are accepted by the Council.

The appropriate timescales

In terms of the timescale that the local development plan must plan for housing delivery, the Report of Examination confirms that this should be the period 2009 to 2024 only. Beyond this, the setting of housing supply targets and housing land requirements will be a matter for development plan review; the fact that SDP2 is now at an advanced stage of preparation provides additional weight to this conclusion.

The Report of Examination further concludes that LDP1 as recommended to be modified post-examination would allocate sufficient housing land (as demonstrated in Table HOU2 as modified). According to the 2017 housing land audit, a number of sites will also continue to be built out in the period beyond 2024 including the new settlement at Blindwells (Proposal BW1). The Report of Examination finds this supply to be adequate to accommodate need and demand from the HNDA (2010) for that period. Additionally, an expansion of Blindwells (Proposal BW2) is safeguarded, but beyond this the Report of Examination does not support any additional land safeguards, in particular that suggested for Drem.

Overall, the Report of Examination supports the way the Council deals with this matter in Table HOU2 and concludes that in conforming to SDP1, and ensuring concurrent timescales, LDP1 is not required to allocate more housing land for the period post 2024.

Officers therefore recommend that this conclusion is accepted by the Council.

TABLE HOU2: HOUSING LAND REQUIREMENTS & SUPPLY

The Report of Examination concludes and recommends that LDP1 (as recommended to be modified) would, at this time, provide an appropriate and sufficient supply of housing land to meet the Housing Requirements of SDP1 up to 2024. An adequate supply of effective housing land for the next five years will be available at the point of LDP adoption. If anticipated rates of house building are delivered when the plan is operative, a sufficient supply of effective housing land will also be available at all times during the plan period – i.e. an adequate ‘rolling’ five year effective housing land supply would exist.

This conclusion has been reached taking into account the recommended deletion of sites from the proposed LDP at Issue 3 (Proposal MH13 Howe Mire (170 homes) and at Issue 6 (Proposal TT16: East Salton (75 homes) and Proposal TT15 Humber (20 homes)) as well as the only additional site recommended for inclusion within the plan at Issue 13 (to reflect the Council’s decision to approve planning permission for it, subject to the conclusion of a legal agreement, as the examination was

on-going), namely Land at Newtonlees Farm (115 homes). Consequential changes are therefore recommended to Table HOU1 to reflect the deletion from and addition of these sites to LDP1.

Overall, this would result in a housing land supply for 16,370 homes from 2009 (the base date of SDP1). Based on the 2017 housing land audit this land supply is currently anticipated to be capable of delivering 11,819 homes in the period 2009 to 2024. This would result in a 17.6% generosity margin within the plan's land supply over the period to 2024. The Report of Examination concludes that this is an appropriate and sufficient generosity margin that does not require to be increased by any further housing land allocations at this time.

Consequently, the Report of Examination recommends changes to Table HOU2 to reflect this updated position on the land supply set out in the 2017 housing land audit. Consequential changes are also therefore recommended to Table HOU1 to reflect the deletion and addition of sites, as appropriate.

Officers therefore recommend that this conclusion is accepted by the Council.

In addition to this, further changes are recommended to Table HOU2 to include another row within the table to express the top line housing land supply figure including the 17.6% generosity margin as the LDP1 Housing Land Requirement. Another two modifications are recommended to assist the reading of Table HOU2: to ensure that demolitions are read as reductions from the supply, and to treat shortfalls in the supply as negative numbers.

In terms of adding another row to Table HOU2 to set out the LDP1 Housing Land Requirement, the recommended post-examination modification reflects the principle of the Council's approach to establishing generosity (in the context of approved SDP1) but takes into account the net result of removing sites from LDP1 that would arise as a consequence of recommendations at Issue 3 (Proposal MH13 Howe Mire (170 homes) and at Issue 6 (Proposal TT16: East Salton (75 homes) and Proposal TT15 Humbie (20 homes)), as well as adding the only additional site recommended for inclusion within LDP1 at Issue 13 (Land at Newtonlees Farm (115 homes)). The inclusion of this additional row would also acknowledge the status of SPP2014 as a material consideration.

Officers therefore recommend that these conclusions and associated post-examination modification 4 and 5 are accepted by the Council to take account of the deletion and addition of housing sites and the updated 2017 housing land audit position.

However, recommended post-examination modification 5 is also interrelated with recommended post-examination modification 1 and 14 and 6 below and these should only be accepted as a package as they are all intended to ensure the basis for measuring the adequacy of the five-year effective housing land supply is appropriate when LDP1 becomes operative.

Importantly, the Report of Examination has recommended interrelated modifications elsewhere within LDP1 to ensure that the references to SDP1 Housing Land Requirements (that were included within LDP1 to reflect the use of this term within the Supplementary Guidance: Housing Land) be deleted and replaced with the term Housing Requirements. This, the Report of Examination concludes, was the term that should have been used by the SDP1 Supplementary Guidance: Housing Land. The effect of this recommended change to LDP1 is particularly important within Advice Box 1 of LDP1, as it is there where the basis and method for calculating (or re-calculating when the LDP is operative) the adequacy of the effective five year housing land supply is set out.

Although potentially at odds with the terminology used by PAN2/2010 for carrying out this calculation, this modification would ensure that the basis for calculating the adequacy of the five year effective housing land supply will be appropriate and based on the number of homes planned to be built. It will also be consistent with the manner in which current Scottish Planning Policy and Advice intend this calculation to be carried out when the plan is operative – i.e. this will not be made unnecessarily challenging because an additional 17.6% generosity has been added to the ‘number of new homes planned to be built’. The statutory status of the LDP, and Advice Box 1 in it, will outweigh the Scottish Government advice set out in PAN 2/2010 when planning decisions are taken on such matters.

Officers therefore recommend that it is on the basis of accepting recommended post-examination modification 1, 14 and 6 that post-examination modification 5 should also be accepted – i.e. to include an additional row to Table HOU2 to express the ‘Housing Land Requirement’ - as they are all interrelated and should be accepted as a package.

Recommended post-examination modifications 1, 14, 5 and 6, taken together, will ensure that the maintenance of an adequate effective five year housing land supply is calculated in an appropriate way and is not made unnecessarily challenging when LDP1 is operative.

POLICY HOU1: ESTABLISHED HOUSING LAND

To reflect the changes to Table HOU2 arising from the 2017 housing land audit, and to ensure all sites set out within the 2017 housing land audit benefit from on-going support in principle for residential development, the Report of Examination recommends that Policy HOU1 be modified to refer to the agreed 2017 housing land audit (rather than the 2015 housing land audit in place at the time the proposed LDP was written). This is subject to the exclusion of sites from the 2017 housing land audit that are recommended to be removed from LDP1 on the basis of the Report of Examination’s recommendations at Issue 3 (Proposal MH13 Howe Mire (170 homes) and at Issue 6 (Proposal TT16: East Salton (75 homes) and Proposal TT15 Humbie (20 homes)), this recommended modification would bring LDP1 up-to-date and should be supported.

Officers therefore recommend that this conclusion and the associated recommended post-examination modification 3 is accepted by the Council.

MAINTAINING AN ADAQUATE EFFECTIVE FIVE-YEAR HOUSING LAND SUPPLY

SPP2014 requires that there is always enough effective housing land for the next five years. The Report of Examination acknowledges that economic and housing market conditions since 2008 have undoubtedly affected the strategic investment decisions by house builders and the overall capacity in the construction sector. It accepts that the rate of house building that has occurred in south east Scotland since 2008 is slower than anticipated by SDP1.

In this context, the Report of Examination acknowledges that it is reasonable for the Council to expect a balanced view to be taken as to the need for additional housing land when past completions are lower than expected. The Council argued this was particularly the case if the rate of delivery was and is being impacted on by wider economic factors, and where the approval of planning permission for unplanned development would dilute capacity and resources and impact on the delivery of infrastructure for planned development. Support for this was taken from the Scottish Government's Draft Delivery Advice that was withdrawn as the Examination was on-going – because this draft advice was withdrawn, the Report of Examination notes that it ceases to be a material consideration.

Consequently, the Report of Examination recommends that the final sentence of paragraph 3.47 of LDP1 be deleted, as it refers to these wider factors as 'significant' material considerations. These wider factors remain within the text of LDP1 as factors that should still be considered as 'material considerations' but not as 'significant' ones in the decision making process. The presumption in favour of development that contributes to sustainable development as set out in SPP2014 is therefore to be given greater weight. This recommended post-examination modification places the provisions of SPP2014 above the revoked Draft Planning Delivery Advice. The recommended post-examination modification adds clarity to LDP1 and should be supported.

Officers therefore recommend that this conclusion and the associated recommended post-examination modification 9 is accepted by the Council.

The Report of Examination notes that Scottish Government advice on how to determine whether a site is 'effective' is set out in PAN2/2010. That advice identifies the housing land audit as the basis for establishing if there is a sufficient supply of effective housing land.

The Council indicated within LDP1 (Advice Box 1) that, in view of its position on the wider material considerations that ought to be taken into account in deciding whether the effective housing land supply is adequate, a Housing Monitoring Paper would be developed to report on the position. This Monitoring Paper would take into account qualitative as well as quantitative factors, but the

Council had not settled on how exactly this report would be presented for the Examination in Public. Notwithstanding this, the Council's position on this matter was also undermined by the revocation of the Draft Delivery Advice, as explained above.

The Report of Examination acknowledges that whilst the Council may want to rely on an alternative source of information that could take into account wider factors (and not just how they manifest locally on a site-by-site basis and thus quantitatively within a housing land audit), there is no national policy support for that approach, or to deviate from the housing land audit as the basis for determining whether there is a sufficient supply of effective housing land for the next five years. The Report of Examination therefore recommends post examination modification 7 that would result in references to a Housing Monitoring Paper within Advice Box 1 being deleted from LDP1.

Officers therefore recommend that this conclusion and the associated recommended post-examination modification 7 is accepted by the Council.

The Report of Examination notes that 'marketability', being a criteria within PAN2/2010 that is used to measure whether a site is effective (and thus the effectiveness of the land supply overall) can result in sites, or parts of sites, not being considered effective because they are not programmed to be built within a five year period. This is even though these sites are otherwise 'unconstrained' and could be considered effective if they were programmed to be developed faster.

Firstly, some of the representations sought that the calculation method for establishing the adequacy of the five year effective housing land supply be based on the Housing Land Requirement (-i.e. the Housing Requirement with additional generosity added), thereby making the maintenance of an adequate five year effective land supply unnecessarily challenging to maintain when the LDP is operative. The Report of Examination concludes that this should not be the case, and clarifies this through its recommended post-examination modifications 1, 14, 5 and 6 as discussed above; the effect of these recommended post-examination modifications essentially supports the Council's approach to this matter by ensuring that the basis for the five year effective housing land supply calculation does not include generosity.

However, the Report of Examination also notes that many of the representations point to delays to development plan preparation timescales at strategic and local level, longer than expected timescales for the determination of planning applications, and the use of planning conditions to control the rate of development (mainly to ensure matching infrastructure provision) as reasons for slower than anticipated rates of housing delivery. In other words, wider housing market conditions may not be the only reasons for slower rates of housing delivery.

The Report of Examination notes that Scottish Government's current advice on the maintenance of an adequate five years' supply of effective housing land is set out within PAN 2/2010. It requires 'marketability' to be used as a factor to assess how much land is considered 'effective'. With this approach the availability of unconstrained land in the period beyond five years is not accounted for and so cannot be counted as 'effective'. The Report of Examination therefore finds that just because the overall quantity of the Housing Land Supply meets and exceeds SDP1 Housing

Requirement that this does not absolve the Council from any further responsibility or action towards the delivery of sufficient new homes – this would mean LDP1 would just be an exercise in ‘housing numbers’.

Importantly, during the course of the Examination, the Council agreed the 2017 housing land audit with Homes for Scotland. The Report of Examination notes that whilst many of the representations consider the programming within this audit to be optimistic, it reflects an agreed position and is therefore a reasonable basis against which to calculate the adequacy of the effective housing land supply. Using the Council’s method for the calculation (that is also supported by Homes for Scotland) the Report of Examination concludes that the Council is able to demonstrate a 6.17 years supply of effective housing land at this time. This calculation takes into account marketability as a criterion to be considered in the assessment of whether a site, or part of it, can be considered ‘effective’.

The Report of Examination therefore advises the Council to focus on fulfilling the necessary actions and to collaborate with stakeholders in order to deliver new homes on allocated sites in sufficient numbers during the remaining plan period, so as to maintain on an on-going basis an adequate five years’ supply of effective housing land. For this reason, the Report of Examination recommends post examination modifications 2, 8 and 10 to the text of LDP1 to better align its statements with the need to do this.

Officers therefore recommend that this conclusion and the associated recommended post-examination modifications 2, 8 and 10 are accepted by the Council.

POLICY HOU2: MAINTAINING AN ADEQUATE 5-YEAR EFFECTIVE HOUSING LAND SUPPLY

Policy HOU2 of LDP1 sets out the Council’s approach to assessing proposals for housing development where there is an insufficient five years’ supply of effective housing land. Policy HOU2 is to be read together with SDP1 Policy 7, and all other relevant development plan policies.

A number of the representation either sought that Policy HOU2 should emulate SDP1 Policy 7 or that it should do this and include an assessment against sustainable development aims and the effectiveness of the site being considered under its terms. Other representation sought that Policy HOU2 be removed from LDP1 entirely on the basis that it duplicates existing policy material in SDP1 and SPP2014. Other representations raised issues with the manner in which the policy should be operated, including that the programming of sites anticipated to be developed should be accelerated or that larger strategic sites should be given priority.

The Report of Examination reasons that Policy HOU2 should be retained, but only so as to amplify the terms of SDP1 Policy 7, and not to add additional factors. In that context it concludes that,

although SDP1 Policy 7 requires proposals to be in keeping with both the character of the settlement and local area it does not require proposals to be an extension of an existing settlement as it could apply to greenfield sites that are away from existing settlements (thereby protecting the character of existing settlements). It is on this basis that the Report of Examination recommends criterion 1 be deleted from Policy HOU2.

The Report of Examination further notes that criterion 3 of Policy HOU2 restricts the scale of proposals that can be considered under the policy to 300 units. This was on the basis that the Council considered that the scale of development considered under its terms should be capable of being substantially complete within five years. However the Report of Examination concludes that, since SDP1 Policy 7 does not itself set out a limitation on the scale of development which could be supported under its terms, then criteria 3 introduces an additional factor and so that factor should be removed from Policy HOU2. The effect is that this may allow larger sites in more sustainable locations than smaller sites to be considered acceptable under LDP1 Policy HOU2. It is on this basis that the Report of Examination recommends that Policy HOU2 criterion 3 and 2 be amended to delete references to restrictions on the scale of development and to allow proposals to be individually assessed as to their contribution to reducing any identified shortfall.

In terms of the other representations to LDP1 Policy HOU2, these are not supported by the Report of Examination as it concludes that it is not possible to assume a faster rate of development on sites already programmed for later periods, and since Policy HOU2 already requires that the development plan be read as a whole the principles of sustainable development will be given full consideration.

Officers therefore recommend that these conclusions and the associated recommended post-examination modifications 11, 12 and 13 are accepted by the Council.

Other representations

A number of consequential changes to Table HOU1: Housing Proposals by Cluster Area and Table HOU2 are requested that relate to proposals to remove, add or increase the density of particular sites. For allocated sites, these are dealt with in the respective Cluster Issues 3, 4, 5, 6, 7, 8, 9 and 9a and for new suggested sites, within Issue 13.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. Replacing existing references to "housing land requirement" with "housing requirement" within the following paragraphs: 1.50, 1.54, 2.5, 3.33, 3.39 and 3.44.

2. In paragraph 3.34, replacing the fourth sentence as follows: “Yet the rate of housing delivery that will take place may be dependent on many factors not related to the SDP requirement, or the LDP or its Action Programme.”
3. In Policy HOU1, amending the reference to the Housing Land Audit 2015 to refer to the Housing Land Audit 2017.
4. Making consequential changes to Table HOU1 to reflect the position in Table HOU2.
5. Replacing Table HOU2 with the following:

Table HOU2: Housing Land Requirements and Supply

	2009/19	2019/24	2009/24	2024/32	Beyond 2032	Total
Housing Requirement and Housing Land Requirement 2009 to 2024				Housing Need and Demand (vi)		
SESplan Housing Requirement	6,250	3,800	10,050	3,820	0	13,870
Housing Land Requirement	7,350	4,469	11,819	n/a	n/a	n/a
Housing Supply 2009 to 2024						
Housing Completions 2009/17	3,064	0	3,064	0	0	3,064
Contribution from Established Supply(i)	1,144	3,003	4,147	594	0	4,741
Contribution from New Allocations(ii)	470	3,711	4,181	2,225	325	6,731
Contribution from Blindwells(iii)	0	291	291	801	508	1,600
Contribution from Future Windfall sites(iv)	42	105	147	110	0	257
Loss of Supply to Dwelling Demolitions(v)	-3	-8	-11	-12	0	-23
Total Housing Land Supply	4,717	7,102	11,819	3,718	833	16,370
Generosity			17.6%			

(i) Based on 2017 Housing Land Audit including contribution of 70 dwellings from small sites (less than 5 units) programmed 2017/19 and 106 units 2019/24 as per audit;

- (ii) Based on 2017 Housing Land Audit [adjusted for deletion of MH13, TT15 and TT16 and the addition of Land at Newtonlees Farm, Dunbar];
- (iii) Based on 2017 Housing Land Audit;
- (iv) SESplan's windfall assumption for East Lothian;
- (v) Based on demolitions from information from ELC Building Standards;
- (vi) Estimate of need and demand for housing from SESplan HNDA (not part of SESplan Housing Requirement).

6. Within Advice Box 1, replacing all references to the "housing land requirement" with "housing requirement".
7. Within Advice Box 1, removing reference to "or any housing monitoring paper".
8. In paragraph 3.46, deleting the last sentence.
9. In paragraph 3.47, deleting the last sentence.
10. In paragraph 3.48, deleting the text "and this is not due to 'marketing constraints'" from the second sentence.
11. In Policy HOU2, deleting Criterion 1.
12. In Policy HOU2, within Criterion 2, replacing the following text: "capable of being substantially completed within five years" with: "capable of making a meaningful contribution to reducing the identified shortfall."
13. In Policy HOU2, within Criterion 3, delete the following text:

"and should be no more than 300 homes – the subdivision of a larger sites into smaller applications in order to meet this maximum will not be supported."
14. Amending the Glossary definition of Housing Land Requirement to read as follows:

"The amount of land required to be allocated for housing (including generosity) to meet the identified housing requirement."

Officers recommend that these post-examination modifications are accepted by the Council.

Issue 13	New Sites	
Development plan reference:	A Spatial Strategy for East Lothian (pages 11-56)	Officer(s) Marek Mackowiak / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

PRELIMINARY

The Housing Requirement has been considered under Issue 12: Planning for Housing. Overall, the Report of Examination considers that the housing land supply (as recommended to be modified) is sufficient to meet and exceed SESplan's housing requirement over the period to 2024 without the need to find additional land at this time.

Employment land allocations have been considered under Issue 11: Planning for Employment and Tourism. The local development plan indicates a total of 232 hectares of employment land overall, 64.6 hectares of which are new allocations. This is also sufficient to satisfy the requirements of SDP1.

The Report of Examination considers the relative merits of the allocated sites within LDP1 where these have been raised in representations. It generally supports the site allocations for housing and employment; the only exceptions to this concern one mixed use housing and employment site within the Musselburgh Cluster (MH13: Howe Mire) and two housing sites in the Tranent Cluster (TT15 Humbie North and TT16 East Saltoun), which the Report of Examination recommends be deleted from the plan.

The Report of Examination considers that there is no need for LDP1 to identify additional or alternative allocations for housing or employment development and does not recommend that any of the sites suggested in this Issue are included within LDP1, with the exception of Land at Newtonlees Farm, Dunbar to reflect a decision of the Council on a planning application on that site as the Examination was on-going.

MUSSELBURGH CLUSTER

Land at Pinkiehill, Inveresk (indicative capacity of 45 homes)

The Report notes that Historic Environment Scotland considers that development in this area would have an adverse impact on the scheduled monument and has the potential for significant impacts on the Pinkie battlefield. The Reporter agrees with the council that the site is important to the setting of Inveresk and development in this location would have an adverse impact on the landscape and on historic assets. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land at Goshen, Musselburgh (indicative capacity of 900 homes)

The site was included within the Main Issues Report as a preferred site for 1000 units, including a local centre, and if necessary a new primary school and a new high school. However, the council decided not to allocate it within LDP1. The representation argues for the allocation of this site in preference to Proposal MH10: Land at Dolphingstone and Proposal MH11: New Secondary School in Musselburgh, and also requests the deletion of Proposal MH13 Howe Mire. However, the Report of Examination confirms support for the allocation of Proposals MH10 and MH11. The retention of MH10 and MH11 within LDP1 would not lend support to the development of alternative sites for housing and new school provision at Goshen. Furthermore, the recommended deletion of MH13 for 170 houses does not mean that compensatory provision needs to be identified elsewhere. The Report notes that Historic Environment Scotland has raised particular concerns about the cumulative impacts on the battlefield landscape if the sites MH13 Howe Mire, Goshen Farm, and the Loan (Land at Galt Terrace) were all to be included within the plan. The Report considers that the scale of development proposed at Goshen would intrude into the undeveloped countryside between Musselburgh and Prestonpans, and also acknowledges the Council's decision to approve planning permission for the site at Dolphingston North, Prestonpans. An allocation at Goshen would therefore have the potential to lead to coalescence and loss of settlement identity and setting. Given the drawbacks of the Goshen proposal highlighted above, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land at Galt Terrace, Musselburgh (indicative capacity of 190 homes)

The Report notes that Historic Environment Scotland has raised particular concerns about the cumulative impacts on the battlefield landscape if the sites at MH13 Howe Mire, Goshen Farm, and the Loan (Land at Galt Terrace) were all to be included within the plan. The Report of Examination also notes that the site has not been assessed in terms of education and transportation impacts, and that there is an application for planning permission in principle pending. It further notes that this elongated site has the potential to entirely infill one of the remaining open areas between Musselburgh and Wallyford and considers that its allocation would result in a greater degree of coalescence with consequent impacts on settlement identity and setting. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

PRESTONPANS CLUSTER

Land at Port Seton Links (indicative capacity of 90 homes)

The Reporter notes that (within Issue 26: Special Rural Landscapes) she concludes that given the historical importance of the site, particularly with regard to its relationship with Seton Castle and the Seton House Inventory Garden and Designated Landscape, it is appropriate for it to be

included within the Countryside Around Towns designation. The Reporter also agrees with the Council's draft Environmental Report site assessment which identifies concerns with regard to highways and flood risk. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land at Meadowmill, Prestonpans (indicative capacity of 9 homes)

The Reporter notes that the site is in close proximity to a number of services within both Prestonpans and Tranent. However, the Report also notes that development of the scale proposed would significantly increase the size of Meadowmill. The Reporter agrees with the council that the area is generally open land between Prestonpans and Tranent that helps to define the individual character and landscape setting of the two towns, and is more appropriately designated within the Countryside Around Towns Area. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land and Fishergate Road, Port Seton (indicative capacity of 150 homes)

The Reporter agrees with the council that there is potential for the development of the site to negatively impact on important historic assets (the category A listed Seton Castle, Seton House (Palace) Inventory Garden and Designed Landscape, the Prestonpans battlefield). In Issue 26, the Reporter concludes that the site is part of an important area of land between Blindwells and Cockenzie/Port Seton and that community identity and coalescence are key issues for this site given its location. The Reporter also notes that the impact of the development of the site on education and transport capacity has not been fully considered and that the site is proposed to be included within the Countryside Around Towns designation. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

TRANENT CLUSTER

Land at Humbie

The Reporter concludes that the site is not suitable for housing development at this time, referencing the Council's draft Environmental Report. The scale of the proposed site is large in relation to the existing village, which has limited services, therefore it would not relate well to the

rest of the village. The Examination report states that the evidence does not suggest that housing development is needed to sustain the number of pupils at the catchment primary school. It notes that some residential development may help to sustain rural services however current facilities within the village are very limited. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land east of Tranent (indicative capacity of 850 homes)

While the Report of Examination notes that this proposal may comprise a logical area of potential future expansion, the required assessment work including that regarding education and highway capacity has not been undertaken. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land at Tranent Cemetery (indicative capacity of 60 homes)

This proposal comprises two sites at Tranent Cemetery, land to the west and land to the east. The Reporter notes that the impact of the proposed sites on education and highway capacity have not been assessed and agrees with the council that development of the site to the west of the cemetery may impact on Tranent Conservation Area and listed buildings on Church Street. The Reporter agrees with the council that development in this location would be prominent in views from the A1 - this is also relevant to the site to the east of the cemetery. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land at Hillview, Ormiston

The Reporter notes that concerns are identified with regard to a number of matters including education capacity (not relevant to retirement housing), highways, flood risk and landscape impact. The site is proposed to be included as part of the Countryside Around Towns designation. The Reporter concludes in Issue 26, that the land to the south of Ormiston, including the submitted site, is an important part of the landscape setting and identity of the settlement. It is therefore appropriate to include it within the Countryside Around Towns designation. Given this, and also the

lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land to the north of the A1 Gladsmuir junction

The Reporter agrees with the council that, given the location of the site within the open countryside, it is necessary to safeguard the area from inappropriate employment uses and that any future proposal could be considered as part of the determination of a planning application (Policy DC1: Rural Diversification would in principle, support a roadside services use in this location) where the full impacts of any subsequent proposal could be fully considered. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

HADDINGTON CLUSTER

Monkrigg Road, Haddington (housing for the over 55 age group and related facilities)

The council submit that the type of housing proposed could be provided on other sites proposed to be allocated within the plan and that no further allocations are required. The Reporter notes that concerns are identified with regard to a number of matters including education capacity (not relevant to retirement housing), highways, potential flood risk and landscape impact. The Reporter agrees with Technical Note 8 that this proposal would greatly increase visibility of the town in views from the south and detrimentally impact on the landscape character and wider countryside setting of the settlement. The Reporter concludes that the development of the site could impact on the setting and character of Haddington. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land at OTH-H8, West Letham

The draft Environmental Report site assessment highlights a number of environmental and infrastructure constraints associated with the site. The Reporter notes that the character of the immediate surrounding area would change as a result of the development of sites Proposal HN1 (Letham Mains, Haddington) and Proposal HN2 (Letham Mains Expansion, Haddington). However, the Reporter agrees with the council that infill development to the west of Haddington would result

in the loss of the distinctive landscape character, which provides an important setting to the town. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land at OTH-H6, Amisfield

The site forms part of the proposed Countryside Around Town designation within the eastern flank of Haddington. The Reporter notes that the draft Environmental Report site assessment highlights a number of environmental and infrastructure constraints associated with the site. The Reporter agrees with the council that the site is important to the setting of Haddington and development in this location would have an adverse effect on the landscape and historic assets due to its prominence. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land at South Gateside

The site forms part of the proposed Countryside Around Town designation. The Reporter notes that the character of the immediate surrounding area would change as a result of the development of sites Proposal HN1 (Letham Mains, Haddington) and Proposal HN2 (Letham Mains Expansion, Haddington). However, in Issue 26, the Reporter concludes that the designation should remain as its development would result in the loss of distinctive landscape character, which provides an important setting to the town. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

DUNBAR CLUSTER

Land at Newtonlees Farm, Dunbar

The Reporter notes that this site in the south-east of Dunbar is adjacent to the almost completed development for 240 residential units on Proposal DR5. In the course of the examination, the council resolved that it was minded to grant planning permission in principle for residential development (up to 115 units) and cemetery, with associated access, infrastructure, landscape and open space on the site. The Reporter accepts that it is a reasonably accessible, sustainable

site which would allow for a fairly compact form of extension to the town without unacceptable landscape impact. The proposal offers scope for early development. The Reporter concludes that this site is suitable for inclusion as an allocation for residential development and, whilst not essential to meet the housing land requirement identified within the plan, it would contribute to the generosity of the supply.

Officers recommend that this conclusion and the associated recommended post-examination modification 1 and 2 is accepted by the Council.

Land at Phantassie, East Linton (indicative capacity of 100 homes)

The Report notes the council's concern that the site has not been assessed in relation to school capacity at Dunbar Grammar School and East Linton Primary School. It also accepts that the latter has limited capacity and limited potential for expansion, which may be taken up by Proposal DR8 Pencraig Hill. The site has not been assessed in the council's Transport Appraisal for individual or cumulative effects and need for mitigation. The Reporter also refers to the council's draft Environmental Report site assessment which concludes that development of this site could adversely affect the setting of listed buildings, the conservation area and the landscape setting of the village. It is noted that the site has not been subject to Habitats Regulations Assessment. The Reporter consider that the site is a sensitive one, which has the potential drawbacks referred to by the council, and would represent an extension of the village in a new direction. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land at Preston Mains, East Linton (indicative capacity of 100-150 homes)

The Reporter considers that the proposal would not represent a compact development form for the village as it stands. It does not have strong natural boundaries to the north or east to contain the development, and could lead to pressure for development at Drylawhill as infill. The Reporter notes that the site is located on rising ground at the edge of the village and has the drawbacks identified in the council's site assessment. The issue of constraints on directions of growth in East Linton would only apply if there were a pressing need for extra development in the village, which there is not. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land at Drylawhill, East Linton (indicative capacity of 215 homes and open space).

The Reporter agrees with the council that development in this area would contravene Scottish Planning Policy for the protection of scheduled monuments in situ, and that it raises issues at national level. The category A listed St Baldrick's Kirk abuts the southern boundary of the site and its setting could be harmed. Historic Environment Scotland have stated that they object to the proposal. The Reporter agrees with the council that the southern part of the site is non-effective due to problems with site access and third party land. Access between the northern and southern parts of the site would be needed. The northern part of the site rises above the level of natural landscape containment and could harm local and wider views. The local designed landscape at Smeaton could be adversely affected. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land at Eweford, Dunbar

This land was considered in the Main Issues Report where its capacity was given as around 1,000 homes. The Reporter agrees with the council's view that this site should be considered for development after the current plan period. The Reporter confirms that in this local development plan period the only proposed housing safeguard is for Blindwells Expansion Area, on the basis that it is recognised as a commitment in SESplan and because of the unique benefits such a scale of development would offer East Lothian. The Reporter agrees that there is no equivalent support in the strategic development plan for land at Eweford and that current approved sites should be built out before any other land is considered for development in Dunbar. The Reporter also refers to the council's draft Environmental Report site assessment which identifies a number of environmental, historic and infrastructure constraints associated with the development on this site. The Reporter also notes that no Habitats Regulations Assessment has been carried out for the site. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

NORTH BERWICK CLUSTER

Employment sites, North Berwick

North Berwick Community Council seek modifications to the plan to include five additional employment sites in North Berwick: Tantallon Road, Lime Grove, Williamston, Old Gasworks and Fenton Barns. However, the Reporter agrees with the conclusion reached in Issue 11: Planning for

Employment and Tourism, that there is no basis on which to allocate the suggested sites, or otherwise amend the plan.

Officers therefore recommend that these conclusions are accepted by the Council.

Foreshot Terrace, Dirleton

The site is located to the north of Dirleton and forms the proposed Countryside Around Towns designation. In Issue 26, the Reporter concludes that the designation should remain as the development would detrimentally impact on the countryside setting and character of the village. The Reporter refers to the draft Environmental Report site assessment which identifies limited education capacity, potential biodiversity concerns, loss of some prime agricultural land, potential impacts on Dirleton Conservation Area and landscape impacts associated with the site. The Reporter also notes concerns with regard to a lack of assessment of highways impacts. The Reporter concludes that development in this location could have an adverse effect on the conservation area and the wider landscape setting of the village. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Drem

A number of representations have been submitted in respect of sites at Drem, some of which have overlapping boundaries, stating that land should be safeguarded as a site for future large-scale development including new homes, primary school, employment and improvements to Drem Station. The Reporter concludes that land is already safeguarded at Blindwells and therefore the potential of Drem as a location for large scale development should be considered through the preparation of a future local development plan. The Reporter recommends a modification which seeks to clarify the status of Drem within the plan. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Land East of Athelstaneford (indicative capacity of 30 homes)

The Reporter notes that Athelstaneford is a small village with limited facilities. The Reporter notes the conclusions of the draft Environmental Report site assessment and the submission of the council with regard to the lack of assessment of the proposal in education and highway capacity.

The Report agrees with the council that development of the site could impact on the conservation area. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Bickerton Fields, Aberlady

The Reporter considers that the site is well related to Aberlady and within walking distance of a range of facilities and services, but also notes the potential impacts on biodiversity given the proximity of the site to the Firth of Forth Special Protection Area, Ramsar and Site of Special Scientific Interest, loss of agricultural land and flooding issues. Development of the site could impact on a number of historic assets including: the Aberlady Conservation Area; listed buildings; scheduled monuments; and the Luffness and Gosford House Garden and Designed Landscape. The Reporter agrees with the council that an unsympathetic development could detrimentally impact on the landscape character and setting of the east side of this historic settlement, which is proposed for inclusion within a Countryside Around Towns area, and on views of the village from the A198 coast road. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site.

Officers therefore recommend that these conclusions are accepted by the Council.

Fenton Barns

A number of representations have been submitted in respect of sites at Fenton Barns, stating that land should be allocated for a new settlement. The Reporter accepts the council's concerns that a significant amount of feasibility and impact studies are needed to consider a proposal for a new settlement. The Reporter concludes that land is already safeguarded at Blindwells and therefore the potential of the Fenton Barns area as a new settlement is not supported at this time, and the land should not be allocated at this time. The Reporter does not consider that the plan should identify a settlement boundary around the existing built development at Fenton Barns, since the application of Policy DC1 would be appropriate in the circumstances. Given this, and also the lack of an overall requirement for additional housing sites, there is no justification for the plan to allocate land at this site or to define a settlement boundary here as suggested within the representations.

Officers therefore recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. Adding a housing proposal for Land at Newtonlees Farm, Dunbar, as promoted in representation 0213/3 by Gladman Developments. A new paragraph should be added within the Dunbar Cluster: Main Development Proposals section of the plan stating:

“Land at Newtonlees Farm, Dunbar is allocated for residential development incorporating circa 115 homes and cemetery, with associated access, infrastructure, landscape and open space.”

2. Amending the Spatial Strategy for the Dunbar Cluster map to show the site - Land at Newtonlees Farm, Dunbar.

Officers recommend that these post-examination modifications are accepted by the Council.

Issue 14	Affordable and Specialist housing	
Development plan reference:	Growing Our Economy & Communities (pages 70 – 73)	Officer(s) Christine Galvin / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

POLICY HOU3: AFFORDABLE HOUSING QUOTA

The policy provision for affordable housing within Policy HOU3 is 25% of the total number of dwellings where five or more dwellings are proposed.

The Report of Examination notes that Policy HOU3 seeks ‘provision for’ affordable housing, and concludes that this could encapsulate different forms of delivery scenarios, not only provision of serviced land. Homes for Scotland sought additional flexibility within the policy that would allow trade-offs in terms of affordable housing provision between sites, and the Report of Examination notes that ‘delivery mechanisms’ are also to be agreed with the Council so Policy HOU3 would not prevent this, subject to agreement from the Council.

The Report of Examination notes that the percentage figure for affordable housing provision differs for Blindwells and Letham Mains allocated sites. The reporter concludes that varying percentages can be applied in exceptional circumstances according to Scottish Planning Policy and PAN2/2010, and, given the evidence presented in the Housing Need and Demand Assessment (SESplan), the scale and nature of development proposed, and the progress with the current planning application, the affordable housing requirement for Blindwells is particularly compelling and should remain unaltered. Furthermore, the Reporter concludes that there is no evidence to suggest that a lower affordable housing requirement on Letham Mains expansion (HN2) can be justified. The affordable housing requirement for Letham Mains Expansion (HN2) should therefore also remain unaltered.

The remaining representations under Policy HOU3 are concerned over the plan’s requirement for specialist housing to provide 25% affordable housing, as this could affect the viability of schemes. The council response explained how Policy HOU3 would work in practice and that it would only apply to housing defined under Use Class 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997; it would not apply to proposals such as residential care and nursing homes, which fall under Use Class 8. Appendix 4 of the draft affordable housing SPG explains that commuted sums would be sought for a flatted dwelling as well as a house; in terms of the 1997 Order referred to above, flats are not included within Use Class 9. The SPG references to Class 9 and flatted dwellings is therefore confusing. In any case, there is clearly an intention by the council that the policy should not apply to proposals falling under Use Class 8. Policy HOU3 refers to five or more ‘dwellings’ and for the purposes of establishing the circumstances for which

contributions will be sought under Policy HOU3, the Report of Examination considers this approach to be acceptable.

Other representations to Policy HOU3 cite difficulties with the viability of development proposals in relation to meeting the requirements of Policy HOU3 where specialist housing is proposed. The Council's SPG allows for exemptions in terms of affordable housing contributions to allow development to proceed, however, these would only be in exceptional circumstances and would need to be considered on a case by case basis. As the opportunity to consider the viability of individual proposals is provided for by SPG, the Reporter makes no modification to the plan.

Officers therefore recommend that these conclusions are accepted by the Council.

POLICY HOU4: AFFORDABLE HOUSING TENURE MIX

The Report of Examination notes that the use of commuted sums will rarely be acceptable as on-site provision then off-site provision of affordable housing is the preference. The value of the commuted sum would be determined in accordance with the District Valuer, in accordance with PAN 2/2010. The detail of this would be a matter for project level.

The Report of Examination notes that the LDP1 affordable housing definition covers a wide range of affordable housing tenure types, and so achieves this objective. Policy HOU4 indicates that the location and size of a site, the form of development and the availability of subsidy will help inform the mix of tenures to be provided. This will require an understanding of the local context. The council's SPG seeks to provide this at a more local level and in implementing Policy HOU4, further information on the housing need within the particular locality would be sought.

The SPG indicates that social rented accommodation is the predominant tenure preference for the council as it is the tenure in most need however a wide range of affordable housing is required to increase tenure choice. In response to concerns about the different tenures that may be acceptable as affordable housing, the Reporter concludes that LDP1 already does what it can, in the context provided by national policy, to ensure the provision of affordable housing to meet local housing needs. The SPG also states that affordable housing should be fully integrated within the layout of the development.

Officers therefore recommend that these conclusions are accepted by the Council.

SPECIALIST HOUSING PROVISION

The request by McCarthy and Stone is for the introduction of a more generic 'catch-all' policy which would encourage the provision of accommodation for older people (a criteria based policy).

In recognition of the draft report on Housing Needs Assessment of People with Particular Needs which supports an increase in specialist housing across East Lothian, the council suggests an addition to Policy HOU4 rather than a new policy.

The Report of Examination notes that the Council suggested a change to Policy HOU4 which would ensure the provision of specialist housing as part of the provision of affordable housing. Whilst this would not specifically include market housing, the provision of housing for older people, including homes built to the 'lifetime homes' standard, would not be prevented by this approach. The definition of affordable housing also covers a wide range of affordable housing tenure types. Policy HOU6 encourages the provision of residential care homes and nursing homes within settlements.

As the council's report on Housing Needs Assessment of People with Particular Needs remains in draft form, and is to inform the next Local Housing Strategy where the context for increasing specialist housing provision across all tenures would be considered, at this time, no further changes than those proposed by the Council should be made to the LDP.

The Reporter therefore recommends that the Council's suggested text be added as a new second paragraph to policy HOU4. This reads as follows: 'The Council will seek to ensure that as part of the provision of affordable housing on any site, that provision is made where appropriate for specialist housing, in line with the Council's Local Housing Strategy and the Supplementary Planning Guidance: Affordable Housing Quota and Tenure Mix'.

Officers therefore recommend that these conclusions and the associated post-examination modification 1 be accepted by the Council.

AFFORDABLE AND SPECIALIST HOUSING MISCELLANEOUS

Concerns about the lack of provision for older people and the need for greater provision for special needs. The Reporter concludes that the recommended addition to Policy HOU4 should go some way to increasing the provision of specialist accommodation, where appropriate. The plan already covers self build plots and the principle of adapting existing housing to facilitate more independent living. The reporter makes no further modifications.

Officers therefore recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

Add the following as a new second paragraph to Policy HOU4:

1. The Council will seek to ensure that as part of the provision of affordable housing on any site, that provision is made where appropriate for specialist housing, in line with the Council's Local Housing Strategy and the Supplementary Planning Guidance: Affordable Housing Quota and Tenure Mix.

Officers recommend that this post-examination modification is accepted by the Council.

Issue 15	Education	
Development plan reference:	Education (pages 74-81)	Officer(s) Jenny Sheerin / Liz McLean / Pauline Smith / Marc Bedwell / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

POLICY SECF1: SAFEGUARDED EDUCATION AND COMMUNITY FACILITIES

The Report of Examination notes that Policy SECF1 seeks to safeguard sites in use for education and community facilities. The accompanying text sets out how the council intends to ensure new or expanded provision of school facilities, and the provision of new sports pitches and changing facilities. Proposal SECF1 is primarily aimed at securing developer contributions, where appropriate, for the provision of new sports pitches and changing accommodation in direct response to the demands for such facilities anticipated by new development. Wider sports facilities are not referred to in this proposal. Elsewhere, the plan provides protection for existing open space and facilities, including outdoor sports facilities, through Policy OS1: Protection of Open Space.

A representation from Scottish Environment Protection Agency does not request a specific modification to Policy SECF1, but requests that all references within the plan to “Sports Pitches and Changing Accommodation” should also include “Sports Facilities”.

The Report of Examination notes that sports pitches and changing accommodation references are currently contained within the section of the plan headed ‘Community Facilities’ and within Proposal CF1 and related site specific proposals. The council explains that the term ‘Community Facilities’ referred to in Policy SECF1 is intended to relate to ‘Sports Facilities, Pitches and Changing Accommodation’. While the Reporter acknowledges this intention she considers that the existing heading should remain, in order to be consistent with that used elsewhere within this section of the plan. Although the purpose of Proposal CF1 is specifically in relation to new sports pitches and changing accommodation, it is not considered that the safeguarding and provision of general sports facilities is excluded with regard to the policies, proposals and references used within the plan. Overall, the Reporter does not consider that any modification is required.

Officers recommend that these conclusions are accepted by the Council.

PROP ED1: MUSSELBURGH CLUSTER EDUCATION PROPOSALS

A representation from Musselburgh and Inveresk Community Council states that insufficient attention has been given to the implications of the proposed new development on the education infrastructure of the town. The council’s response to matters raised in relation to Proposal ED1 outline the plan’s approach in terms of educational assessment, the need for additional capacity at

primary and secondary level and the requirement to redraw school catchment areas where necessary. The assessment includes the consideration of pre-school (nursery) provision on which developer contributions will be sought, where justified.

The representation from Musselburgh Grammar School Parent Council prefers a single secondary school to serve the Musselburgh area and is concerned that two schools would not be of equal standing in terms of funding and resources. Reassurance is therefore sought that any developer contributions from housing development within the Musselburgh Grammar catchment will benefit this school as well as the new one. Concerns are also raised over the financial and management planning for the new school and its long term future.

Based on an assessment of the cumulative impact of new development and projected school rolls, the council considers that a new secondary school within the Musselburgh cluster area is necessary. As discussed at the Main Issues Report stage, Musselburgh Grammar is identified as having a capacity of 1,350 pupils and a restricted campus. It is estimated that to accommodate the scale of housing allocated in the adopted local plan, Musselburgh Grammar would require increasing to a capacity of 1,700 pupils. As further housing allocations are proposed as part of this local development plan, such additional pressure on the school was not considered acceptable. In recognition of this, the following options were presented within the Main Issues Report:

- a) a new secondary school on a new campus to replace Musselburgh Grammar;
- b) a new upper secondary school facility with purpose built accommodation on a new campus, while maintaining Musselburgh Grammar;
- c) an entirely new secondary school in addition to Musselburgh Grammar to serve part of the Musselburgh cluster (location in the east preferred);
- d) redefine cluster boundaries in association with Midlothian and/or City of Edinburgh Councils; or
- e) redefine cluster boundaries in east Musselburgh to direct secondary school pupils to Preston Lodge High School.

The Main Issues Report acknowledges that in order to deliver the scale of growth within the preferred development strategy, innovative solutions to increasing education capacity are required. At that time, the mixed use proposal at Goshen site was indicated as offering a potential location for a new secondary school to serve the Musselburgh area.

Following a decision of the council to remove the Goshen site from the draft proposed plan in November 2015, the council carried out statutory consultation to establish a new site for a secondary school within Wallyford. This was in recognition of proposed additional land allocations within this area and that the addition of a new school would reduce pressure on the capacity of Musselburgh Grammar.

The Report of Examination acknowledges the concerns raised by the parent council. However, also recognises the complexity in planning for secondary education within this area and the option appraisal undertaken by the council. The Reporter notes the results of the statutory consultation as outlined in the council's report (CD108), in particular Education Scotland's view of the educational benefits of establishing a new, additional secondary school in the Musselburgh area. As well as placing less pressure on Musselburgh Grammar and potential risks to learning and

social spaces at the school, Education Scotland highlights the potential for joint planning and greater breadth of provision in the curriculum and in wider activities. A number of recommendations are made to the council to ensure suitable engagement with stakeholders, sharing of financial information and transitional arrangements are put in place.

Overall, the Report of Examination supports the spatial strategy of the plan (see Issue 2: Spatial Strategy) and the relevant proposals within Musselburgh (Issue 3: Musselburgh Cluster). The Report of Examination supports the need for an additional new secondary school at Wallyford as indicated in Proposals ED1 and MH11. The proposals contained within ED1 are appropriate to the spatial strategy and supported by other relevant policies of the plan, principally Policy DEL1: Infrastructure and Facilities Provision and also the draft Supplementary Guidance: Developer Contributions Framework. In conclusion therefore, the Reporter does not recommend any modifications to Proposal ED1 in response to this representation.

The council explains its current policy and criteria regarding providing free transport to and from primary and secondary schools and that the detailed arrangements in this case are still to be established. The Report of Examination accepts that such practical matters are not for the local development plan to resolve and therefore do not require any specific response in terms of modifying the plan.

Officers recommend that these conclusions are accepted by the Council.

PROP ED2: PRESTONPANS CLUSTER EDUCATION PROPOSALS

The plan states at paragraph 3.83 that there is sufficient capacity (with an extension) at Longniddry Primary School to accommodate the planned allocation of housing within Longniddry. In response to a further information request, the council acknowledges that there is an error within the relevant tables of Technical Note 14. It explains that the school currently has potentially 10 classrooms and the impact of additional development from Proposal PS1 will require an increase to 14 classrooms to accommodate a peak projected roll of 363 pupils. The Reporter finds Proposal ED2 is consistent in highlighting the need for an extension to the school and to seek developer contributions accordingly.

With regard to Preston Lodge High School, an increase in the capacity of this school is required in order to accommodate the cumulative impact of development within its catchment at Blindwells and Longniddry. Both allocations fall within the Prestonpans Secondary Education Contribution Zone as shown in Appendix 1 of the plan. The council confirms that the school will still require to be extended even if Blindwells (Proposal BW1) does not come forward. The Reporter concludes that although Proposal ED2 acknowledges that an extension is required in relation to new housing development in the cluster, it only specifically refers to Proposal BW1. The Reporter suggests that it would be helpful if paragraph 3.81 could also clarify that an extension will be required and that this would likewise be necessary as a result of development in Longniddry and recommends a modification to this effect.

Officers recommended that these conclusions and recommended post-examination modifications 1 and 2 are accepted by the Council.

PROP ED4: TRANENT CLUSTER EDUCATION PROPOSALS

The Report of Examination notes that the total hectareage to be safeguarded for the provision of new schools or school expansions is not specified within Proposals ED1 to ED7. Therefore the Reporter does not consider it necessary to specify the actual area of Windygoul Primary School in hectares within this section of the plan. To do so would be inconsistent with the way other proposals are referred to. However, within Issue 6: Tranent Cluster, the Reporter accepts that Proposal TT2: Windygoul Primary School Expansion Land is separately identified from adjacent housing and there is a separate proposal to safeguard land for a school expansion. Therefore the proposal itself (Proposal TT2) should include a reference to the size of the site. This recommended modification is reflected in Issue 6.

The Report of Examination notes that the council states that 1.24 hectares are required at TT2, a figure also stated by the Walker Group. Within the draft Supplementary Guidance: Developer Contributions Framework, Windygoul additional campus is referred to as 1.124 hectares with the council liable for 0.5 hectares and the developer for 0.624 hectares. The developer contribution of £920 per house appears to have been worked out on this basis. Although the difference of 0.116 hectares is not explained, the Reporter accepts that the area of 1.124 hectares is an approximation. This is reflected in the recommended modification to Proposal TT2 above.

Officers recommend that these conclusions are accepted by the Council

The Report of Examination does not consider it necessary to specify the council's role in contributing to the funding of campus land as suggested by the Walker Group. The Report of Examination agrees with the council's explanation that Technical Note 14 and the draft Developer Contributions Framework are clear in the respective interests and apportionment of the costs; the latter intended as Supplementary Guidance. The detail of such matters is more appropriate for consideration at the planning application stage and with regard to negotiating any planning obligations. No modification is proposed.

Officers recommend that these conclusions are accepted by the Council.

PROP ED5: HADDINGTON CLUSTER EDUCATION PROPOSALS

Representations from Taylor Wimpey UK Ltd and MacTaggart & Mickel Homes do not suggest that the developer contributions sought in relation to this proposal would make development unviable, but general caution is raised. In accordance with Policy DEL1, developer contributions would be sought through a planning obligation which should comply with Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The draft Supplementary Guidance: Developer Contributions Framework (paragraphs 1.16 to 1.18) outlines how phased payments or staged repayments may be introduced to assist delivery of necessary infrastructure and related cash flow. The council accepts (in paragraph 1.23 of the draft Framework), that where viability is an issue it may excuse a proposal from certain developer contributions. However, this would only be in exceptional circumstances and where the merits of the proposal clearly outweigh the public interest in requiring certain contributions. Overall, the Reporters consider that there are adequate measures in place to respond to these concerns if necessary. No modification is proposed.

Officers recommend that these conclusions are accepted by the Council.

PROP ED6: DUNBAR CLUSTER EDUCATION PROPOSALS

The representation by David Wilson Homes refers specifically to additional housing development in East Linton. The council has considered the overall educational requirements relative to all the development allocated within the plan at East Linton. Cumulatively, resulting from development within East Linton and the wider Dunbar Cluster, an expansion to Dunbar Grammar is required along with an expansion to East Linton Primary School. Consistent with the Primary Education Zones for these schools as shown in Appendix 1 of the plan, developer contributions are to be sought as reflected in Proposal ED6. Any windfall proposals would also be considered in this way.

The council explains in Issue 13: New Sites that it has not assessed the impact on school capacity of housing development over and above that allocated within the plan. However, it highlights the very limited capacity and limited potential for further expansion at East Linton Primary School in response to the two sites being promoted in Issue 13. The Reporter accepts the council's explanation in this regard and in general, would not expect the local development plan to quantify such constraints when its primary task is to identify the necessary infrastructure to support the allocations which comprise the spatial strategy. Therefore the Reporter does not consider that any confirmation of future capacity of the applicable schools is required within the plan. No modification is proposed.

Officers recommend that these conclusions are accepted by the Council

Magnus Thorne raises concerns over the capacity of East Linton Primary School in relation to existing and proposed developments within the catchment and specifically Proposal DR8:

Pencraig Hill, East Linton. The matter of sufficient capacity at the school is responded to in Issue 8. The outstanding matter raised here is with regard to the lack of reference to East Linton Primary School within the text under the Dunbar Cluster (paragraphs 3.101 to 3.103) and objections to the general statement that the housing land allocations in the catchment areas of the smaller schools will help sustain their pupil roll.

Dealing firstly with the reference to smaller schools. In this context, in response to a further information request on this matter, the council refers to the primary schools of Humble, Saltoun, Innerwick and Athelstaneford. While these schools are only given as examples by the council, the Reporter notes that East Linton is not specifically mentioned. While also noting the plan's use of the term 'generally', if one of the objectives of the spatial strategy is to secure housing allocations in locations where they can help to sustain local schools, the Reporter considers the plan should be clear on where this is intended. The same statement is also used in paragraphs 3.93 (Tranent Cluster) and 3.108 (North Berwick Cluster) of the plan.

Although the council indicates that it would prefer to retain these statements with the plan, it also indicates that it would have no objection to their removal. In responding to this specific representation, the Reporter concludes that the plan is not sufficiently clear as to whether housing is being identified at East Linton for the express purpose of helping to sustain the school roll.

Given that the statement in paragraph 3.103 is made generally, and explanation of where this is to be achieved through specific land allocations is not provided elsewhere within the plan, the Reporter recommends that this reference is removed. While noting that similar statements are made in paragraphs 3.93 and 3.108, there are no unresolved representations to these particular parts of the plan and therefore, while it would seem sensible to also remove these, the Reporter is unable to make a recommendation to that effect.

Officers recommended that this conclusion and recommended post-examination modification 5 are accepted by the Council.

In terms of references to East Linton Primary School within this section of the plan, the Report of Examination notes that the proposed extension of the school, as referred to in the draft Supplementary Guidance: Developer Contributions Framework is not stated within the preceding text to Proposal ED6. A reference to extending West Barns Primary School is also not included. For consistency, and in response to this particular representation, it is recommended that a reference to extending East Linton Primary School is added to paragraph 3.101.

Officers recommended that this conclusion and recommended post-examination modification 4 are accepted by the Council.

The LDP uses the term 'reprovision' of Dunbar Grammar's school sports pitch capacity in paragraph 3.101 which suggests that the pitches will be replaced and provided elsewhere.

However, the council explains in its response that the existing pitches are to remain and that additional provision is to be made available at the Hallhill Healthy Living Centre on a shared basis. Proposal DR3 would safeguard land for this specific purpose. To avoid further confusion on this matter, the Report of Examination recommends the word 'reprovision' is removed in this context.

Officers recommended that these conclusions and recommended post-examination modification 3 are accepted by the Council.

The council explains in its response that it has assessed the primary school accommodation required, as set out in Technical Note 14, in line with Scottish Government Guidance: Determining Primary School Capacity 2014 (CD024). Additional primary capacity has been identified on a school by school basis. The council confirms that it has used the 'planning capacity' for the forward planning of the school estate which has then been used to assess the impact of new development and appropriate developer contributions. Such an approach is useful to provide a theoretical measure of the total number of pupils which could be accommodated in a school.

Officers recommend that this conclusion is accepted by the Council

The council confirms that it will not seek contributions for any existing deficiencies in either capacity or standard of accommodation. This context is provided by Policy DEL1, in ensuring such contributions are required as a consequence of developments in accordance with Circular 3/2012. The details of such contributions are set out in Technical Note 14 and the draft Supplementary Guidance. Ultimately, the actual contribution sought will be a matter for discussion and negotiation at the planning application stage and with regard to any legal agreement. The Reporter is unable to recommend any modification that would provide any more certainty on this matter. No modification is proposed.

Officers recommend that this conclusion is accepted by the Council

The council highlights the Scottish Futures Trust metric for new primary schools as £2,963 per square metre for Quarter 2 of 2017. The council argues that the proposed rate of £3,000 per square metre is based on a range of school build contracts which it has competitively procured and also absorbs an element of risk to the council. It also explains that the metric was established for new buildings and not for extensions which tend to be more complex and expensive. While the Report of Examination generally accepts this explanation as reasonable in justifying the council's approach to the proposed use of £3,000 per square metre, the detailed costs are essentially matters for the supplementary guidance and for discussion and negotiation at the planning application stage and with regard to any legal agreement.

Officers recommend that these conclusions are accepted by the Council

PROP ED7: NORTH BERWICK CLUSTER EDUCATION PROPOSALS

Within Technical Note 14, the council explains that it utilises a new build child per house ratio for secondary schools based on its Education Provision Forecasting Methodology Guide. These ratios are considered to be a starting point but do not calculate the cumulative total number of pupils that might be expected from a new housing development over the entire development period and beyond. Other factors including additional new pupils arising each year and pupil migration are also taken account of. The council has carried out a recent analysis of new builds, and ongoing monitoring and adjustments are likely to take place which will have a bearing on predicted school capacities and developer contributions sought.

With regard to a representation from Eddie Clarke requesting to amend the safeguarded area for Proposal NK2: North Berwick High School and Law Primary School Expansion Land, the Report of Examination notes that this matter is not raised in Issue 9: North Berwick Cluster. Therefore the Report of Examination deals with it here. Land is safeguarded to the west of North Berwick High School under Proposal NK2. This is to allow for future school expansion as required but may not take in the entire area. Until this matter is resolved it is not possible to identify a remaining area and determine whether this should be separately safeguarded from any kind of built development. In the meantime therefore, the whole area represented by Proposal NK2 should remain safeguarded for school expansion purposes – the Report does not recommend any modifications.

The representation also wishes to ensure that the size of the new PE hall at North Berwick High School is adequate to ensure its entire sporting requirements in order to avoid needing to share facilities with the local sports centre. The council indicates that the proposed hall will be sufficient to meet the expansion of North Berwick High School, consistent with the scale of development proposed. The evidence before the Reporter does not suggest otherwise, therefore the Reporter finds that no modification is required.

Officers recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In paragraph 3.81, amending the beginning of the first sentence to read: "An extension to Preston Lodge High School will help....."
2. In paragraph 3.81, adding a new second sentence as follows: "It will also enable the development of Longniddry South (PROP PS1)."
3. In paragraph 3.101, deleting the following text from the last sentence: "the reprovion of".

4. In paragraph 3.101, inserting the following text at the end: “An extension to East Linton Primary School will also be required.”
5. In paragraph 3.103, deleting the last sentence.

Officers recommend that these post-examination modifications are accepted by the Council.

Issue 16	Community, Health and Social Care Facilities	
Development plan reference:	Community Facilities, Health and Social Care Facilities (pages 80 – 82)	Officer(s) Marek Mackowiak / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

PROP CF1: PROVISION OF NEW SPORTS PITCHES AND CHANGING ACCOMMODATION

The Reporter deals with the matter raised by Longniddry Community Council regarding the type of pitch suitable for Proposal PS1 in Issue 4: Prestonpans Cluster. The Reporter considers that Proposal CF1 identifies specific requirements for new sports pitches and changing accommodation. It is also noted that with regard to community centres, no additional needs have been identified.

The Reporter notes that in response to request by SportScotland, the council explained how it has identified the sport facilities that would be required as a result of new development. The Reporter considers that the plan provides protection for existing open space and facilities, including outdoor sports facilities, through Policy OS1: Protection of Open Space. The Reporter concludes that no modification to the supporting text or Proposal CF1 are required.

Officers recommend that these conclusion is accepted by the Council.

POLICY HSC1: HEALTH CARE SITES AND PROP HSC2: HEALTH FACILITIES PROPOSALS

The Reporter considers that the matter of future primary care provision in Musselburgh and Longniddry has been given reasonable consideration in the plan at this stage. While acknowledging the unease expressed within the representations with regard to the future provision of health services, dentists and emergency services, the Reporter finds that the plan contains sufficient detail at this time to enable particular proposals to come forward.

The Reporter agrees with the council that it is not the role of the local development plan to actually deliver the activities of other bodies and agencies but to identify where future development of facilities might be required. With regard to health care provision, the Reporter considers that the plan does this, as far as it can, through Proposal HSC2. The Reporter also considers that the detailed content of the Action Programme is a matter for the council once the plan is adopted and is not for this examination.

Officers recommend that these conclusions are accepted by the Council.

The Reporter notes that a number of concerns are expressed over the proposed erosion of green space and green belt in Musselburgh and consequent effects on health. The Reporter notes that the plan includes a number of policy measures which seek to protect remaining existing spaces, for new open space provision to be provided as part of new development and for the concept of a Green Network to be taken forward through a Green Network Strategy. The Reporter notes that this Strategy will enable new or improved green infrastructure which encourages healthier lifestyles, physical activity and mental wellbeing.

Officers recommend that this conclusion is accepted by the Council.

MISCELLANEOUS

The Reporter notes that proposals are in place to develop premises on the basis of a prioritisation exercise to allow all existing East Lothian practices to accommodate local population and demand growth. For this reason, developers within the catchment areas of existing premises are not being asked to make contributions to the costs of these existing proposals.

Officers recommend that this conclusion is accepted by the Council.

The Reporter notes that plan requires developer contributions for new or improved health care provision only in relation to Blindwells. The Reporter notes that the area of the Blindwells development is outwith any existing GP practice boundary and that the projected population growth for the development cannot be permanently accommodated by the neighbouring practices. Under General Medical Services (primary care) contract rules, the existing practices cannot be required to extend their boundaries to accommodate new patients and can limit the numbers of patients registering with them.

The Reporter accepts that the need for the new facility in Blindwells would be generated solely by new development and that no existing communities are intended to make use of the facility. While the Reporter notes the objection to the principle of securing developer contributions towards primary healthcare services, given the circumstances described in relation to Blindwells, she considers it reasonable that the plan seeks to do so.

The Reporter does not consider it appropriate to remove, as suggested by the Walker Group, references to new housing development generating demand for Education, Community and Health and Social Care Facilities or the removal of the statement that developer contributions will be sought in all relevant circumstances and commitment to fund and deliver solutions will be essential prior to approval of planning permission. The Reporter considers that population growth and the location of that growth generates the demand for particular types of health services. The Reporter concludes that circumstances where developer contributions will be expected are clearly set out within the policies and proposals of the plan.

Officers recommend that these conclusions are accepted by the Council.

North Berwick Community Council comment on the need for a vision for North Berwick and wishes specific facilities and spaces to be identified. The Reporter notes that Issue 2: Spatial Strategy concludes that the plan is sufficiently detailed and contains the necessary policies and proposals to respond to the issues presented. However, the Reporter acknowledges that supplementary planning guidance for local areas may be one way in which to take forward the community council's concerns, but this is a remit of the council.

Officers recommend that this conclusion is accepted by the Council.

The Reporter does not agree with the Gullane Community Council's criticism and concludes that adequate community facilities usable in winter/adverse weather conditions are available, including sports halls available in local schools. As a result no modification is recommended.

Officers recommend that this conclusion is accepted by the Council.

2. Reporter's Recommended Modification(s):

None

Issue 17	Open Space and Play Provision	
Development plan reference:	Open Space and Play Provision (pages 83-85)	Officer(s) Jenny Sheerin / Eamon John / Ed Hendrikson / Stuart Pryde / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

PARAGRAPH 2.60 - SPATIAL STRATEGY PRESTONPANS/COCKENZIE/PORT SETON/LONGNIDDRY CLUSTER

In view of the reporters recommendation to delete Proposal OS5 entirely from the plan and the proposals map a modification is also recommended to paragraph 2.60 where proposal OS5 is referenced in relation to proposal PS1.

Officers recommended that this conclusion and the associated post-examination modification 1 is accepted by the Council.

POLICY OS1: PROTECTION OF OPEN SPACE

Policy OS1 only proposes to retain the use of recreational, leisure and amenity open space and facilities, including outdoor sports facilities, where these make 'a significant contribution' to the recreational needs of the community or the amenity or landscape setting of the area. Sport-Scotland consider that this does not properly reflect Scottish Planning Policy paragraph 226. The reporter concludes that the proposed modification by SportScotland provides a clearer structure and meaning for sentence one of Policy OS1 and better articulates what is described in paragraph 3.122 of the plan. The proposed modification also better reflects Scottish Planning Policy paragraph 226. A modification is recommended to policy OS1 and a consequential modification to paragraph 3.123 to ensure that it continues to accurately reflect the modified Policy OS1.

Officers recommended that these conclusions and the associated post-examination modifications 2 and 3 are accepted by the Council.

POLICY OS2: CHANGE OF USE TO GARDEN GROUND

WA Dodds suggests that there are no circumstances in which the council should allow a change of use from open space to garden ground. The representation suggests a blanket ban. The council argues that there may be circumstances where this would improve the character or appearance of an area. It is therefore more rational to limit the circumstances in which a change of use from open space to garden ground can be considered appropriate. As written, Policy OS2 does this. No modifications are recommended.

Officers recommended that these conclusions are accepted by the Council.

POLICY OS3: MINIMUM OPEN SPACE STANDARD FOR NEW GENERAL NEEDS HOUSING DEVELOPMENT

POLICY OS4: PLAY SPACE PROVISION IN NEW GENERAL NEEDS HOUSING DEVELOPMENT

Musselburgh Area Partnership state that there is no assurance in the plan for green spaces within new development. The reporter concludes that policies OS3 and OS4 require new open space and play areas as part of new development. This achieves what Musselburgh Area Partnership seeks and therefore no modifications are recommended.

Representations did not support the 20-30m buffer for play areas in advice box 2 considering it excessive, which could impact upon housing numbers being able to be delivered on site. The reporter concluded that for new housing development of 50 units or more, buffer zones of 20 to 30 metres for play areas (Advice Box 2) are needed to limit disturbance to nearby homes. These can be made up of, for example, roads, footpaths and planted areas. The consolidation of open space and play area provision into larger usable areas would also require a single buffer around a consolidated play area. This offers sufficient operational clarity and practical flexibility for developers and suggests that the impact on land take will be more limited and easily overcome than Taylor Wimpey UK Ltd and MacTaggart & Mickel Homes Ltd and Homes for Scotland imply. No modifications are recommended.

Officers recommended that these conclusions are accepted by the Council.

PROP OS5: POTENTIAL CEMETERY EXTENSION

Proposal OS5 is based on the council's Burial Ground Strategy (2015), as explained in paragraph 3.132 of the plan. It safeguards land for potential cemetery use in the proposals map so as to fulfil the council's legal obligations to provide burial space. This safeguarding is to respond to the

demands of the current and anticipated population over the next 50 years, as set out in the council's Burial Ground Strategy. Some of the sites are extensions to existing cemeteries and others are new sites. Page 10 of the Burial Ground Strategy lists possible sites, comments on these and then identifies a solution. This list contains all of the sites that feature in representations on the proposed plan as well as several others that have not been the subject of representations.

Many respondents argue that insufficient consultation has taken place on the proposed burial sites. The council advises that matters of cemetery provision were raised by the council's cemetery team at the main issues report stage. The Burial Ground Strategy was published in March 2015 after the Main Issues Report (2014). The Main Issues Report did not contain any detailed matters relating to sites for burial provision.

Circular 6/2013: Development Planning, paragraph 80, states that if a particular issue or site arises that was not consulted upon in the Main Issues Report, the planning authority may need to carry out further consultation on that particular issue before publishing its Proposed Plan, if it wants to include it in the plan. The council argues that its Burial Ground Strategy (2015) was subject of consultation. However, this exercise is not referred to in either the plan or the council's Burial Ground Strategy (2015).

Neither the plan nor the Burial Ground Strategy explain what was consulted upon and by what method, when this took place, what responses were received and how these informed the proposed plan. In the absence of such information the reporter states that they are unable to conclude that this represents the further consultation sought by Circular 6/2013, paragraph 80. The reporter therefore concludes that the proposed plan is the first opportunity that the public has had to comment on the land use planning issues relating to Proposal OS5.

Officers recommend that this conclusion is accepted by the Council.

Paragraph 3.134 of the plan explains that the sites have been safeguarded pending the completion of detailed technical work, including that referred to by Scottish Environment Protection Agency for ground water. The reporter accepts the principle of safeguarding land as a rational method of protecting land for a future use. However, the absence of this technical work means that it is not currently possible to determine whether any of these sites are appropriate for cemetery use in the first instance. As such, their safeguarding may have the effect of blighting some areas, particularly if these emerge to be unsuitable for cemetery use.

Officers recommend that this conclusion is accepted by the Council.

The reporter notes that representations from several land owners; including for sites in Haddington and Tranent; who say they are unwilling to have their land used as a cemetery. Whilst this is not, on its own, a barrier to land allocation (or safeguarding), the Burial Ground Strategy does identify cost as an impediment to several sites. The evidence does not indicate whether this would inhibit purchase (compulsory or not) of the sites identified for safeguarding. However, the absence of this information limits the understanding of the council and interested parties about the practicalities and realism of delivering these sites.

When considering the detailed site matters, the reporter agrees with Gladman Planning that the Burial Ground Strategy rules out an extension to Deerpark at Dunbar on grounds of cost. This site extension is also not covered by the Strategic Environmental Assessment (SEA) material. Gladman Planning also notes the provision of burial space on the south side of the A1087 road as part of its proposals for development there, which it argues is consistent with page 10 of the Burial Ground Strategy. It seems unusual that the plan would safeguard a site in these circumstances, particularly when other sites covered by Proposal OS5 are referred to in the SEA.

The reporter does not dispute the council's calculations regarding the need for burial space in the future and the principle of safeguarding land in advance for this purpose. Although many of the sites have been subject to SEA, the evidence does not explain how the sites in page 10 of the Burial Ground Strategy were chosen on the basis of their planning merits. The reporter goes further to state that this is particularly concerning in the absence of technical work to demonstrate whether cemetery use is feasible. It is also unclear how identified issues such as the conservation area covering Whitekirk have been considered and resolved. It is noted that several of the sites need works to enable access and parking for the public and site operators. The reporter concludes that due to the absence of technical evidence or any detailed planning justification for these site choices along with the limited consultation, it is prudent to recommend the deletion of Proposal OS5 entirely from the plan and the proposals maps. Consequently the reporter also recommends a modification to paragraph 2.60 where Proposal OS5 is referenced in relation to Proposal PS1.

Officers recommended that these conclusions and the associated post-examination modification 1 and 5 are accepted by the Council.

The reporter makes it clear there is no suggestion that the council's cemetery site choices are wrong, since these may be proven to be appropriate. Rather, it is recognised that before choosing to safeguard these sites, or even to allocate them; it would be beneficial for all concerned if the relevant technical work could be completed. This would provide a stronger position from which to justify any subsequent site choices and incorporate these into a future Main Issues Report (or equivalent) for a full public engagement process. This would put the council and its subsequent local development plan in a stronger position with regard to this matter. Similarly the reporter does not see any short term disadvantage as the council can proceed to acquire and develop those sites which are programmed for immediate use and where the relevant technical work has been completed.

Officers recommend that this conclusion is accepted by the Council.

It should be noted that the reporter makes it clear that the recommendation to delete Proposal OS5 does not transfer these safeguarded sites to the uses sought by their owners. The uses sought include housing and these sites have not been allocated for such purposes in the plan. Land allocations for housing is a separate matter covered in Issues 2, 3, 4, 5, 6, 7, 8, 9, 9a and 13.

Officers recommend that this conclusion is accepted by the Council.

Mrs Taylor suggests that her land at Brierybank, Haddington could be used for allotment space temporarily. Without prejudice to its potential suitability for an allotment use the reporter agrees with the council that it would be extremely challenging to change its use later, given the provisions of the Community Empowerment (Scotland) Act 2015 with regard to allotments. No modifications is recommended.

Officers recommend that this conclusion is accepted by the Council.

The reporter also notes the typographical error in paragraph 3.134 of the plan, which refers to safeguarding land on the proposals map under OS6 rather than OS5. However, concludes that in view of the recommended modification to delete Proposal OS5, the deletion of the final sentence of paragraph 3.134 is also recommended.

Officers recommended that these conclusions and the associated post-examination modifications 5 and 6 be accepted by the Council.

POLICY OS6: ALLOTMENT PROVISION AND PROP OS7: ALLOTMENT SITES

Walker Group is concerned about the future management of allotment space provided under Policy OS6. The council explains that it is proposing to develop an allotment/food growing strategy following final enactment of Section 9 of the Community Empowerment (Scotland) Act. The council intends the direction of this strategy to be towards delegation of management responsibility to discrete associations in the longer term. The reporter concludes that whilst it would be helpful to provide some indication of this in the plan the council is not in a position to do this in the absence of its allotment/food growing strategy. No modifications are recommended.

Officers recommend that this conclusion is accepted by the Council.

Haddington District and Amenity Society seek an amendment to policy OS7 to include allotment provision within Haddington. In Haddington the council argues that there are a variety of open spaces that could be modified to provide allotments to respond to a future increase in demand. Policy OS6 also requires allotment provision as part larger development sites. The reporter concludes that the evidence before him does not suggest that the plan would prevent the future provision of allotments in appropriate locations. No modifications are recommended.

Officers recommend that this conclusion is accepted by the Council.

The Scottish Government states that there is no reference to community growing spaces in the plan. The Scottish Government requests additional wording be inserted into the plan to encourage opportunities for a range of community growing spaces. Paragraph 3.126 sentence two uses the words 'can include'. This suggests that the list of land uses is not exhaustive. The reporter

concludes that Scottish Government's proposed modification is sufficient to draw attention and recognition to community growing space without fundamentally changing the emphasis of the plan. Doing so would better reflect Scottish Planning Policy paragraph 227. The reporter recommends making this modification.

Officers recommended that these conclusions and the associated post-examination modification 4 be accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In paragraph 2.60, deleting the second sentence.
2. In paragraph 3.123, modify the final sentence to read as follows:

"Where an area with recreational, amenity or landscape open space potential not designated as such by Policy OS1 is proposed as a development site, the Council will consider its value as open space based on the open space audit and strategy and its contribution to the amenity of the area against Policy OS1."
3. Amending the text of Policy OS1 to read as follows:

"Recreational, leisure and amenity open space and facilities, including outdoor sports facilities, will be safeguarded to meet the recreational needs of the community or protect the amenity or landscape setting of an area. Alternative uses will only be considered where there is no significant loss of amenity or impact on the landscape setting and:
 - i. the loss of a part of the land would not affect its recreational, amenity or landscape function; or
 - ii. alternative provision of equal community benefit and accessibility would be made available; or
 - iii. provision is clearly in excess of existing and predicted requirements."
4. In paragraph 3.126, amending sentence two to read:

"Open spaces should be multifunctional and can include district, town and local parks, sports pitches, civic space and community growing space."
5. Deleting Proposal OS5: Potential Cemetery Extensions from the plan and from the proposal maps.
6. In paragraph 3.134 deleting the final sentence.

Officers recommend that these post-examination modifications are accepted by the Council.

Issue 18a	Transport: General	
Development plan reference:	Our infrastructure and resources	Officer(s) Peter Forsyth / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>GENERAL TRANSPORT IMPROVEMENTS</p> <p>The Report of Examination notes that the Council’s Transport Appraisal has considered scenarios both with and without the development in the proposed LDP. It concludes that the most significant impacts would be consequent on the proposed LDP scenario and identifies mitigation measures that are discussed in detail in issues 18b – 18e. The Report of Examination concludes that the Council has adequately recognised transport capacity issues associated with the development plan and identified measures to overcome these.</p> <p>The Report of Examination notes that the independent expert assessment sought by Gullane Community Council has therefore been carried out in the Transport Appraisal by independent transport consultants. It further notes the concerns regarding proposals for ‘significant development’ in Drem. Whilst paragraph 2.154 of LDP1 mentions this it does so in the context of how, in the longer term, development in Drem could result in the opportunity to realign the road. There are no actual proposals for this in the plan and the Council confirms this and no modification is therefore recommended.</p> <p>The Report of Examination notes that LDP1 notes a suite of measures to overcome air quality issues in Musselburgh, including traffic and parking measures (Policy T19 and Proposals T20 and T21). It also notes that LDP1 does not explain which organisations are responsible for infrastructure delivery and notes that this is the role of the Action Programme, which does identify the relevant organisations and need for partnership working. No modifications are therefore recommended on these matters.</p> <p>Officers therefore recommend that these conclusions are accepted by the Council.</p> <p>POLICY T1: DEVELOPMENT LOCATION AND ACCESSIBILITY</p> <p>The Report of Examination notes that the Transport Appraisal does not demonstrate that the perceived traffic problems in Inveresk would be resolved by a 20 miles per hour speed limit and no modifications are recommended.</p>		

Officers therefore recommend that these conclusions are accepted by the Council.

POLICY T2: GENERAL TRANSPORT IMPACT

The Report of Examination notes that the Transport Appraisal includes several transport mitigation measures including those around Musselburgh rail station and junction improvements on the A1 road. The draft development briefs for site MH1, and other sites including in Dunbar, also cover proposed access improvements such as footpaths/cycle ways and improvements to local roads. The measures identified in the draft briefs are designed to overcome the concerns raised by Musselburgh Area Partnership, Musselburgh Grammar School Parent Council and East Lammermuir Community Council. No modifications to LDP1 are therefore recommended.

Officers therefore recommend that these conclusions are accepted by the Council.

POLICY T29: TOWN CENTRE PARKING STRATEGY

The Report of Examination notes that LDP1 Policy T29 proposes improvements in the efficient use of the current supply of parking and aims to reduce the negative impacts of parking within settlements. The Council also proposes to adopt town centre strategies as Supplementary Guidance. No modifications are therefore recommended.

Officers therefore recommend that these conclusions are accepted by the Council.

RAIL IMPROVEMENTS

The Report of Examination notes that the Transport Appraisal identifies the rail interventions that are required and that it will be for the LDP1 Action Programme to identify who will be responsible for delivering these. Network Rail does not object to the proposals within proposed LDP1. Network Rail will be consulted on relevant proposals. The proposed LDP1 identifies proposals for a four track section of the East Coast Main Line insofar as it can at this stage. The Report of Examination notes that LDP1 shows parts of the Longniddry to Haddington Route Safeguard (Proposal T14) are shown on Inset Maps 20 and 24 and recommends a modification to include the full length of the Longniddry to Haddington Route Safeguard (T14) on the Proposals Map Inset Map 3, as suggested by the Council.

Officers therefore recommend that these conclusions and recommended post-examination modification 1 is accepted by the Council.

DEVELOPER CONTRIBUTIONS APPROACH

The Report of Examination notes that proposed LDP1 is based on a Transport Appraisal published as background information alongside proposed LDP1 for representation. It has concluded which mitigation measures are needed to overcome these capacity issues and identified these in LDP1 and its associated proposals maps. The Report of Examination supports the Council's assessment of the need for the identified interventions and its justification for developer contributions towards them. The Report of Examination also notes that the Council has considered detailed matters regarding the costs and scale of contributions to be sought in its draft Supplementary Guidance: Developer Contributions Framework.

Notwithstanding this, the Report of Examination notes that an update of the Transport Appraisal was prepared during the course of the Examination in response to Transport Scotland's representations on proposed LDP1. In that context, the Council suggested several consequential modifications to proposed LDP1 that were based on the updated Transport Appraisal. The suggested modifications related to several proposals for transport improvements within LDP1 and its supporting text. However, the Council pointed out that it was for the Reporter to consider whether this information had any merit. On a procedural point, the Report of Examination did not accept this further information or the suggested modifications as the associated information did not form part of the material available to interested parties during the period for representations and does not relate to any unresolved issues. In that context, the Council's response to FIR22 accepted that some of its previously proposed modifications should not be made.

The Report of Examination further notes that the information in the updated DPMTAG Report is inconsistent with the technical evidence originally presented in the Transport Appraisal, Technical Note 14 and the Council's draft Supplementary Guidance: Developer Contributions Framework, which is itself consistent across these documents and with the proposals within proposed LDP1.

As such, the original package of information was accepted by the Report of Examination as a sound evidence base upon which to develop LDP1. The Report of Examination also notes that there is evolutionary consistency between the evidence originally presented in the Transport Appraisal, Technical Note 14 and the draft Supplementary Guidance: Developer Contributions Framework and that presented in updated DPMTAG report tables 4.1 and 4.8. For example, these show the proportions and/or costs to be sought by the Council through developer contributions are likely to be the same or lower than previously shown in Technical Note 14 for all proposed mitigation except for Proposal T17: Bankton and A198 road upgrade. In this context, the Report of Examination notes that the updated Transport Appraisal conclusions regarding works, costs and proportions will, no doubt, inform the finalisation of the Supplementary Guidance: Developer Contributions Framework.

Officers recommend that these conclusions are accepted by the Council.

DEVELOPER CONTRIBUTIONS TOWARDS RAIL

The Report of Examination accepts that there is some lack of clarity in Proposals T9 and T10 regarding what developer contributions are being sought towards. However, the content of the

proposals themselves and the evidence before the Examination suggests that Proposals T9 and T10 are seeking developer contributions to provide the infrastructure and not to safeguard the land. However, their current titles could appear to contradict this so modifications are recommended to both proposals to clarify this.

Officers therefore recommend that these conclusions and recommended post-examination modifications 2 and 3 are accepted by the Council.

The Report of Examination notes that several representations sought modifications to remove developer contributions for rail improvements in Proposals T9 and T10 for station car park extensions and platform lengthening (related matters are also considered in Issue 18c and Issue 31). The Report of Examination agrees with the Council that Network Rail is not a profit making body but a public body responsible for running the railways, and that developer contributions are being sought towards new or improved rail infrastructure and that it is Network Rail's role to subsidise the transport impacts of new development. Neither does the evidence in representations demonstrate, based on Circular 3/2012, that it would be unreasonable or unacceptable for the plan to seek developer contributions for rail infrastructure to ameliorate the impact of proposed development. The Report of Examination notes that a more detailed analysis may be necessary for any Supplementary Guidance: Developer Contributions Framework to satisfactorily demonstrate that the full requirements of the Circular are met for each site. No modifications are recommended.

Officers therefore recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. Adding to inset map 3 the full length of the Longniddry to Haddington Route Safeguard (Proposal T14).
2. Deleting the words "Safeguarding of land for" from the title of Proposal T9 so that it reads: "PROP T9: Larger Station Car Parks".
3. Deleting the words "Safeguarding land for" from the title of Proposal T10 so that it reads: "PROP T10: Platform Lengthening".

Officers recommend that these post-examination modifications are accepted by the Council.

Issue 18b	Transport: Active Travel	
Development plan reference:	Our infrastructure and Resources	Officer(s) Peter Forsyth / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>Proposal T3: Segregated Active Travel Corridor</p> <p>The Report of Examination notes that proposed LDP1 explains that the segregated active travel corridor is to be a priority route for pedestrians and cyclists from Dunbar to Musselburgh, and onwards to Edinburgh and that the broad route is illustrated in Diagram 2. The plan therefore already explains the matter raised by Haddington and District Amenity Society. No modification is recommended.</p> <p>The Report of Examination notes that Proposal T3 is unlikely to need a Habitats Regulations Appraisal but that it is best to allow this to be determined through the screening process since the exact route may not yet have been established. No modification is recommended.</p> <p>The Report of Examination notes that Hallhill Developments and Stewart Milne Homes each contest the principle of seeking contributions towards the segregated active travel corridor (Proposal T3), seeking removal of this requirement. They argue that it fails the tests in Circular 3/2012.</p> <p>The Report of Examination notes that the Council's Transport Appraisal considers scenarios for future travel demand both with and without the proposed plan. It concludes that the increase in travel demand would be most significant as a direct consequence of development in the plan. These factors establish the principle of direct individual and cumulative links between new development and increased travel demand (including active travel) as sought in Circular 3/2012, paragraphs 17 to 19.</p> <p>The Report of Examination notes that the recent Elsick case in Aberdeen City and Shire has emphasised the importance of this relationship and these matters are considered in more detail in Issue 31. In response to further information request 16 (FIR16) the Council provided a commentary on why it considers that the East Lothian approach to developer contributions differs from the Aberdeen approach that was subject of the recent Supreme Court decision (the Elsick case – reference UKSC 66). The Council's commentary on this reflects the conclusions of this Examination, having considered the plan, the Transport Appraisal, the draft supplementary guidance and Technical Note 14.</p> <p>The Report of Examination also concludes that the Council's approach to proposed developer contributions is based on a scale and kind relationship. The scale and proportion of funding sought also indicates that the relationship between the segregated active travel corridor and proposed</p>		

development is not trivial. This demonstrates that establishing a scale and kind relationship has been a key principle behind the Council's thinking; as required by Circular 3/2012 paragraphs 20 to 23. For these reasons, the Report of Examination concludes that the East Lothian approach differs from the Aberdeen approach and is not akin to a development levy (see Issue 31).

The Report of Examination also notes that Policy T32: Transport Infrastructure Delivery Fund and supporting text make clear that monies collected through developer contributions will be collected and managed by a fund. The fund will assign the developer contributions to ensure that these monies are directed to the cost of providing necessary facilities required as a consequence of or in connection with the development in the near future.

Overall the evidence from Hallhill Developments and Stewart Milne Homes does not lead the Examination to conclude that the principle of seeking developer contributions for Proposal T3: Segregated Active Travel Corridor fails the tests in Circular 3/2012. However, the Report of Examination notes that a more detailed analysis may be necessary for any supplementary guidance to satisfactorily demonstrate that the full requirements of that Circular are met for each site. No modification is therefore recommended.

Officers therefore recommend that these conclusions are accepted by the Council.

PROPOSAL T4: ACTIVE TRAVEL ROUTES AND CORE PATHS AS PART OF GREEN NETWORK STRATEGY

The Report of Examination agrees with the Council that Policy T4 already applies to all core paths and active travel networks and that there is nothing which prevents the extension or enhancement of these beyond the specific proposals that the council has identified. No modification is therefore recommended.

Officers therefore recommend that these conclusions are accepted by the Council.

POLICY T6: REALLOCATION OF ROAD SPACE AND PEDESTRIAN CROSSING POINTS

The Report of Examination notes that paragraph 4.12 of the plan sets out the need to improve safety for pedestrians using the principles of 'Designing Streets'. Policy T6 covers all locations and explains how the council will consider the reallocation of road space to support safety. It sees no advantage in making specific mention of Proposal T3 within Policy T6, as Policy T6 should be expected to apply to Proposal T3 in any case. No modification is therefore recommended.

Officers therefore recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

None

Issue 18c	Transport: Public Transport	
Development plan reference:	Our infrastructure and resources	Officer(s) Peter Forsyth / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

INTRODUCTION

The Report of Examination notes that Network Rail supports LDP1.

POLICY T8: BUS NETWORK IMPROVEMENTS

The Report of Examination notes that there will be an increase in travel with and without LDP1. It also accepts the Council's modelling work and consequent mitigation measures aimed at reducing demand for road space and to support a modal shift to rail, bus and active travel. Detailed project level master planning processes will allow further improvements to be made at the local level in respect of this issue. No modifications are recommended.

Officers therefore recommend that these conclusions are accepted by the Council.

PROPOSAL T9: SAFEGUARDING LAND FOR LARGER STATION CAR PARKS & PROPOSAL T10: SAFEGUARDING LAND FOR PLATFORM LENGTHENING

Justification for platform extensions

The Report of Examination notes the Transport Scotland does not support platform lengthening, but Network Rail does. It further notes that the principle of such an intervention is identified within the Action Programme of SDP1 (Action 37). Transport Scotland argues that it has sought, but not been provided, with evidence of the rationale for longer platforms, particularly in light of the recent introduction of a six-car train service. The Report of Examination notes that the Council's Transport Appraisal provides this evidence, and that this is supported by the Scotland Route Study (2016) supplied by the Council and Network Rail in response to a request for further information. This is further supported by the Council's *East Lothian Modelling Framework Developer Contribution Framework: Outline Methodology Technical Note* that makes clear that the current franchise holder is already lengthening platforms to accommodate six-car trains. Developer contributions are therefore being sought only to further lengthen platforms under Proposal T10 to accommodate eight car trains. The Report of Examination notes that the Council has explored and understands

the alternatives to platform extensions and that these have potential to be sub-optimal. This reinforces the Council's conclusion that longer trains are the optimal method to increase capacity to meet travel demand from new development, and, that this requires longer platforms and additional car parking at some stations (Proposals T9 and T10 and T12 and T13). Transport Scotland's proposed modification would introduce ambiguity about whether contributions towards platform extensions will be sought and is not supported.

Officers therefore recommend that these conclusions are accepted by the Council.

Developer Contributions approach

The Report of Examination notes that proposed LDP1 is based on a Transport Appraisal published as background information alongside proposed LDP1 for representation. It has concluded which mitigation measures are needed to overcome capacity issues and these are identified in LDP1 and its associated proposals maps. Those that are consequent (individually or cumulatively) from development and covered in the draft Supplementary Guidance: Developer Contributions Framework are identified in Table DEL1.

The Report of Examination supports the Council's assessment of the need for the identified interventions and its justification for developer contributions towards them. The Report of Examination also notes that the Council has considered detailed matters regarding the costs and scale of contributions to be sought in its draft Supplementary Guidance: Developer Contributions Framework and this approach is supported too; however, the Report of Examination also notes that such matters of detail are appropriate for supplementary guidance and not LDP1. The scope of the Examination is also to be limited to unresolved representation on LDP1, and not to the content of the draft supplementary guidance itself.

The Report of Examination notes that an update of the Transport Appraisal was prepared during the course of the Examination in repose to Transport Scotland's representations on proposed LDP1. This more recent document includes updated modelling, costs and proportions of costs for developer contributions. However, on a procedural point, the Report of Examination did not accept this further information as it did not form part of the material available to interested parties during the period for representations and does not relate to any unresolved issues. In this context, the Report of Examination notes that the updated Transport Appraisal conclusions regarding works, costs and proportions will, no doubt, inform the finalisation of the Supplementary Guidance: Developer Contributions Framework.

Officers recommend that these conclusions are accepted by the Council.

Developer Contributions for Proposals T9 and T10

The Report of Examination notes that Wemyss and March Estate, Hallhill Developments and Stewart Milne Homes seek removal of developer contributions for rail improvements in Proposals T9 and T10. Wemyss and March Estate argue that platform lengthening (Proposal T10) is not

justified, but the Report of Examination has concluded that the Council's justification is satisfactory as explained above.

Hallhill Developments and Stewart Milne Homes question the principle of seeking developer contributions for rail infrastructure. The Report of Examination agrees with the Council that Network Rail is not a profit making body, but a public body responsible for running the railways. It notes that developer contributions are being sought towards new or improved rail infrastructure and not for vehicles/rolling stock or to fund the running of services, and that it is not Network Rail's role to subsidise the transport impacts of new development in the plan.

Wemyss and March Estate, Hallhill Developments and Stewart Milne Homes argue that Proposals T9 and T10 fail the tests in Circular 3/2012. The Report of Examination notes that the Council's Transport Appraisal considers scenarios for future travel demand both with and without LDP1. It concludes that the increase in road, rail and active travel demand will be most significant as a direct consequence of development in the plan.

The Transport Appraisal identifies capacity issues on transport infrastructure and recommends mitigation measures to ameliorate this. Proposals T9 and T10 are amongst these. Developer contributions are being sought for the further extension of platforms (Proposal T10) from those that could accommodate six car trains (that are committed) to accommodate eight car trains. The proposed developer contributions for rail therefore relate only to the impacts that are consequent from LDP1. These factors establish the principle of direct individual and cumulative links between new development and increased travel demand (including active travel) as sought in Circular 3/2012, paragraphs 17 to 19.

The Report of Examination notes that the recent Elswick case in Aberdeen City and Shire has emphasised the importance of this relationship and these matters are considered in more detail in Issue 31. In response to further information request 16 (FIR16) the Council provided a commentary on why it considers that the East Lothian approach to developer contributions differs from the Aberdeen approach that was subject of the recent Supreme Court decision (the Elswick case – reference UKSC 66). Having considered LDP1, the Transport Appraisal, the draft supplementary guidance and Technical Note 14 the Council's commentary on this reflects the conclusions of the Examination.

The Report of Examination therefore concludes that the Council's approach to proposed developer contributions is based on a scale and kind relationship. In the case of the rail, numerous sites will impact along its route. The Transport Appraisal defines geographic zones, many of which contribute to travel demand for rail. The scale of development (from one or more sites) within each zone and the subsequent modelling determines the magnitude of the contribution to travel demand of each zone. These proportions have been used to share the total cost of Proposals T9 and T10 amongst each of the relevant zones. The cost for each zone is then shared amongst the constituent development on a pro-rata basis. This demonstrates that establishing a scale and kind relationship has been a key principle behind the Council's thinking; as required by Circular 3/2012 paragraphs 20 to 23. For these reasons, the Report of Examination concludes that the East Lothian approach differs from the Aberdeen approach and is not akin to a development levy (see Issue 31).

The Report of Examination also notes that Policy T32: Transport Infrastructure Delivery Fund and supporting text make clear that monies collected through developer contributions will be collected and managed by a fund. The fund will assign the developer contributions to ensure that these monies are directed to the cost of providing necessary facilities required as a consequence of or in connection with the development.

Overall the evidence does not lead the Examination to conclude that the principle of seeking developer contributions for rail infrastructure fails the tests in Circular 3/2012. However, the Report of Examination notes that a more detailed analysis may be necessary for any supplementary guidance to satisfactorily demonstrate that the full requirements of that Circular are met for each site.

Officers therefore recommend that these conclusions are accepted by the Council.

Further Issues regarding developer contributions

In response to FIR16, Wemyss and March Estate raised matters regarding their original unresolved issues for rail contributions sought from their site at Longniddry South (PS1). They argue that other sites have a lower contribution to the rail package (Proposals T9 and T10) than Longniddry South (PS1). The Report of Examination does not agree with this analysis. Despite this, Wemyss and March Estate note that larger scale projects elsewhere appear to contribute to a smaller share of the rail package.

The Report of Examination notes that the scale of proposed development and associated travel demand as well as the capacity of infrastructure and impact upon it in different contribution zones varies. It is not surprising therefore that the individual per home/per hectare contributions would also vary from zone to zone. The cost of any infrastructure upgrade is also to be shared between the number of developments (homes/hectares) within zones, and, as such, in some cases the cost may be lower per home/hectare. The scale of contribution to the rail package will also be larger for contribution zones where more improvement works are necessary. This should be expected for a scale and kind relationship as required by the relevant Circular.

Wemyss and March Estate also provide its rail study for Longniddry South (PS1) which suggests that any capacity on current and proposed services could accommodate the proposed rail demand originating from Longniddry South. However, the Council's Transport Appraisal and related work has considered all proposed development in the area, how such capacity could be utilised, and how further capacity would be needed in future. It proposes to share this existing capacity and the cost for new infrastructure amongst the relevant proposed developments. This recognises that any current capacity does not 'belong' to any individual proposed development.

Officers therefore recommend that these conclusions are accepted by the Council.

Drem Station proposed expansion

The Report of Examination notes that Inset Map 10 identifies a safeguard of land at Drem rail station, where platform and parking extensions is to be accommodated under Proposal T9 and T10. James Millar (Kilduff) Ltd's view is therefore not supported, as inset map 10 covers the points raised. Gullane Community Council imply this extension will be inadequate, but the Report of Examination notes that no information is provided to indicate how much larger it should be. Emma Duncan's concerns regarding privacy and amenity can be addressed at planning application stage.

Officers therefore recommend that these conclusions are accepted by the Council.

Longniddry Station

Proposals T9 and T10 already seek to resolve issues relating to train capacity and car parking spaces at existing stations, including Longniddry. Specific matters relating to current access at Longniddry station, raised by Longniddry Community Council, are matters for the station operator. No modifications are recommended.

Officers therefore recommend that these conclusions are accepted by the Council.

Dunbar Station proposed expansion

Network Rail seeks reference to an all access bridge at Dunbar so that the proposed new south platform can be accessed from the existing station. Ludo and Alice MacKenzie are concerned that the proposed south platform at Dunbar station would result in the loss of existing trees north of Salisbury Walk that appear to be behind a wall within the railway estate; the evidence does not suggest any tree preservation orders. It is not necessary for all of these matters to be addressed in LDP1 since a more detailed design stage will follow for a planning application. LDP1 includes policies to ensure that new development proposals, including transport infrastructure, are well designed. The Report of Examination also sees no disadvantage in LDP1 not referring to an all access bridge.

Officers therefore recommend that these conclusions are accepted by the Council.

General

The Report of Examination notes that it would be sensible for Network Rail to have an input to the preparation of the Supplementary Guidance on developer contributions, but this is a matter for the

Council and Network Rail. Scottish Natural Heritage's observations that a proportionate approach is unlikely to require a caveat in Proposal T10 regarding habitats regulations appraisal, but this is best determined through the screening process.

Officers therefore recommend that these conclusions are accepted by the Council.

PROPOSAL T12: RAILWAY STATION SAFEGUARD AT EAST LINTON

Network Rail supports the proposed new station at East Linton. The plan safeguards the necessary land on Inset Map 12. This includes an area for car parking accessed from Andrew Meikle Grove. The plan has therefore considered the matters identified by Magnus Thorne. In response to Barratt David Wilson Homes the Proposed Action Programme identifies the parties who will be involved in the funding of the proposed new station.

Officers therefore recommend that these conclusions are accepted by the Council.

PROPOSAL T13: EAST COAST MAIN LINE: FOUR TRACK SECTION, NEW RAIL STATION AND VEHICULAR OVERBRIDGE

The Report of Examination notes that Network Rail is investigating the widening to four tracks of the East Coast Main Line between Prestonpans and Drem stations (LDP1 Proposal T13). This is also included in Network Rail's Scotland Route Study (July 2016).

The Report of Examination agrees with Gullane Community Council that Proposal T13 is aspirational but does not agree with it that this reduces the credibility of LDP1. Proposal T13 is shown in Diagram 2, but there is no detail of the route because it is not possible to determine this prior to carrying out the necessary technical work. This also means there are no detailed costs or sources of funding, as sought by Gullane Community Council. Page 56 of Network Rail's Scotland Route Study (July 2016) estimates a cost of between £125 to 300 million. However, this figure does not include specific considerations such as the impact on the A199 road junction and does not mention a new station at Blindwells and overbridge.

The plan envisages a new rail station as part of the delivery of the proposed new settlement at Blindwells (BW1 and BW2). In response to Hargreaves Services Ltd, the Report of Examination considers that the use of supplementary guidance for a new rail station at Blindwells must be based on a 'hook' in the plan, as is currently the case. It also notes that SESplan Action Programme Action 37 includes the proposed new rail station at Blindwells. Longniddry Community Council questions whether Blindwells can be justified and refers to the impact it could have on journey times and pathing issues. The Transport Appraisal has considered these matters. Local

bus feeder services to nearby stations could provide one option but the evidence does not demonstrate that this should replace Proposal T13.

Officers therefore recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

None

Issue 18d	Transport – Trunk Road	
Development plan reference:	Our Infrastructure and Resources	Officer(s) Peter Forsyth / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

PROPOSAL T15: OLD CRAIGHALL A1(T) JUNCTION IMPROVEMENTS

The Report of Examination notes that LDP1 Proposal T15 together with the draft Development Briefs for sites MH1 and MH3 show the proposed road layouts in this area. This is considered by the Transport Appraisal, so no modifications are necessary.

Scottish Government / Transport Scotland identify a process issue, and whilst this does not criticise the work done for the proposed LDP it states that in the absence of the conclusion of micro-simulation modelling work it was not possible to seek modifications to the plan or to endorse it. However, following completion of this further modelling work, Transport Scotland is satisfied the work is complete and with its conclusions regarding proposed improvements. No modifications are recommended. In its comments to the updated DPMTAG Report, following FIR17, Transport Scotland agrees with the recommended changes set out in Annex 3 of that report. This is considered in more detail below under the heading 'Further Information'

Officers recommend that these conclusions are accepted by the Council.

PROPOSAL T16: A1 JUNCTION IMPROVEMENTS AT QUEEN MARGRET DRIVE INTERCHANGE

The Report of Examination notes that Queen Margaret University supports Proposal T16 but opposes the absence of phasing arrangements for delivery within it. The Council's response to this matter was made prior to completion of the micro-simulation work mentioned above, which does not conclude any specific arrangements for phasing. The Report of Examination concludes that such a trigger point is best identified in the drawing up of any planning condition or Section 75 legal agreement following the determination of a planning application.

Officers therefore recommend that these conclusions are accepted by the Council.

PROPOSAL T18: LAND SAFEGUARD FOR TRUNK ROAD INTERCHANGE AT ADNISTON AND EASTERN TRANENT BY-PASS

The Report of Examination notes that Proposal T18 is to investigate the feasibility for a new junction at Blindwells. This is not a detailed proposal and the land has been safeguarded on the proposals map. There is currently no evidence to conclude whether or not the proposed junction could meet the technical requirements of Transport Scotland’s Design Manual for Roads and Bridges, and thus requirements of SPP paragraph 278. It would therefore be necessary to carry out Proposal T18 in order to draw these conclusions. Scottish Planning Policy paragraph 278 explains that new junctions on trunk roads are not normally acceptable and that the case for these will be considered where the planning authority considers that significant economic and regeneration benefits can be delivered. Post-examination modification 1 is therefore recommended to the pre-amble of Proposal T18 to clarify this.

Officers therefore recommend that these conclusions and recommended post-examination modification 1 are accepted by the Council.

FURTHER INFORMATION

The Report of Examination notes that the Council provided an updated Transport Appraisal that includes the Council’s consequent recommendations for modifications to the plan. Wemyss and March Estate argue their proposal at Longniddry South (PS1) should not contribute to the proposed Meadowmill Roundabout and dualling of the A198 road to Bankton interchange that are identified in this updated report. The evidence for the Council’s proposed consequential modifications was not available to interested parties during the period for representations and consequently there are no unresolved issues relating to these so the Examination cannot recommend making these modifications to LDP1. These conclusions are also reached in Issues 18a and 18c. The Report of Examination notes that the updated Transport Appraisal may inform the finalisation of the draft Supplementary Guidance: Developer Contributions Framework, which is not covered by this examination.

Officers recommend that these conclusions are accepted by the Council.

2. Reporter’s Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In paragraph 4.33, adding the following text as a new sentence at the end:

“As part of Proposal T18 the council will explore the economic and regeneration case for a new junction, how this would need to be designed and its resultant impacts on safety and operational performance of the A1(T).”

Officers recommend that this post-examination modification is accepted by the Council.

Issue 18e	Transport: Local Road Network	
Development plan reference:	Our Infrastructure and Resources	Officer(s) Peter Forsyth / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>PROPOSAL T20: TRANSPORT RELATED AIR QUALITY MEASURES: RELOCATION OF BUS STOPS</p> <p>The Report of Examination notes that the Council has prepared an air quality strategy and a town centre strategy for Musselburgh and lists many of LDP1 proposals in its response to air quality concerns raised in representations. Matters of air quality are also considered in Issue 28: Water, Flood Risk, Air Quality and Noise. The Council notes that 20 miles per hour speed limits do not form part of the measures set out to resolve air quality matters. No modifications are recommended.</p> <p>Officers therefore recommend that these conclusions are accepted by the Council.</p> <p>T22: Reopen Link to vehicular Access at Queen Margaret Drive / Whitehill Farm Road</p> <p>The Report of Examination notes that as currently worded, Proposal T22 is to investigate the possibility of opening the bridge to two-way traffic to an adoptable standard that provides additional network capacity and route choice. The existing pedestrian and cycle movements as well as other activities would need to be considered as part of this process. As such it seems reasonable to allow the exploration of these matters through Proposal T22 before drawing any conclusion as to whether the reopening of the road to two-way traffic is or is not an appropriate solution. This is also necessary to determine what, if any, engineering options and solutions are necessary to overcome any matters raised as a result of this work. No modifications are recommended.</p> <p>Officers therefore recommend that these conclusions are accepted by the Council.</p>		
2. Reporter's Recommended Modification(s):		
None		

Issue 18f	Transport: Transport Infrastructure Delivery Fund	
Development plan reference:	Our infrastructure and resources	Officer(s) Peter Forsyth / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

DEVELOPER CONTRIBUTIONS

The Report of Examination notes that LDP1 already seeks developer contributions towards rail improvements (Proposals T9 to T13). Developer contributions for rail are covered in Issues 18a: Transport General, 18c: Transport: Public Transport and 31: Delivery.

Officers therefore recommend that these conclusions are accepted by the Council.

THE ROLE OF TRANSPORT SCOTLAND

The Report of Examination notes that Scottish Government/Transport Scotland considers that Policy T32 refers to Transport Scotland in circumstances where this should not.

Policy T32 sentence one explains that the Council has prepared a package of transport mitigation measures in consultation with Transport Scotland. Notwithstanding separate comments by Scottish Government/Transport Scotland it is reasonable for the Council to make this clear given the important role that Transport Scotland plays in contributing to development plans. No modification to Policy T32 sentence one is recommended.

Policy T32 sentence three suggests Transport Scotland will have a direct role in the creation, monitoring and management of the Transport Infrastructure Delivery Fund. However, the Report of Examination concludes that Transport Scotland will play no part in this and recommends deleting this reference.

Policy T32 sentence four explains that developer contributions will be used by the Council or Transport Scotland. Transport Scotland may have a role as an authorising body but the funding will come from developer contributions that are used by the Council. Policy T32 sentence four is therefore inaccurate and the Report of Examination recommends that this reference to Transport Scotland is deleted.

Officers therefore recommend that these conclusions and recommended post-examination modification 1 are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In Policy T32, deleting reference to Transport Scotland in sentences three and four so that these sentences read:

“Within this overall Transport Infrastructure Delivery Fund separate funds and accounts will be created, monitored and managed by the Council as appropriate for each of the infrastructure projects. Developer contributions will always be used by the Council as relevant to deliver the mitigation for which they were originally intended.”

Officers recommend that this post-examination modification is accepted by the Council.

Issue 19	Digital Communication Networks	
Development plan reference:	Digital Communication Networks (Page 99)	Officer(s) Christine Galvin / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>POLICY DCN1: DIGITAL COMMUNICATIONS NETWORKS</p> <p>No modifications proposed. The Reporter considered the need to give more emphasis to supporting infrastructure for employers and businesses in rural settings. The Reporter concluded that Policy DCN1 supports digital communications infrastructure in principle and for new connectivity, the policy states that consideration will be given to the benefits for communities and the local economy. There is no need for further amendment.</p> <p>Officers recommend that these conclusions are accepted by the Council.</p>		
2. Reporter's Recommended Modification(s):		
None		

Issue 20	Sustainable Energy and Heat	
Development plan reference:	Sustainable Use of Energy and Heat in New Development (pg 101-102)	Officer(s) Marek Mackowiak / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>POLICY SEH1: SUSTAINABLE ENERGY AND HEAT</p> <p>The Reporter considers that the policy is broadly in line with Scottish Planning Policy and when the policy is read in conjunction with the supporting text it can be seen to be generally supportive.</p> <p>The Reporter does not support SEPA's comments that the policy fails to name enough large scale new development locations where district heating would be expected. The Reporter notes that the named locations for district heating are identified as particular examples with the greatest potential, not as an exhaustive list.</p> <p>In response to Midlothian Council's concern about the policy not being expressed as a presumption that community heating would be provided at Millerhall/Craighall, the Reporter concludes that it is East Lothian Council's prerogative and their stance is not inconsistent with Scottish Planning Policy.</p> <p>Officers recommend that these conclusions are accepted by the Council.</p> <p>SEPA wishes to see this policy include references to combined heat and power schemes, as the Main Issues Report did. The Reporter recommends to modify the policy by inserting an additional sentence to cover this matter.</p> <p>Officers recommend that this conclusion and recommended post-examination modification 1 are accepted by the Council.</p> <p>The Reporter does not support Francis Ogilvy's request who would like the policy to apply to existing public buildings. The Reporter notes that this would not be appropriate in a policy designed to apply only to new development. It is also noted that the council's approach is to address matters of sustainable energy and heat in its own premises through other (non-land use) policies.</p> <p>Officers recommend that this conclusion is accepted by the Council.</p>		

POLICY SEH2: LOW AND ZERO CARBON GENERATING TECHNOLOGIES

The Reporter recommends the deletion of the first sentence of paragraph 4.73 as it refers to a superseded version of Scottish Planning Policy.

Officers recommend that this conclusion and recommended post-examination modification 2 are accepted by the Council.

The Reporter considers Policy SEH2 as the council's approach to fulfilling the requirements of Section 3F of the Town and Country Planning (Scotland) Act (1997), as amended, as introduced by Section 72 of the Climate Change (Scotland) Act 2009.

The Reporter does not support representations that wish to see omitting Policy SEH2 and relying solely on building regulations. The Reporter considers that the policy responds to the terms of the legislation by requiring that a specified and rising proportion of the projected greenhouse emissions from new buildings be avoided through the installation and operation of low and zero-carbon generating technologies. The Reporter concludes that there are no grounds for deleting this policy.

Officers recommend that this conclusion is accepted by the Council.

In response to the RSPB's comment that all new public build (notably schools) should include solar panels and other appropriate renewable forms of energy, the Reporter notes that Policy SEH2 promotes technologies which would include solar panels as well as other forms of low and zero carbon generation. The Reporter concludes that there is no basis for recommending more specific requirements in the policy.

Officers recommend that this conclusion is accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. Adding the following sentence to the end of Policy SEH1: Sustainable Energy and Heat:

"The council supports the principle of combined heat and power schemes and energy generation from renewable or low carbon sources."
2. In paragraph 4.73, deleting the first sentence and deleting "However" from the following sentence.

Officers recommend that these post-examination modifications are accepted by the Council.

Issue 21	Wind	
Development plan reference:	Chapter 4 Infrastructure and Resources: Wind Turbines (pages 103 – 107)	Officer(s) Jean Squires / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

SPATIAL FRAMEWORK FOR WIND FARMS

The Reporter confirms that paragraph 4.79 simply recognises that when changes are made to the underlying designations that inform the Spatial Framework for wind farms, such changes will need to be taken into account when assessing wind farm proposals.

Community Wind Power made a representation on the comment in paragraph 4.81 that '*there is no capacity for turbines over 42m to be accommodated in the lowland landscapes of East Lothian without adverse landscape and visual impact*'. The Reporter recommends change to the wording of this to make clear that whilst this refers to landscape issues, these are only one part of the overall planning assessment.

Officers recommend that these conclusions and recommended post-examination modification 3 are accepted by the Council.

POLICY WD1: WIND FARMS

Impact on tourism

A representation was made to the inclusion of land along the B1377 for wind farm development on the grounds that it conflicts with the Council's objective for encouraging tourism. However, the level of protection sought can only be given to National Parks and National Scenic Areas in accordance with Scottish Planning Policy. The Reporter notes that tourist interests are promoted elsewhere in the plan.

Officers recommend that these conclusions are accepted by the Council.

Birds Directive

The RSPB observe that references here and throughout the Energy Generation, Distribution and Transmission section of the plan to the Habitats Directive should be to both Birds and Habitats Directive. This would more accurately reflect the position. The Reporter recommends that a modification is made to change references to the Habitats Directive here and elsewhere to the Birds and Habitats Directive (Modification 1).

Officers recommend that these conclusions are accepted by the Council. However, officers recommend that the Council decline to follow post-examination Modification 1 in part, and instead that the Council include alternative wording within the LDP to that recommended by the Report of Examination to more fully achieve its intentions, as set out in Section 2 below.

Decommissioning, restoration and financial provisions and extent of decommissioning and restoration

The Reporter considered it confusing to mention decommissioning, restoration and financial provision in two parts of the plan. Representation was made that the word 'complete' in paragraph 4.80 could imply the removal of all parts of the wind farms development, and so is ambiguous. The Reporter recommended that paragraph 4.80 should be deleted (discussed under Policy WD6 below) (Modification 2). No other modifications are proposed.

Officers recommend that this conclusion and recommended post-examination modification 2 are accepted by the Council.

POLICY WD2: SMALLER SCALE WIND TURBINE DEVELOPMENT

The Reporter notes the Council's clarification that it may wish to publish non-statutory supplementary planning guidance for small-scale wind development, and therefore the plan does not need to set out matters to be covered.

A representation was made which objected to the restriction of small scale wind development to below 12m in height. The Reporter stated that this appears to be a misreading of the policy. However, further explanation is recommended for clarity. It is recommended that Policy WD2 should be amended to include additional explanation of what is considered small-scale wind turbines (Modification 4). No other modifications are proposed.

Officers recommend that these conclusions and recommended post-examination modification 4 are accepted by the Council.

POLICY WD3: ALL WIND TURBINES

The Reporter noted that Policy WD3 states wind turbines must be acceptable in relation to a list of considerations. Representation requested amendments to several of these.

In the introductory sentence, the Reporter stated there is lack of clarity over the meaning of 'free-standing' in relation to wind turbines and an amendment is recommended to make it clear this means turbines that are not wall or roof mounted. A representation requested that in factor (a) consideration of cumulative impact should be restricted to 'similar' development, however the Reporter sees no justification for this. In factor (b) Scottish Planning Policy includes impact on individual dwellings as a relevant consideration, and the Reporter sees no reason why this should not be included. In factor (e) the wording in SPP is used and reference to the economy is made later in this policy and there is no need to repeat it here. In factor (f), the wording is similar to SPP and there is no reason to ignore the recreational value of public access routes. The typographical error in factor (n) should be corrected. No other modifications are proposed.

Officers recommend that these conclusions and recommended post-examination modification 5 and 6 are accepted by the Council.

POLICY WD4 ACCESS TRACKS

A representation was made that access tracks for wind farms should not be singled out for policy control. However, the Reporter notes that such tracks can be extensive and can require particular attention regarding potential prominence compared to other types of development, so a separate policy is justifiable. The policy considerations of WD4 differ from Policy WD3 and therefore there is no duplication. SNH wished to see Policy WD4 expanded to deal with other ancillary development, however the Reporter sees no basis to introduce this additional policy coverage since the terms of WD3 are sufficient to address this point. No modifications are proposed.

Officers recommend that these conclusions are accepted by the Council.

POLICY WD5: RE-POWERING

SNH made representation that during the plan period re-powering could become an issue and further guidance should be allowed for. The Reporter stated this seems appropriate and recommended that an amendment is made to include the ability to prepare non-statutory guidance within Policy WD5. Representation was made that this policy duplicates others on wind energy, however the Reporter concluded that it does not do so. Representation was made that reduced assessment requirements should apply to re-powering proposals. The Reporter stated that Environmental Impact Assessment will be required for larger schemes, and that as no other types of development can provide reduced level of assessment, there is no reason to reduce this as a matter of policy. In relation to the comments relating to re-powering requirements for Cockenzie [Power Station] the Reporter stated that as this a national development, no comparison can be made to the re-powering of wind farms. Amendment is recommended to the supporting text to

refer to the possibility of preparing non-statutory supplementary planning guidance on re-powering (Modification 7).

Officers recommend that these conclusions and recommended post-examination modification 7 are accepted by the Council.

Policy WD6: Decommissioning and Site Restoration

The Reporter noted that Policy WD6 requires entry into legal agreement to secure decommissioning prior to grant of planning consent. The Council considered it *ultra vires* to require an agreement as a condition of planning consent, citing a Head of Planning Position Statement. However, the Reporter is not aware of this document having official status. Scottish Planning Policy includes the need for robust planning obligation to ensure operators achieve site restoration. However, requiring legal obligation in advance of planning permission has the potential to delay consents and discourage suitable projects. Ministers prefer conditions to be used where possible. The standard approach in Section 36 wind energy cases is to use a suspensive condition to secure, prior to commencement of development, an outline decommissioning strategy and delivery of a financial guarantee. The Reporter stated that it would therefore be inappropriate to insist on a legal agreement as a matter of policy.

The Reporter noted that as the Council conceded, national model conditions recommend a 12-month down time for a turbine before its removal is required, and policy is recommended to be brought in line with this. An amendment was recommended to alter the timing of the submission of outline strategy for decommissioning and financial arrangements for this. This should be changed from being prior to the grant of planning consent to be prior to commencement of development. The requirement for a legal agreement to secure this should also be removed (Modification 9). An amendment was also proposed to increase the down time period before a wind turbine must be removed, from 6 months to 12 months (Modification 8).

Officers recommend that these conclusions and recommended post-examination modification 8-9 are accepted by the Council.

LOCATIONAL GUIDE FOR SMALLER SCALE WIND ENERGY PROPOSALS (WIND MISCELLANEOUS)

Midlothian Council were concerned that there are areas around Cousland and Pathhead, which are shown as having potential for wind turbines up to 42m in height, whereas on their side of the boundary their policy would support only wind turbines of up to 30m. The Report of Examination notes that study on which this was based took account of the landscape within Midlothian, and

Midlothian will normally be consulted on any such applications. No modifications are recommended.

Officers recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommendations are to modify the local development plan by:

1. In the Energy Generation, Distribution and Transmission section of the plan, changing references to the "Habitats Directive" to "Habitats and Birds Directives".
2. Deleting paragraph 4.80
3. In paragraph 4.81, replacing the third sentence with the following:

"The study finds that turbines over 42 metres in height to blade tip would have adverse landscape and visual impacts within the lowland landscapes of East Lothian. This consideration would form part of an overall planning assessment of any proposal."
4. Replacing the first sentence of Policy WD2 with the following:

"Smaller scale wind development includes all non-windfarm development, namely developments of 1 to 3 turbines of any height and developments of 4 or more turbines under 42m to blade tip."
5. Amending the first sentence of Policy WD3 as follows:

"Applications for freestanding (as against roof-mounted or wall-mounted) wind turbine development"
6. Deleting the repeated phrase 'integrity of; in criterion (n) of Policy WD3.
7. In paragraph 4.85, adding the following sentence at the end:

"The council may publish supplementary planning guidance on re-powering."
8. Replacing the first sentence of Policy WD6 with the following:

"All wind turbines must be decommissioned and the site restored to an appropriate condition within an agreed timescale after the earliest of: (a) expiry of planning consent; or (b) the failure of the wind turbine to produce electricity for a continuous period of 12 months, unless otherwise agreed in writing by the planning authority."
9. Replacing the fourth sentence of Policy WD6 with the following:

"For any wind farm or development of wind turbines over 42 metres in height to blade tip, before works commence, the council will require the submission for its prior written approval of an outline strategy for appropriate decommissioning and restoration of the site and any relevant offsite works, together with the delivery of a sufficient bond or other financial guarantee to secure their implementation, to avoid the risk of decommissioning and restoration costs falling to the council."

Officers recommend that modifications 2 – 9 are accepted.

Officers recommend that the conclusions leading to post-examination Modification 1 are accepted. However, officers recommend that the wording of Modification 1 is altered to more fully achieve the intended purpose.

The Report of Examination within Issue 21, Modification 1 suggests a change in wording affecting the whole Energy Generation, Distribution and Transmission section of the LDP. This modification recommends that references to the '*Habitats Directive*' be changed to refer to both the '*Habitats and Birds Directive*'. Consequently, this would also affect part of a separate Reporter's recommendation at Issue 22a, Modification 5, where a modification is recommended that includes reference to only the '*Habitats Directive*'.

The Reporter's principal recommended post-examination modification on this matter is in response to a representation from the Royal Society for the Protection of Birds (RSPB) (Ref: 0185). The underlying aim of the Reporter's recommendation is to ensure the protection of sites designated as a consequence of both European Directive 2009/147/EC ('Birds Directive') and Directive 92/43/EEC ('Habitats Directive'). These are known as 'European sites' within the ELLDP 2018.

However, to achieve this protection, consultation with Scottish Natural Heritage (SNH) following receipt of the Report of Examination identified that reference to the UK domestic legislation in the form of the 'Habitats Regulations' (The Conservation (Natural Habitats, &c.) Regulations 1994, as amended) is preferable to the modification recommended by the Report of Examination – i.e. the '*Habitats and Birds Directive*'.

This is because technically European sites are designated by Member States under the Habitats Regulations, not directly under either the Habitats or Birds Directives (but they are designated as a consequence of those Directives). Additionally, the Habitats Regulations offer protection to candidate and proposed European sites even though they are not yet 'designated'. This technical point related to the designation process and protection for 'European sites' (whether designated, candidate or proposed) must be corrected within the text of ELLDP 2018 to offer all such European sites the level of protection they require. To ensure compliance with the Habitats Regulations, consequential modifications to the ELLDP 2018 Glossary are also justified to provide a definition of European sites and to make clear that the Habitats Regulations is UK legislation.

The concern from SNH is given added weight by the uncertainties around the process of the UK leaving the European Union, potentially during the lifetime of the plan. There is therefore doubt over whether or not these European Directives will remain relevant during this timeframe, thus it is preferable to refer to the relevant UK domestic legislation.

As such, alternative wording to that provided by the Reporter is suggested for inclusion within the ELLDP 2018. In essence this is to replace references to the 'Birds and Habitats Directives' with 'Habitats Regulations' – i.e. naming the relevant domestic UK legislation – and to clarify the designation process. This would better implement the intention of the Reporter's recommendation to protect European sites designated as a consequence of both the Birds and Habitats Directives. It would make it clear that protection for these sites is to be retained during the plan period.

In this context, there are two grounds set out within the Town and Country Planning (Grounds for Declining to Follow Recommendations)(Scotland) Regulations 2009 that are relevant in the circumstances, and that can and should be applied in the case of Issue 21 Modification 1 and Issue 22a Modification 5, in order to decline to follow these Reporters recommendations, and these grounds are:

- a. *the modification, if made, would have the effect that the proposed local development plan would not be consistent with –*
- (ii) the strategic development plan for the land to which the proposed local development plan relates; or*
- b. *that the adoption of the Local Development Plan as so modified would not be compatible with the requirements of Part IVA of the Conservation (Natural Habitats, &c.) Regulations 1994(2);*

In the case of the former ground, SESPlan Policy 1B: The Spatial Strategy: Development Principles states that “Local Development Plans will: “Ensure that there are no significant adverse impacts on the integrity of international, national and local designations and classifications, in particular National Scenic Areas, Special Protection Areas, Special Areas of Conservation, Sites of Special Scientific Interest and Areas of Great Landscape Value and any other Phase 1 Habitats or European Protected Species”. The ‘Special Protection Areas’ and ‘Special Areas of Conservation’ noted in SESPlan are ‘European Sites’ as referred to in the proposed LDP. As a result, the ELLDP 2018 if modified in line with the Reporter’s recommendation would not ensure there are no significant adverse impacts on the integrity of the Special Protection Areas and Special Areas of Conservation. The ELLDP 2018 would therefore not fully conform to the approved strategic development plan for the area.

Also, this would mean that the ELLDP 2018 may not adequately conform to the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) in terms of assessment of the plan (known as Habitats Regulations Appraisal), as reflected within the HRA Record that accompanies the ELLDP 2018. The European sites would therefore not be given the full protection that was intended through inclusion of specific reference in Policies WD1, WD2, WD3 and Proposals EGT1 and EGT3 for the full lifetime of the ELLDP 2018.

Officers therefore recommend that their alternative wording to that set out within the Report of Examination at Issue 21 Modification 1 and Issue 22a Modification 5 be included within the ELLDP 2018. This would be in order to fully protect European sites in line with the original intentions of the Reporter and to clarify that European sites are not designated by the Birds and Habitats Directives. The alternative wording suggested by officers to replace Modification 1 within Issue 21 and Modification 5 within Issue 22a of the Report of Examination in order to implement and support the original intention of these modifications is shown in Annex 1 to the Council Report.

The alternative wording recommended by Officers shown at Annex 1 of the Council Report for inclusion within the ELLDP 2018 does not reject or depart from the overall intention of the Reporter’s original recommendations on these points; rather, the alternative post-examination modifications recommended by Officers seek to clarify the purpose and intention of the Reporter’s original recommended post-examination modifications, and to bring the ELLDP 2018 into line with the Strategic Development Plan (SDP1) and Conservation (Natural Habitats, &c.) Regulations 1994, as amended.

Following correspondence with SNH on this matter, Officers consulted the RSPB on the alternative recommended post-examination modifications above. The RSPB is supportive of the alternative post-examination modifications recommended by Officers. However, the RSPB did suggest that further modifications to the proposed LDP should be made. During this exchange, Officers advised that the further changes sought by the RSPB went beyond the scope of what was required to remedy the situation, and would not be consistent with Regulation 2 of the Town and Country Planning (Grounds for Declining to Follow Recommendations) (Scotland) Regulations 2009. On this basis, the above modifications have been limited to those agreed between Officers, SNH and the RSPB.

Officers advise that the above post-examination modifications that they recommend be incorporated within the ELLDP 2018, would be consistent with Section 19(11) of the Town & Country Planning (Scotland) Act 1997 (as amended). This is because all of these modifications would be acceptable

in terms of the Environmental Assessment (Scotland) Act 2005, as explained within the Strategic Environmental Assessment Environmental Report that accompanies the ELLDP 20018.

Officers therefore recommend that alternative wording to that set out within the Report of Examination at Issue 21 Modification 1 and Issue 22a Modification 5 be included within the ELLDP 2018. The alternative wording suggested by officers to replace Modification 1 within Issue 21 and part of Modification 5 within Issue 22a of the Report of Examination in order to implement and support the original intention of these modifications is:

1. to amend Policy WD1, Policy WD2, Policy WD3, PROP EGT1 (as modified by the Reporter) and PROP EGT3 as follows:

Policy Reference	Proposed LDP text	Text as it would appear with Reporters Modification	Officers draft ELLDP 2018
Policy WD1: Wind Farms, last sentence of paragraph 2	Proposals will only be supported where they will not have an adverse effect on the integrity of European sites designated under the Habitats Directive either alone or in combination with other projects and plans.	Proposals will only be supported where they will not have an adverse effect on the integrity of European sites designated under the Habitats and Birds Directives either alone or in combination with other projects and plans.	Proposals will only be supported where they will not have an adverse effect on the integrity of European sites either alone or in combination with other projects and plans.
Policy WD2: Smaller wind turbine development, Criteria c.	c. proposals must not have an adverse effect on the integrity of integrity of European sites designated under the Habitats Directive either alone or in combination with other projects and plan	c. proposals must not have an adverse effect on the integrity of integrity of European sites designated under the Habitats and Birds Directives either alone or in combination with other projects and plan	c. proposals must not have an adverse effect on the integrity of integrity of European sites either alone or in combination with other projects and plans.
Policy WD3: All wind farms, Criterion n.	n. There is no adverse effect on the integrity of integrity of European sites designated under the Habitats Directive either alone or in combination with other projects and plans.	n. There is no adverse effect on the integrity of integrity of European sites designated under the Habitats and Birds Directives either alone or in combination with other projects and plans.	n. There is no adverse effect on the integrity of European sites either alone or in combination with other projects and plans.
Proposal EGT1: land at Former Cockenzie Power	Proposals will be subject to a Habitats Regulations Appraisal and, if	Proposals will be subject to a Habitats Regulations Appraisal and an	Proposals will be subject to a Habitats Regulations Appraisal and an Appropriate

Station last sentence	necessary, an Appropriate Assessment under the Habitats Regulations.	Appropriate Assessment under the Habitats Directive, as required.	Assessment under the Habitats Regulations as required.
Proposal EGT3; Forth Coast Area of Co-ordinated Action, third bullet point	proposals must not have an adverse effect on the integrity of the Firth of Forth SPA or any other European site designated under the Habitats Directive either alone or in combination with other projects and plans.	proposals must not have an adverse effect on the integrity of the Firth of Forth SPA or any other European site designated under the Habitats and Birds Directives either alone or in combination with other projects and plans.	proposals must not have an adverse effect on the integrity of the Firth of Forth SPA or any other European site either alone or in combination with other projects and plans.

2. To amend the Glossary as follows:

a. Insert glossary definition:

“EUROPEAN SITES

A European site is one defined as set out in Section 10 (1) of the Conservation (Natural Habitats etc) Regulations 1994 as amended. They comprise Special Areas of Conservation and Special Protection Areas designated by the Habitats and Birds Directives respectively. They can also be referred to as Natura sites (see also Natura 2000 sites). Ramsar sites, classified under the Ramsar Convention on Wetlands of International Importance also form part of the Natura 2000 network of European sites, either as a Special Protection Area or Special Area of Conservation. The Scottish Government requires authorities to afford the same level of protection to proposed Special Areas of Conservation and Special Protection Areas as they do to sites which have been designated. In Scotland, European sites are given protection through The Conservation (Natural Habitats &c,) Regulations 1994 as amended.”

b. Amend glossary definition for ‘Habitats Regulations’ to replace the word ‘British’ with ‘UK’ so that it reads:

“HABITATS REGULATIONS

General term for the Conservation (Natural Habitats, &c) Regulations 1994, as amended, which translated into UK law the EU Habitats and Wild Birds Directive.”

Issue 22a	Energy Generation and Transmission: Proposal EGT1: Land at Former Cockenzie Power Station	
Development plan reference:	Our Infrastructure and Resources	Officer(s) Marek Mackowiak / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

THE ALLOCATED SITE/SAFEGUARDING/OTHER USES

The Reporter notes that under Proposal EGT1, the council has chosen to safeguard an area of 88 hectares for National Development 3 (Carbon Capture and Storage Network and Thermal Generation) and remove support from any other form of development within the site unless and until an appropriate thermal power generation proposal is implemented.

The Reporter considers that, given the lack of any current major scheme and the lead time requirements for such a proposal, the proposed policy approach could prevent other use of the land for a considerable period - possibly beyond the lifetime of National Planning Framework 3 (NPF3).

The Reporter also notes that the council's objection to considering other developments within the Proposal EGT1 site rests on uncertainty about the possible land take and boundaries for National Development 3. However, the Report of Examination notes that the Proposal EGT1 site is considerably larger than the area occupied by the former coal-fired power station together with its coal storage area. The Reporter notes that it was argued that a proposal meeting the requirements of National Development 3 might not fit within the same area occupied by the former coal-fired power station together with its coal storage facility (NRG1 (Electricity Generating Stations) in the 2008 adopted local plan).

The Reporter considers that uncertainty over the boundaries for National Development 3 should not prevent other development (other than temporary) in the meantime, especially given the size of the site proposed.

The Report of Examination also considers the Scottish Government's representation and concludes that the plan's prioritisation between National Development 3 and National Development 4 (the Enhanced High Voltage Electricity Transmission Grid) is not consistent with the ambitions of NPF3, which envisages the potential for other development at Cockenzie during the lifetime of the Framework. The Reporter confirms that NPF3 expects both types of National Developments to be facilitated at Cockenzie and that the policy wording should not obstruct that.

The Reporter notes that Proposal EGT1, as presently drafted, would potentially sterilise the development of an important tract of land which might attract employment uses for several years. The Reporter further concludes that this departs from the approach in NPF3, which expects developers, East Lothian Council and the key agencies to work together to ensure the best use is

made of the existing land and infrastructure in the area. The Framework expects this co-ordinated approach to make the most efficient use of resources, to reduce environmental impacts and to support high quality development. The Reporter recommends amending the wording of paragraph 4.94 and Proposal EGT1 to better reflect the Framework.

Officers recommend that these conclusions and recommended post-examination modifications 4 is accepted by the Council. It is recommended that Modification 5 is accepted by the Council other than where Officers recommend the wording of the final sentence of Proposal EGT1 is amended as discussed in Modification 1, Issue 21: Wind.

EXTENT OF LAND ALLOCATION

Many representations opposed the extension of the land allocation for Proposal EGT1 compared to the site subject to Policy NRG1: Electricity Generating Stations as allocated in the adopted local plan. The site area for Proposal EGT1 covers some 88 hectares - roughly double that of NRG1. The additional land comprises mostly countryside together with a smaller area of open space on the opposite side of Edinburgh Road to Preston Links/Greenhills, and a strip of land around the boundary of the housing estate accessed off Appin Drive.

The Reporter acknowledges that it was the council's opinion that the site of this size has the greatest potential to deliver the Scottish Government's aspirations for a generating station with future carbon capture storage facilities together with any other uses which may be able to co-exist with such a facility in line with the NPF3's Area of Co-ordinated Action. The Reporter also notes that the supporting text of the proposed plan refers to assets within the site, including open space which the council would wish to protect from inappropriate development.

The Reporter concludes that the NPF3 has ambitions for a wide range of economically important activities at Cockenzie and these would need considerably more land than the former power station site. This, the Reporter concludes, together with the intended protection of local assets mentioned in the plan justifies allocating the larger site as proposed.

Officers recommend that these conclusions are accepted by the Council.

ASSETS; AMENITY

Many representations mentioned the retention of footpaths, cycle routes and countryside areas. The Reporter acknowledges that whilst the Council wishes to see certain existing assets within the site protected, these aspirations require to be considered in the light of the Scottish Government's statement in NPF3 that "if there is insufficient land for competing proposals, we wish to see priority given to those which make the best use of this location's assets and which bring the greatest economic benefits."

Notwithstanding this, the Report of Examination supports the need to respect the amenity of the adjoining communities when drawing up proposals or guidance for the area, and recommends

amending paragraph 4.93 and adding wording to Proposal EGT1 along the lines suggested by the council to address this.

Officers recommend that these conclusions and recommended post-examination modifications 3 are accepted by the Council. Officers recommend that Modification 5 is accepted by the Council other than where Officer's recommend the wording of the final sentence of Proposal EGT1 is amended as discussed in Modification 1, Issue 21: Wind.

INTERCONNECTOR

The Report of Examination clarifies that on-shore interconnectors for off-shore windfarms are within the scope of the NPF3 description of National Development 4 (the Enhanced High Voltage Electricity Transmission Grid) and that it is not the intention of NPF3 that this type of development be obstructed by a preference for the prior delivery of National Development 3. Therefore, if there is insufficient land for competing proposals, priority should be given to those that make the best use of the location's assets and which bring the greatest economic benefits.

The Reporter considers that there was no convincing evidence to support the view that an interconnector at a location within the EGT1 site at Cockerzie would necessarily be incompatible with any thermal power generating scheme and carbon capture and storage network infrastructure which might come forward. The Reporter notes that this will require "co-ordinated action and masterplanning", as recognised in NPF3, and for all stakeholders to work together to make best use of the land and infrastructure. The Reporter concludes that these matters require to be acknowledged in the supporting text. For that reason and to remove the inconsistency with Proposal EGT3 the Report recommends a modification to Proposal EGT1.

Officers recommend that these conclusions are accepted. It is recommended post-examination modification 1, 2 and 5 is accepted by the Council; with exception of alteration of the wording of the final sentence of Proposal EGT1 recommended by Officers as discussed in Modification 1, Issue 21: Wind.

ENVIRONMENTAL IMPACTS

The Reporter confirms that that future development at Cockerzie in accordance with Proposal EGT1 will be subject to a Habitats Regulations Appraisal and an Appropriate Assessment, as required. These assessments would consider potential impacts of future development on the Firth of Forth SPA. No modifications are recommended.

Officers recommend that this conclusion is accepted by the Council.

TOURISM AND LEISURE

The Reporter does not consider it necessary to recommend any additional wording to avoid unacceptable impact on the amenity of existing tourism/leisure development in the local area. The Reporter considers the provisions set out in his recommendations to paragraph 4.93 and Proposal EGT1 adequate in this respect. No modifications are recommended.

Officers recommend that this conclusion is accepted by the Council.

PARAGRAPH 4.92

The Reporter does not support Scottish Power Generation's suggestion to reword paragraph 4.92 for the eventuality of there being no proposals for development consistent with National Development 3. The Reporter concludes that this would provide no clarity over when such a view should be taken and that there does not seem to be any purpose in declaring support for proposals in relation to a possible change to the National Planning Framework. The Reporter agrees with the council that some form of co-ordinating mechanism will be required for the site, but also considers that there are insufficient grounds to secure this through Supplementary Guidance, and other types of mechanism do not require to be foreshadowed in the plan. No modifications are recommended.

Officers recommend that these conclusions are accepted by the Council.

OTHER USES

Some representations sought changes to the proposal to ensure the site of the former power station was allocated for non-industrial uses. The Reporter confirms that this change would not accord with NPF3. No modifications are recommended.

Officers recommend that this conclusion is accepted by the Council.

PORT FACILITIES AND PORT-RELATED DEVELOPMENT

In response to the comments by Forth Ports, the Reporter notes that NPF3, at paragraph 3.34, makes a number of specific references to up-graded port facilities for various marine sectors. The Reporter concludes that there is no reason to amend paragraph 4.96 of the plan.

The Reporter also notes that the costs and potential environmental impacts of dredging to enable deep water berthing at Cockenzie and exposure to poor weather conditions are matters for

potential operators and for the environmental assessment of any project which comes forward. No modifications are recommended.

Officers recommend that these conclusions are accepted by the Council.

OTHER MATTERS

Representation 0313/7 from Fred Olsen Renewables is considered under Issue 22b.

Representation 0185/8 from the RSPB is considered under Issue 20.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. Replacing paragraph 4.89 with the following:

“The council endorses the support expressed in NPF3 for onshore links to offshore renewable energy installations, including at Cockenzie and the Forth coast extending to Torness, as part of National Development 4: High Voltage Energy Transmission Network.”

2. In paragraph 4.91, deleting the second and third sentences.

3. In paragraph 4.93, replacing the second sentence with the following:

“The council wishes to protect these assets as far as possible.”

4. In paragraph 4.94, replacing the first sentence with the following:

“There may be potential for intermediate proposals on the site, such as temporary greening.”

5. Replacing Proposal EGT1 with the following:

“PROP EGT1: Land at former Cockenzie Power Station

Land at the above site will be safeguarded for future thermal power generation and carbon capture and storage consistent with National Development 3. Land at Cockenzie may also present significant opportunities for renewable energy-related investment. The council will work together with developers, the landowner, the relevant agencies, local organisations and interested parties, including local residents to ensure that the best use is made of the existing land and infrastructure in this area.

If there is insufficient land for competing proposals, priority will be given to those which make best use of the location's assets and which will bring the greatest economic benefits.

Development proposals must avoid unacceptable impact on the amenity of the surrounding area, including residential development.

Proposals will be subject to a Habitats Regulations Appraisal and an Appropriate Assessment under the Habitats Directive, as required.”

It is recommended post-examination modification 1 - 5 are accepted by the Council, other than the final sentence of Proposal EGT1 (as recommended to be modified) for which alternative wording is recommended by Officers as discussed in Modification 1, Issue 21: Wind.

Issue 22b	Energy Generation and Transmission: Other Matters	
Development plan reference:	Our Infrastructure and Resources	Officer(s) Leigh Taylor / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

PROP EGT2: TORNESS POWER STATION

The Reporter noted the representation from Fred Olsen Renewables considered that Proposal EGT2 should be modified to require the same degree of assessment as wind farms. The Reporter explained that any such proposals for Torness Power Station would be subject to consent under section 36 Electricity Act 1989. Schedule 9 of this Act places requirements on the Scottish Ministers and the license holder with regard to the natural beauty of the countryside, flora, fauna, geological and physiographical features, buildings and objects of architectural, historic or archaeological interest, fisheries and fish stocks. The Reporter stated that whilst most of these address matters related to wind farms, the Council's case suggested that PROP EGT2 could include mitigation of impacts on communities and the character of the local area with respect to any proposals for decommissioning of the power station. The Reporter stated this was a reasonable suggestion and therefore made this recommendation for a modification.

Officers recommend that this conclusion and recommended post-examination modification 1 are accepted by the Council.

PROP EGT3: FORTH COAST AREA OF CO-ORDINATED ACTION

The Reporter noted the representation from Bourne Leisure who wanted the minimising of impacts on tourism to be recognised in the policy. The Reporter agreed with the Council that this could be adequately assessed at project level and that no modification is required.

Officers recommend that this conclusion is accepted by the Council.

A representation from SNH suggested changes to wording of Policy EGT2 to improve clarity and Habitats Regulation Appraisal and Appropriate Assessment, and a change of tense at paragraph 4.97 to reflect that projects are consented. The Reporter therefore recommended these modifications.

Officers recommend that this conclusion and recommended post-examination modification 2 and 3 are accepted by the Council.

PROP EGT4: ENHANCED HIGH VOLTAGE ELECTRICITY TRANSMISSION NETWORK

The Reporter separated a number of matters related to PROP EGT4 and dealt with these individually, as summarised below.

Reflectors to Warn Birds

The Reporter concluded that the use of high visibility reflectors on new overhead lines is a matter for project level assessment.

Officers recommend that this conclusion is accepted by the Council.

Paragraph 1.36

The Reporter noted that para. 1.36 falls within a largely descriptive section of the LDP and concluded that the policy status of the electricity distribution network is recognised in the policy context section at paragraph 1.46.

Officers recommend that this conclusion is accepted by the Council.

Paragraph 4.97

The Reporter concluded that the ambiguity arising from use of the word “may” in the third sentence of paragraph 4.97 be rectified by the removal of that word.

Officers recommend that this conclusion and recommended post-examination modification 2 are accepted by the Council.

Reinforcement of Network

The Reporter stated that they accept the arguments made in representations that the existing electricity transmission network illustrated on Strategy Diagram 3: Energy Generation, Distribution and Transmission and Waste Facilities should be linked to Policy EGT4. The Reporter concluded that this would recognise its status as a national development and the associated policy support in spatial terms. The Reporter therefore recommended this modification.

The Reporter stated that safeguarding of specific locations where reinforcement of the transmission network is to take place under National Development 4 is impractical. This is due to uncertainty over the details and the possibility of change in response to circumstances. The

Reporter also stated that this is also not stated as a requirement in NPF3. The Reporter concluded however that a general statement of the need to avoid development which could prejudice works for reinforcement of the network, and reference to the operational requirements directing the shape of enhancement works, would be appropriate. The Reporter therefore recommended this modification.

Officers recommend that these conclusions and recommended post-examination modification 5 are accepted by the Council.

The Reporter stated that as per their request, Scottish Power Energy Networks has supplied a drawing (SPEN001) showing existing electricity infrastructure in East Lothian and highlighting strategic areas of the transmission network that would likely form an element of any reinforcement occurring during the LDP period. The Reporter concluded that the key contents of this drawing should be incorporated into a revised Strategic Diagram 3, and be referred to in Policy EGT4. The Reporter recommended this modification.

Officers recommend that this conclusion and recommended post-examination modification 6 are accepted by the Council.

The Reporter noted that Strategic Diagram 3 illustrates a number of policies, however concluded that to single out Policy EGT4 in relation to the electricity transmission network, as has been suggested, would be inconsistent. The Reporter concluded that it would be more appropriate to mention the diagram within the text of the policy. The Reporter recommended this modification.

Officers recommend that this conclusion and recommended post-examination modification 5 are accepted by the Council.

Safeguarding of Sites

The Reporter stated that there is no requirement in NPF3 specifically to safeguard sites with planning permission for development within the scope of National Development 4. However, the Reporter concluded that the amended wording of Policy EGT4, as recommended, would provide them with sufficient protection. The Reporter recommended this modification.

Officers recommend that this conclusion and recommended post-examination modification 5 are accepted by the Council.

Requirement for Removal of Redundant Existing Overhead Lines

The Reporter concluded that whilst the removal of redundant overhead power lines would be the subject of decommissioning conditions attached to consents related to the enhanced transmission network, it is acceptable for the Council's position on this to be expressed in its policy. The Reporter recommended that the last sentence of paragraph 4.99 should be deleted to avoid having two slightly differently worded versions of the Council's position.

Officers recommend that these conclusions and recommended post-examination modification 4 are accepted by the Council.

Sub-station adjacent to Crystal Rig

The Reporter noted that Policy EGT4 is intended to apply throughout East Lothian, and concluded that reference to an example of its application (adjacent to Crystal Rig), as requested in the representation from Neart na Gaoithe Off-shore Wind, would be unnecessary and inappropriate.

Officers recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. Replacing the second sentence of Proposal EGT2 with the following:

"If power generation ceases during the lifetime of this LDP, the council will seek to facilitate necessary works associated with the site's decommissioning and restoration, including mitigation of impacts on communities and the character of the local area."

2. In paragraph 4.97, replacing the third sentence with the following:

"The existing high voltage transmission network infrastructure at Cockenzie and Torness, and that serving Crystal Rig Wind Farm in the Lammermuirs, present opportunities for new grid connections."

3. Replacing the last sentence of Proposal EGT3 with the following:

"Proposals must be accompanied by project-specific information to inform a Habitats Regulations Appraisal and, if necessary, an Appropriate Assessment under the Habitats Regulations."

4. In paragraph 4.99, deleting the last sentence.

5. Replacing the wording of Policy EGT4 with the following:

"The council supports enhancement of the high voltage electricity transmission network in locations defined by operational requirements, subject to acceptable impacts on the landscape, visual amenity, communities, natural and cultural heritage and the provision of appropriate mitigation where required. The network infrastructure is identified on Strategic Diagram 3 elements of which, including strategic reinforcement points, will likely be subject of some upgrading during the lifetime of this plan. Development consisting of new and/or upgraded transmission lines, substations and transformer stations to enhance the network is

designated as a national development in National Planning Framework 3. The council will not support development proposals which could prejudice the implementation of the enhancements. The council will expect the removal of power lines which become redundant as a consequence of enhancements to the network.”

6. Incorporating the key contents of drawing SPEN001 into Strategic Diagram 3, namely: power stations, substations, overhead transmission lines, underground cables, and strategic reinforcement points.

Officers recommend that post-examination modifications 1-6 be accepted by the Council.

Issue 23	Waste	
Development plan reference:	Waste (pages 111-112)	Officer(s) Christine Galvin / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>POLICY W4: CONSTRUCTION WASTE</p> <p>No modification proposed. The Reporter considered outstanding representations seeking modification to Policy W4 to state that submission of waste management plans can be dealt with by an appropriately worded planning condition. The Reporter concludes that Policy W4, as written, reflects the principles of Scottish Planning Policy in seeking the inclusion of waste management plans at planning application stage. This ensures that waste management plans become integral to the design and project management of a development proposals upfront, prior to submission of an application and not as an afterthought.</p> <p>Officers recommend that these conclusions are accepted by the Council.</p>		
2. Reporter's Recommended Modification(s):		
None		

Issue 24	Minerals	
Development plan reference:	Minerals (Pages 113-117)	Officer(s) Leigh Taylor / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>PROP MIN4: SAFEGUARD BANGLEY AND MARKLE MAINS HARD ROCK QUARRIES</p> <p>Scottish Natural Heritage requested that the policy be amended to refer to the fact that part of Bangley Quarry is a Site of Special Scientific Interest (SSSI). The Reporter notes that boundaries of the SSSI are denoted on the Proposal Map, although not on Inset Map 42. The Reporter considered this reference sufficient and proposed no modification to PROP MIN4.</p> <p>Officers recommend that this conclusion is accepted by the Council.</p> <p>POLICY MIN5: MINERAL RESOURCES</p> <p>A representation from Francies Ogilvy referred to the requirement in SPP for planning authorities to ensure there is sufficient land bank of permitted reserves of construction aggregates for a minimum of 10 years extraction at all times in all market areas. The representation states Policy MIN5 falls short of this requirement and also that it does not explain what is meant by 'exceptions'.</p> <p>The Reporter notes that reference was made in the Council's case to SESplan Minerals Technical Note (Sept. 2011) which included two alternative assessments for sand and gravel land bank in the region. Technical Note 6 for the LDP concluded that the 4.5 years presented a more realistic scenario given that there was understood to be a national shortage of sand and gravel reserves. Some uncertainties however exist around the calculation methods used.</p> <p>The Reporter concluded that the LDP should provide context to Policy MIN5 in supporting text to enable the reader to understand when the presumption against development would apply, and what may constitute an exceptional case. It was recommended that text should be added from the conclusion in the SESplan Technical Note and from the Council's response to the representation. The Reporter recommended this modification.</p> <p>Officers recommend that these conclusions and recommended post-examination modification 1 are accepted by the Council.</p>		

POLICY MIN8: MINERAL EXTRACTION CRITERIA

A representation from Bourne Leisure stated that criterion 1 of the policy should specify tourism development as requiring protection from unacceptable environmental impacts. The Reporter concluded however that such development would already receive protection under the terms of criterion 1a of the policy, and saw no reason to single out a particular type of development in this respect.

Officers recommend that this conclusion is accepted by the Council

A representation from Scottish Environment Protection Agency considered that criterion 5 could provide an exemption for development which could cause significant environmental damage, whereas the plan should provide a framework for avoiding such damage.

The Reporter noted that SPP states that: "Consent should only be granted for surface coal extraction proposals which are either environmentally acceptable (or can be made so by planning conditions) or provide local or community benefits which clearly outweigh the likely impacts of extraction". The Reporter also noted that this SPP guidance is limited to surface coal extraction, whereas Policy MIN8 extends to all surface mineral extraction and the extraction of onshore oil or gas or coal bed methane. The Reporter also noted that the SPP guidance for mineral resources is that benefits to the local and national economy can be taken into account. The Reporter stated that there is no reference to local or community benefits more generally, but that the list of factors is not exhaustive and concluded there was no reason to exclude such benefits from consideration.

The Reporter also noted there is no support in national guidance for expanding the scope of paragraph 244 of SPP more widely than surface coal extraction and no other justification. The Reporter recommended that criterion 5 is amended to restrict its application to surface coal extraction.

Officers recommend that this conclusion and recommended post-examination modification 2 are accepted by the Council.

A representation from the Coal Authority sought deletion of criterion 3 on the grounds that it would result in the refusal of any minerals extraction scheme visible from the listed major transportation corridors or tourist routes.

The Reporter concluded that this was a misreading of the policy, which requires that any development is not "conspicuous" rather than not visible. Measures such as the mitigation of landscape and visual impacts of a scheme can assist in meeting the terms of this criterion. The Reporter agreed with the Council in that it is important to conserve attractive aspects of the character and appearance of East Lothian especially as viewed from the key routes listed whilst at the same time allowing minerals to be worked where appropriate. The Reporter stated that the policy should be retained.

Officers recommend that these conclusions are accepted by the Council.

The representation from Francies Ogilvy stated that mineral extraction can produce benefits in relation to both extraction activity and after use, including employment, tourism, wildlife habitat and flood mitigation, and that such benefits were ignored by the LDP. The Reporter concluded that there is acknowledgement that benefits can be considered as Policy MIN9: Supporting Information invites applicants to submit detailed information on the benefits that would result from the development locally, including details of any employment benefits.

Officers recommend that this conclusion is accepted by the Council.

POLICY MIN9: SUPPORTING INFORMATION

The Reporter noted that the policy includes a requirement for prime quality agricultural land to be reinstated to agricultural land of a similar quality to that existing prior to mineral working. A representation from the RSPB stated that the requirement should be more flexible in the case of Oxwellmains (Barns Ness), Dunbar, where restoration in the interests of biodiversity should be preferred.

The Council's case highlighted that the land at Oxwellmains is Class 3.1, the lowest category of prime agricultural land. In some circumstances (such as this site), greater benefits might result from restoration for purposes other than prime agricultural land.

The Reporter concluded that whilst it would not be appropriate to introduce flexibility for a particular site into a policy of general application. However, the Reporter concluded that as the policy does not explain that flexibility might be applied, in the interests of accuracy and completeness, the Reporter recommend wording to allow for limited flexibility along the lines of the Council's response to the representation. The Reporter recommended this modification.

Officers recommend that these conclusions and recommended post-examination modification 3 are accepted by the Council.

MINERALS: MISCELLANEOUS

A representation from the Coal Authority stated there was a need for a policy on unstable land, given that in the LDP area 9.88% of the land is at high risk from instability arising from the mining legacy which is a significant constraint over a large area. It was argued that this matter should be treated comparably with flood risk to which Policy NH11 applies.

The Reporter concluded that there are many references throughout the supporting text of the plan to the need to consider ground conditions, and whilst no specific policy exists, it has a comprehensive development management procedure in place. The Reporter concluded that there were insufficient grounds for a new policy.

A representation from Midlothian Council stated that there should be a reference in the supporting text of the minerals section of the LDP to the impacts on communities, including haulage of materials. The Reporter concluded that as these matters are listed in Policies MIN8 and MIN9, and procedures exist for consulting Midlothian Council on such proposals, no basis existed for any further references to be added in the supporting text.

Officers recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by::

1. Adding a new paragraph of supporting text before Policy MIN5: Mineral Resources as follows:

“Scottish Planning Policy requires planning authorities to ensure a landbank of permitted reserves of construction aggregates for a minimum of 10 years extraction, to be available at all times and in all market areas. A Minerals Technical Note published by SESplan in September 2011 acknowledged difficulties in estimating reserves of construction aggregates in the region, but concluded that the lower of its two estimates of permitted reserves of sand and gravel – 4.5 years supply - was more realistic, but that there was no shortfall in the landbank for hard rock. Since then, within East Lothian, an extension to the sand and gravel quarry at Longyester has been implemented and the permission at Skateraw has expired. If a shortfall of permitted reserves is demonstrated, the presumption against such development in Policy MIN5 may not apply, provided the preference to extend existing workings before opening new ones expressed in the policy and the provisions of other relevant plan policies can be satisfied. Any proposal for extraction of construction aggregates, including sand and gravel, will be assessed against Policies MIN5, MIN8, MIN9 and MIN10.”

2. Replacing criterion 5 of Policy MIN8: Mineral Extraction Criteria with the following:

“In the case of surface coal extraction, where there is a material risk of disturbance or environmental damage, this is outweighed by demonstrable and significant local or community benefits related to the proposal.”

3. In Policy MIN9, replacing the second sentence of point (ix) with the following:

“In the case of prime quality agricultural land, applicants must demonstrate that the site will be reinstated to agricultural land of a similar quality to that existing prior to mineral working, other than in exceptional circumstances where restoration to an alternative afteruse can be demonstrated to have greater benefits.”

Officers recommend that post-examination modifications 1-3 be accepted by the Council.

Issue 25	Countryside and Coast	
Development plan reference:	Diverse Countryside and Coastal Areas: Development in the Countryside (Pgs 118-122)	Officer(s) Christine Galvin / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>POLICY DC1: RURAL DIVERSIFICATION</p> <p>Given its geographical position and the information provided by the Council, the Reporter notes that the East Lothian Countryside is an accessible and pressured rural area. Paragraph 76 of Scottish Planning Policy highlights that within the pressured areas, which are easily accessible from Scotland’s cities and main towns, where ongoing development pressures are likely to continue, it is important to protect against an unsustainable growth in car based communities and the suburbanisation of the countryside. Paragraph 79 provides guidance on the spatial strategy for development plans to address in rural areas. The reporter concludes it is therefore appropriate for the plan to be tailored to local circumstances. The Reporter notes that Policy DC1 will support development which enhances the rural economy. With regard to the suggestion that the policy should be amended to include opportunities for enabling development, this is included in Policy DC5 (Housing as Enabling Development) and does not need to be repeated in this policy. Matters regarding scale, traffic or other environmental impacts are addressed in other policies, particularly Policy DP1 and Policy DP2. A representation requires an amendment to Policy DC1 to recognise that there are many instances where development in the countryside may be required due to an operational or specific locational requirement that cannot be met on a site within the urban area. The Reporter is satisfied that Criterion b of Policy DC1 already covers this sufficiently. No modifications are proposed.</p> <p>Officers recommend that these conclusions are accepted by the Council.</p> <p>POLICY DC2: CONVERSION OF RURAL BUILDINGS TO HOUSING</p> <p>The Reporter deals with a representation seeking changes to Policy DC2, the majority of which relate to the order of words and the structure of the policy. The Reporter concludes that the amended order of words will do nothing to assist with the implementation of the policy. The representation also proposes an additional criterion to address the consideration of proposals to change the use of garden ground. Policy OS2 (Change of use to garden ground) provides the framework for the assessment of such proposals, therefore no modifications are proposed.</p> <p>Officers recommend that these conclusions are accepted by the Council.</p>		

A further representation on Policy DC2 requests an amendment to require that no demolition of historic assets should take place until planning permission is granted and highlight that an archaeological record may be required. In addition they request that Policy DC2 makes specific reference to guidance produced by Historic Environment Scotland. The Reporter explains that for Listed Buildings it is a criminal offence to demolish without listed building consent. This is covered under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. Policy CH1 (Listed Buildings) of the plan provides guidance and refers to The Historic Environment Scotland Policy Statement (2016). The Reporter explains that the demolition of an unlisted building within a conservation area will normally require Conservation Area Consent. Policy CH3 (Demolition of an Unlisted Building in a Conservation Area) covers this. Policy CH4 (Scheduled Monuments and Archaeological Sites) refers to the requirement for archaeological recording, where necessary. As these issues are covered elsewhere, the Reporter concludes that no modifications are recommended to Policy DC2. Furthermore the Reporter concludes that the guidance produced by Historic Environment Scotland, is a material consideration in the determination of planning applications and is referred to within the cultural heritage section of the plan. As a result, it is not necessary to specifically refer to it within Policy DC2.

Officers recommend that these conclusions are accepted by the Council.

POLICY DC3: REPLACEMENT DWELLINGS IN THE COUNTRYSIDE

The Reporter considers a representation which seeks an amendment to Policy DC3 to include specific criterion regarding the renovation or replacement of homes, including matters such as supporting modern living, carbon footprint, scale and materials. The Reporter concludes that Policy DC3 provides flexibility to enable the replacement of dwellings in the countryside which are incapable of retention for habitation. The suggested additional criterion could result in buildings which are important to the character of the local area being lost. No modifications are proposed.

Officers recommend that this conclusion is accepted by the Council.

POLICY DC4: NEW BUILD HOUSING IN THE COUNTRYSIDE

Scottish Natural Heritage consider that the caveat within Policy DC4 that refers to the 'constrained coast' is unnecessary. They request that Policy DC4 should be amended to refer to Policy DC6. The Reporter concludes that Policy DC6 is clear that the plan will only support development in the constrained coast if it requires a coastal location and within the unspoiled coast, where there is an established and specific need. The Plan should be read as a whole, so no cross referencing is necessary. No modification is proposed.

Officers recommend that this conclusion is accepted by the Council.

The Reporter deals with a representation which requests Policy DC4 include reference to a legal agreement to tie any new house to the business. The Reporter concludes that it would not be appropriate to include such a requirement as paragraph 81 of Scottish Planning Policy states that the planning system should avoid the use of occupancy restrictions on housing development in rural areas. No modification is proposed. In addition the representation requests amendment to provide support for the construction or conversion of new dwellings where they meet specific criteria. The reporter concludes that it is important for the plan to be tailored to local circumstances. Paragraph 81 of Scottish Planning Policy provides guidance with regard to housing development in accessible or pressured rural areas, where there is a danger of unsustainable growth. This highlights that a more restrictive approach to new housing development is appropriate. No modification is proposed.

Officers recommend that these conclusions are accepted by the Council.

The reporter dealt with a representation which objects to the requirement within Policy DC4 that new infill or cluster development is limited to affordable housing. The representation considers that this will create an artificial barrier to development. Furthermore, Homes for Scotland also consider Policy DC4 to be overly restrictive in that it does not provide the necessary flexibility to allow small settlements to grow and change over time. It is requested that the policy is amended to allow for the redevelopment of vacant rural brownfield land and to allow the expansion of existing settlement groups or clusters of four or more houses. The Reporter accepts the Council's position that there is a demand for affordable housing across the entire rural area of East Lothian and concludes that, given the nature and local pressures of the area, to allow open market housing in the countryside could undermine the market for the conversion of buildings of character, provide houses in unsustainable locations and restrict the provision of affordable housing. The Council have a clear method of calculating affordable housing need. No modification is proposed.

Officers recommend that these conclusions are accepted by the Council.

The Scottish Government acknowledge that paragraph 5.10 of the plan aims to set out the circumstances in which development outwith settlements may be appropriate. This paragraph suggests that occupancy restrictions would be required. The reporter concludes that this approach is contrary to paragraph 81 of Scottish Planning Policy and recommends an amendment to remove this reference in the plan. Modification 1 recommends deleting the final sentence of paragraph 5.10.

Officers recommend that this conclusion and recommended post-examination modification 1 are accepted by the Council.

POLICY DC5: HOUSING AS ENABLING DEVELOPMENT

Historic Environment Scotland consider that a clear statement should be made that enabling development should be the only option to save an asset from loss or potential loss. The Reporter notes that the final sentence of Policy DC5 does make reference to ensuring the enabling development is the minimum necessary, but concludes that the policy does not fully reflect Scottish Planning Policy. In this respect a modification is recommended to add the text, 'Enabling development will only be acceptable where it can be clearly demonstrated to be the only means of preventing loss of the asset and securing its long-term future' immediately following the final sentence of criterion b. (Modification 2).

Officers recommend that this conclusion and recommended post-examination modification 2 are accepted by the Council.

Historic Environment Scotland are also concerned that Policy DC5 may limit the possibilities of protecting or enhancing the setting of an asset by requiring enabling development to be on the same site as the main proposal. The Reporter notes that, as currently written, Policy DC5 specifically excludes development taking place off site. The Reporter concludes that it is possible that applicants may own or have control of land outwith the site of the listed building and it may be more appropriate to locate the new build element off site to remove potential impacts on the setting of the listed building. In this respect, the Reporter proposes a modification. In Policy DC5, immediately following 'Any enabling development must be on the same site as and part of the main proposal' add the following: Where the proposal will fund the restoration of a listed building, the priority is for enabling development to take place on the same site as the listed building. Any enabling development proposed off site must be clearly justified with strong evidence to demonstrate why the enabling development could not take place on the site. (Modification 3).

Officers recommend that this conclusion and recommended post-examination modification 3 are accepted by the Council.

The Reporter makes no further modifications in respect of further representations to Policy DC5, including a representation which wants to see no enabling development. This would be contrary to Scottish Planning Policy.

Officers recommend that this conclusion is accepted by the Council.

POLICY DC6: DEVELOPMENT IN THE COASTAL AREA

The Reporter notes that there is an issue with consistency around the use of the term 'unspoiled coast' and 'largely unspoiled coast' both of which are used in the plan. The Reporter concludes

that in order to ensure consistency, and to reflect the background to the policy set out Technical Note 7, the term ‘unspoiled coast’ is the most appropriate terminology. The following modifications are proposed: In paragraph 5.15, delete “largely” from the first sentence and add the following text at the end of first sentence: “and on inset map 4” (Modification 4), in Policy DC6, delete “largely” from the third bullet point (Modification 5) and on the Proposals Map – Inset 4, amend the key by deleting the word “largely” (Modification 6).

Officers recommend that this conclusion and recommended post-examination modifications 4 - 6 are accepted by the Council.

The Reporter considers the level of detail contained in policy DC6 and concludes that the level of detail does not conflict with that included within other policies of the plan, and given the nature of the coast, considers it appropriate to retain it within the policy. No modifications are proposed.

Officers recommend that this conclusion is accepted by the Council.

A further representation states that there is a need for the plan to support appropriate development that enables the countryside and coastal areas to support associated economic activities. The Reporter makes no modifications and concludes that the spatial strategy highlights the need for the plan to support appropriate development that enables the coastal areas to thrive and diversify, whilst protecting what makes the area special. Policy DC6 therefore provides a framework which seeks to ensure that development proposals in coastal locations are assessed against the qualities of the coastal area and other relevant policies.

Officers recommend that this conclusion is accepted by the Council.

DEVELOPMENT IN THE COUNTRYSIDE MISCELLANEOUS

Spatial Strategy Diagram 5: Countryside And Coast

Scottish Natural Heritage consider that the Spatial Strategy Diagram 5 should separate the different categories of constrained and undeveloped coast to align with Policy DC6. The Reporter concludes that the required detail is included in Inset Map 4. A modification to include reference to Inset Map 4 in paragraph 5.15 is recommended to ensure clarity. (Modification 4).

Officers recommend that this conclusion and recommended post-examination modification 4 are accepted by the Council.

Electricity Transmission Developments in The Countryside and Coastal Areas

Scottish Power Energy Networks and Neart na Gaoithe Off-shore Wind Ltd request amendments to Policies DC1, DC4 and DC6, and paragraph 5.7 to safeguard against inappropriate development which may prejudice the delivery of major electricity transmission developments supported by the National Planning Framework's National Development 4 and other essential upgrading works. The Reporter concludes that the matter of safeguarded routes for potential enhancements to the high voltage electricity transmission networks is covered in Issue 22b. Within the plan, Policy DC1 supports the principle of infrastructure provision and Policy EGT4: Enhanced High Voltage Electricity Transmission Network supports enhancement of the network subject to identified criteria. Therefore, no modifications are recommended in response to these representations.

Officers recommend that this conclusion is accepted by the Council.

Diverse Countryside and Coast General

Further representations request that the plan is modified to ensure rural business and development opportunities are not stifled by an unnecessarily cautious policy approach with greater emphasis given to the contribution that appropriate development can have. The Reporter notes that the spatial strategy highlights the need for the plan to support appropriate development that enables countryside areas to thrive and diversify, whilst protecting what makes the area special. In accordance with paragraph 76 of Scottish Planning Policy, it is appropriate for the plan to protect against unsustainable growth in car-based commuting and the suburbanisation of the countryside. The suite of countryside and coast policies seek to provide a positive policy framework which support the diversification of the rural economy and the ongoing sustainability of the countryside and coast, whilst resisting the significant pressure for less sustainable development that would promote car-based travel patterns, would suburbanise the countryside or would harm the character or appearance of the area. No modifications are therefore recommended.

Officers recommend that this conclusion is accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In paragraph 5.10, deleting the final sentence.

2. In Policy DC5, immediately following the final sentence of criterion b, adding the following:

“Enabling development will only be acceptable where it can be clearly demonstrated to be the only means of preventing loss of the asset and securing its long-term future.”

3. In Policy DC5, adding a new sentence immediately following: “Any enabling development must be on the same site as and part of the main proposal.” as follows:

“Where the proposal will fund the restoration of a listed building, the priority is for enabling development to take place on the same site as the listed building. Any enabling development proposed off site must be clearly justified with strong evidence to demonstrate why the enabling development could not take place on the site”

4. In paragraph 5.15, deleting “largely” from the first sentence and adding the following text at the end of first sentence: “and on inset map 4”.

5. In Policy DC6, deleting “largely” from the third bullet point.

6. On the Proposals Map – Inset 4, amending the key by deleting the word “largely”.

Officers recommend that post-examination modifications 1-6 be accepted by the Council.

Issue 26	Special Rural Landscapes	
Development plan reference:	Policies DC7 – DC10	Officer(s) Christine Galvin / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>POLICY DC7: DEVELOPMENT IN THE EDINBURGH GREEN BELT</p> <p>The Reporter concludes that the approach set out within Policy DC7 is in accordance with the requirements of both Scottish Planning Policy and SESplan. Furthermore, paragraph 5.17 of the plan explains the purposes of the Green Belt. No modifications are proposed in respect of Green Belt policy.</p> <p>Officers recommend that this conclusion is accepted by the Council.</p> <p>POLICY DC8: COUNTRYSIDE AROUND TOWNS</p> <p>A number of representations object to the policy approach to protect areas of land as part of the Countryside Around Towns designation. Some of the representations are site specific. The Reporter deals firstly with the principle of the policy. The Reporter concludes that it is appropriate for the plan to include a policy framework which seeks to conserve the setting, character or identity of settlements, prevent coalescence and/or provide access to the green network and recreation. The Reporter supports the Countryside Around Towns designation, in principle. The Reporter explains that Policy DC8 fits within the framework of Scottish Planning Policy (paragraphs 74 and 76) and Policy 13 of SESplan which requires local development plans to review and justify additions or deletions to other countryside designations which fulfil a similar function to the Green Belt. The Reporter is satisfied with the justifications in Technical Note 8.</p> <p>Officers recommend that this conclusion is accepted by the Council.</p> <p>The Reporter does recommend some modification for clarification. Paragraphs 5.20 – 5.22 provide some explanation of the purpose of the designation but the Reporter concludes that the objectives are not clearly defined. The SPG referred to in Policy DC8 will set out the relevant objectives which will apply to each specific Countryside Around Towns area, not the overall objectives. Therefore modifications are proposed to paragraph 5.20 and Policy DC8. These should read as follows: In paragraph 5.20, replace the final sentence with the following: “Countryside Around Towns designations will apply and their objectives are: to conserve the landscape setting, character or identity of the particular settlement; and /or to prevent the</p>		

coalescence of settlements; and/or where it can provide opportunity for green network and recreation purposes.” (Modification 1) Also replace the first sentence of Policy DC8 with the following: “Development that would harm the objectives of the specific Countryside Around Town area, as defined in supplementary planning guidance, will not be permitted.” (Modification 2).

Officers recommend that these conclusions and recommended post-examination modifications 1 and 2 are accepted by the Council.

A further representation submits that criteria ‘ii’ and ‘iii’ within Policy DC8 which identify community uses, rural businesses, tourism and leisure uses, should be deleted. The Reporter considers the approach set out within Policy DC8 to be in accordance with the requirements of paragraph 79 of Scottish Planning Policy. This requires local development plans to promote economic activity and diversification within rural areas, this includes tourism and leisure uses and therefore recommends no modification in response to this representation.

Officers recommend that this conclusion is accepted by the Council.

SITE SPECIFIC DESIGNATIONS UNDER POLICY DC8

Dirleton

No modification proposed. The Reporter considered the inclusion of land at Castlemains Place as Countryside Around Town, but concluded that it is suitable for housing development under Issue 9. There were requests to remove land at in the north at Forshot Terrace from the Countryside Around Towns designation. The Reporter agrees with Technical Note 8 that development to the north of Dirleton would detrimentally impact on the countryside setting and character of the village, which is the purpose of the Countryside Around Towns designation at Dirleton. This view is supported by the Dirleton Conservation Area Character Statement.

Officers recommend that this conclusion is accepted by the Council.

East Linton

No modification proposed. The Reporter considered a representation seeking the removal of the Countryside Around Towns designation around East Linton, particularly around Phantassie Farm. The Reporter concludes that the land to the east provides an attractive landscape setting to the village and recognises that the East Linton Conservation Area Character Statement highlights how open views from the Phantassie area frame the buildings of the Conservation Area. Issue 13 deals

with the request for an allocation at Phantassie Farm. Furthermore, in East Linton, there was a request to remove the housing allocation at Pencraighill (DR8) and allocate instead as Countryside Around Towns. Issue 8 deals with the housing allocation and the Reporter concludes that this site does not meet the objectives of Countryside Around Towns.

Officers recommend that this conclusion is accepted by the Council.

Port Seton

No modification proposed. One representation sought the removal of Countryside Around Towns designation from Port Seton Links. The Reporter concluded that the site should be included in the designation as it helps prevent development from impacting detrimentally on the landscape setting of the settlement, particularly in relation to Seton House and the Garden and Designed Landscape. The request to allocate this land for housing is dealt with in Issue 13. A further representation seeks the removal of Countryside Around Towns designation and an allocation for housing at land at Fishergate Road, Port Seton. The Reporter deals with the proposed allocation as housing under Issue 13. In terms of the Countryside Around Towns designation the Reporter concludes that it is appropriate and important for this site to remain undeveloped since community identity and coalescence are key issues, particularly in the future when Blindwells is developed.

Officers recommend that this conclusion is accepted by the Council.

Haddington

No modification proposed. There were a number of representations seeking the removal of the Countryside Around Towns designation around Haddington, specific to Land at Dovecot, Amisfield Mains site, land to the west of Letham Mains/south of west Letham, land at south Gateside and land north of west Letham. Where housing allocations are proposed instead, the Reporter deals with this in Issue 13. In terms of the Countryside Around Towns designation, the Reporter concludes that the sites all meet the objectives and should remain designated as Countryside Around Towns.

Officers recommend that this conclusion is accepted by the Council.

Ormiston

No modification proposed. The Reporter considered representations about the Countryside Around Towns designation in Ormiston including a representation specific to the south of Hillview

Road, Ormiston. The Reporter considers the details in Technical Note 8 to be correct and concludes that development to the north or east of Ormiston would be visually detrimental to the landscape setting and character of the historic core of the village. The land should therefore remain designated as Countryside Around Towns. In respect of land south of Hillview Road, the Reporter concludes that this is an important part of the landscape setting and identity of the settlement and therefore appropriate to include it within the Countryside Around Towns designation. The request to allocate this land for housing is dealt with in Issue 13.

Officers recommend that this conclusion is accepted by the Council.

North Berwick

No modification proposed. North Berwick Community Council requested that the Countryside Around Towns designation be extended to include the west and east sides of the town. The Reporter concludes that land to the west and east of North Berwick is of different character to that land at the south which has been designated as Countryside Around Towns. The Reporter does not see it appropriate to designate land to the east and west as Countryside Around Towns, but notes that other plan policies will help manage future development pressure. The Reporter considered a representation seeking the removal of the Countryside Around Towns designation from land to the east of Tantallon Caravan Park. The Reporter concludes that whilst the land is bounded by man made features, this does not prevent it from playing an important role as part of the distinctive landscape setting of the town. The land should remain designated as Countryside Around Towns.

Officers recommend that this conclusion is accepted by the Council.

POLICY DC9: SPECIAL LANDSCAPE AREAS

Meadowhead Ltd requests an amendment to Policy DC9 to recognise that economically important development may also be appropriate within Special Landscape Areas. The Reporter concludes that the policy as written does not exclude economic development within Special Landscape Areas. It requires development to accord with the statement of importance and not to harm the special character of the area. Where there could be adverse impacts from development the policy allows for an assessment of the public benefits, which could include economic benefits. These public benefits must clearly outweigh any adverse impact. No modification is proposed.

Officers recommend that this conclusion is accepted by the Council.

A further representation requests that the reference to public benefits should be removed from Policy DC9. The Reporter concludes that paragraph 196 of Scottish Planning Policy identifies that

plans should set out the factors which will be taken into account in development management and that the level of protection given to local designations should not be as high as that given to international or national designations. It is therefore appropriate for Policy DC9 to include reference to an assessment of the public benefits of a proposal. No modifications are recommended.

Officers recommend that this conclusion is accepted by the Council.

POLICIES DC8 AND DC9

A representation objects to both Policies DC8 and DC9, stating that the designations are unnecessary given the protection already available. The Reporter concludes that the approach set out within Policy DC8 is in accordance with both Scottish Planning Policy and the strategic development plan. With regard to Policy DC9, paragraph 197 of Scottish Planning Policy allows for the designation of areas of local landscape value. No modifications are necessary.

Officers recommend that this conclusion is accepted by the Council.

POLICY DC10: THE GREEN NETWORK

Scottish Natural Heritage request an amendment to the policy to ensure clarity regarding the inclusion of green infrastructure contributions within the draft Supplementary Guidance: Developer Contributions Framework. The representation states that a hook to the supplementary guidance should be included within the plan. The Reporter notes that the Developer Contributions Supplementary Guidance does not require financial contributions towards the green network. In Issue 31: Delivery, the Report of Examination confirms that the council has clarified that no financial contributions are to be sought for the green network and the focus would be for on-site provision. Therefore a relevant 'hook' is not required and it is recommended in Issue 31 that the reference to Policy DC10 is deleted from Table DEL1. In order to provide further clarity on this matter, the Reporter recommends that Policy DC10 is also amended to remove the reference that all relevant development must contribute to the green network. The Reporter recommends that In Policy DC10, replace the following text in the first sentence: "contribute to the Green Network" with: "make provision for the Green Network" (Modification 3).

Officers recommend that this conclusion and recommended post-examination modification 3 are accepted by the Council.

A further representation submits that all of the policy, apart from the first sentence should be deleted. The Reporter considers it is necessary for the policy to be specific to ensure it is able to be effectively implemented through the development management process. No modification proposed.

Officers recommend that this conclusion is accepted by the Council.

SUBURBAN FRINGE WOODLAND

The Reporter considers a representation which requests the inclusion of an additional policy within the plan to include a requirement for the planning of fringe woodlands around every new suburban housing site on the edge of settlements, unless screening already exists. The Reporter concludes that a number of policies within the plan seek to protect and enhance trees and woodlands across East Lothian as well as policies which include requirements for appropriate landscaping as part of new development. In addition, a number of the proposals within the cluster sections of the plan highlight the need for appropriate landscaping to fully integrate the development. The Reporter considers this approach to be appropriate and no modifications are recommended.

Officers recommend that this conclusion is accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In paragraph 5.20, replacing the final sentence with the following:

“Countryside Around Towns designations will apply and their objectives are to:

- to conserve the landscape setting, character or identity of the particular settlement; and /or
- to prevent the coalescence of settlements; and/or
- where it can provide opportunity for green network and recreation purposes.”

2. Replacing the first sentence of Policy DC8 with the following:

“Development that would harm the objectives of the specific Countryside Around Town area, as defined in supplementary planning guidance, will not be permitted.”

3. In Policy DC10, replacing the following text in the first sentence: “contribute to the Green Network” with: “make provision for the Green Network”.

Officers recommend that post-examination modifications 1-3 be accepted by the Council.

Issue 27	Natural Heritage	
Development plan reference:	Chapter 6: Our Natural and Cultural Heritage, Natural Heritage, Background to Trees and Woodland (pages 125 – 129)	Officer(s) Jean Squires / Eamon John / Stuart McPherson / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

NATURAL HERITAGE BACKGROUND PARAGRAPH 6.7

Modification of the plan is recommended to provide the most up to date context on the status of marine designations. SNH noted that the status of some marine designations had changed.

Officers recommend that this conclusion and recommended post-examination modification 1 are accepted by the Council.

POLICY NH3: PROTECTION OF LOCAL SITES AND AREAS.

The Reporter recommends a modification to clarify the intention of this policy as to the sites intended to be designated. Modification of the plan is also recommended to avoid ambiguity the policy should refer to 'social, economic and environmental benefits' rather than 'public benefits'.

SNH made representation that the wording of this policy is unclear as to the site intended to be designated as Local Nature Conservation Sites. SNHs suggested modification does not include however sites in the Geodiversity Technical Note therefore the Councils suggested amendment is recommended to show that sites identified in both the Biodiversity Technical Note and Geodiversity Technical Note are designated as Local Nature Conservation Sites. The Reporter notes a spelling mistake of 'Giodiversity' on the cover of the Geodiversity Technical Note.

Policy NH3 paragraph 2 referred to 'public benefit to the local area'. This is ambiguous as no definition of the term 'public benefit' is provided. Scottish Government proposed replacing this with 'social, economic or environmental benefits'. This is clearer and less ambiguous. Also, in referring to 'the local area' the policy could unintentionally deny proposals with benefits beyond the local scale. Local designations should represent a lower level of protection than national or international ones, and it has not been shown this is not the case.

Officers recommend that these conclusions and recommended post-examination modification 2 are accepted by the Council.

POLICY NH4: EUROPEAN PROTECTED SPECIES AND POLICY NH5 BIODIVERSITY AND GEODIVERSITY INTERESTS, INCLUDING NATIONALLY PROTECTED SPECIES, SUPPORTING TEXT.

No modification is proposed. SNH argue paragraph 6.12 should include references to licensing requirements. Planning permission is not the legal determinant of whether or not a licence is granted therefore this is not needed.

Officers recommend that this conclusion is accepted by the Council.

POLICY NH7: SOILS (PAGE 128)

No modification is proposed. Representation was made that the strategic significance of prime agricultural land should be explained. However this would not alter the way in which such land is protected. Removal of Policy NH7: Soils, bullet point 2 requiring developers to demonstrate that an alternative site cannot be found would weaken protection of prime agricultural land.

Officers recommend that this conclusion is accepted by the Council.

NATURAL HERITAGE MISCELLANEOUS

No modification is proposed. Representation was made that reference should be made to proposals affecting the natural environment being required to conform to relevant SNH guidance. Policy and guidance from public agencies is already a material consideration in determining planning proposals.

Officers recommend that this conclusion is accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In paragraph 6.7, replace the final sentence with two separate sentences as follows:

“Offshore, the Firth of Forth Banks Complex is a Nature Conservation Marine Protected Area (MPA). The Outer Firth of Forth and St Andrews Bay Complex is a marine proposed Special Protection Area (SPA)”.

2. Amending Policy NH3 to read:

“Local Biodiversity Sites and Local Geodiversity Sites are designated as Local Nature Conservation Sites, as shown on the Proposals Map. Details of these sites are set out in Technical Note 10: Planning for Biodiversity (2016) and Technical Note 11: Planning for Geodiversity (2016).

Development that would adversely affect the interest of a Local Nature Conservation Site, Local Nature Reserve or Country Park will only be permitted where it is demonstrated that any damage to the natural heritage interest or public enjoyment of the site is outweighed by the economic, social or environmental benefits of the development and suitable mitigation will be secured.”

Officers recommend that post-examination modifications 1-2 be accepted by the Council.

Issue 28	Water, Flood Risk, Air Quality and Noise	
Development plan reference:	Our Natural & Cultural Heritage (Pages 129-136)	Officer(s) Leigh Taylor / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p data-bbox="204 562 1485 595">POLICY NH9: WATER ENVIRONMENT AND ASSOCIATED TEXT INCLUDING ADVICE BOX 6</p> <p data-bbox="204 678 1469 786">A representation from SEPA supported Policy NH9 but sought a modification to include the contents of Advice Box 6 within Policy NH9. The Reporter has treated this as a proposed modification and an unresolved issue even though it was not categorised as such by the Council.</p> <p data-bbox="204 869 1477 1099">The Reporter noted that paragraph two of Policy NH9 explains that proposals that would have a detrimental impact on the water environment will not be supported. Advice Box 6 explains how to ensure that proposed development protects and enhances the water environment. The Reporter concluded that the evidence did not demonstrate that presenting this information in an advice box would be detrimental to delivering the outcomes sought by Policy NH9. The Reporter also noted that advice boxes have been used in various parts of the LDP to support policies. The Reporter made no recommendations for modifications to this policy.</p> <p data-bbox="204 1178 1230 1211">Officers recommend that these conclusions are accepted by the Council.</p> <p data-bbox="204 1341 1374 1375">POLICY NH10: SUSTAINABLE URBAN DRAINAGE (SUDS) AND ASSOCIATED TEXT</p> <p data-bbox="204 1458 1490 1599">A representation from the RSPB referred to best practice guidance on Sustainable Urban Drainage Systems and Wildlife and requested that Policy NH10 made reference to this in the LDP. The Reporter concluded that the LDP reflects the relevant national guidance in an appropriate manner (subject to specified modifications) and proposed no modification to Policy NH10.</p> <p data-bbox="204 1682 1498 1895">A representation from SEPA suggested rewording para 6.29 to be more consistent with the aims of the Flood Risk Management (Scotland) Act 2009 and SPP. The Reporter concluded that whilst the LDP explains how SuDS should be designed in terms of their purpose, capacity and consequential impacts on the flood risk of other sites, and that this was not at odds with the Flood Risk Management (Scotland) Act 2009 or SPP, the wording suggested by SEPA would present a more accurate description. This modification was recommended.</p> <p data-bbox="204 1917 1490 1991">Officers recommend that this conclusion and recommended post-examination modification 1 are accepted by the Council.</p>		

A representation from SNH highlighted the importance of SPP paragraph 225 which states that SuDS proposals should be delivered through a design led approach that results in a proposal that is appropriate to place. The Reporter concluded that whilst paragraph three of Policy NH10 generally acknowledges the role of SuDS in place-making, green networks and biodiversity enhancement, the linkages could be expressed with greater clarity and to link more closely with the design policies in the LDP. The Reporter recommended making this modification.

Officers recommend that this conclusion and recommended post-examination modification 2 are accepted by the Council.

A representation from Magnus Thorne stated that reference is made to SuDS areas and their design criteria being required within planning applications but that this was not reflective of SEPA's interim position statement on planning and flooding as it does not state how unavoidable impacts will be mitigated and delivered specific to a location. Reference was also made to the Andrew Meikle Grove SuDS area in terms of development in accordance with planning application requirements and that responsibility was not transferred to Scottish Water after construction. Questions were asked regarding establishing ongoing responsibility for SuDS with particular reference made to LDP PROP DR8: Pencraig Hill.

The Reporter concluded that Policy NH10 already requires a management regime to be in place and that SuDS are designed to Scottish Water standards so as to enable transfer to Scottish Water. The Reporter also stated that the management regime and its transfer to Scottish Water or to another maintenance body is a matter for the developer and the respective body. The Reporter concluded that no modification to the policy was required.

Officers recommend that these conclusions are accepted by the Council.

POLICY NH11: FLOOD RISK

A representation from the RSPB stated that natural flood management measures should be adopted where possible to contribute towards flood prevention and mitigation and this requirement should be included somewhere in this policy, or a separate policy. The Reporter concluded that Policy NH11 considers many similar and inter-related issues that cover all types of flood risk management, including natural systems. No modification to Policy NH11 was recommended.

Officers recommend that these conclusions are accepted by the Council.

A representation from SEPA proposed an amendment to paragraph 6.32 to explain that while landraising and compensatory storage may reduce the likelihood of flooding of the site being developed, it could lead to increased risk of flooding elsewhere, e.g. to neighbouring existing or proposed development. SEPA also stated that the policy needs to be stronger and needs to establish provision for climate change with linkages to The Climate Change (Scotland) Act 2009 as

well as SPP. The Reporter concluded that land-raising and compensatory storage could have consequential changes to flood risk in other areas in a way that the Flood Risk Management (Scotland) Act 2009 and Scottish Planning Policy paragraph 255 seek to prevent. The Reporter also concluded that paragraph 6.31 of the plan identifies sustainable flood risk management and explains that flood risk can result from a variety of sources, however concluded that it does not respond to the potential impacts of subsequent flooding elsewhere, although it does reference the general principle of avoidance. The Reporter concluded that the proposed modification to the wording suggested by SEPA should be made and recommended this modification.

Following a request for further information from the DPEA, SEPA subsequently withdrew their objection in respect of Policy NH11 criterion G because it agrees with the Council's response. The Reporter concluded that this was no longer an unresolved issue before them.

Officers recommend that this conclusion and recommended post-examination modification 3 are accepted by the Council.

POLICY NH12: AIR QUALITY

A representation from the Walker Group stated that the requirement of the policy for developers to make contributions towards improvements in bus fleets in order to improve air quality does not meet the test of Circular 3/2012: Planning Obligations as these are private commercial operators.

A representation from Homes for Scotland sought clarity over the developer requirements for contributions towards air quality mitigation. The representee stated that if it is the case that improvements to bus fleets would be required, then justification for this would be required, as bus operators are commercial entities and it is not reasonable for house builders to contribute to an organisation which makes profit from running a bus service. Such a requirement would not meet the tests of Circular 3/2012: Planning Obligations.

The Reporter noted that paragraph 6.33 of the LDP acknowledges air quality issues around Musselburgh High Street Air Quality Management Area, mainly as a result of road traffic emissions. The Reporter also noted that the Air Quality Management Plan for Musselburgh is not part of the LDP. The LDP does identify 13 actions to tackle air quality in the Air Quality Management Area. Paragraph 6.34 of the LDP refers to some of these actions relating to transport improvements, which are also covered by Policy T19: Transport Improvements at Musselburgh Town Centre and Proposals T20: Transport Related Air Quality Measures: Relocation of Bus Stops and T21: Musselburgh Urban Traffic Control System.

The Reporter noted the second paragraph of Policy NH12, which explains how development that would breach national air quality standards or significantly increase air pollution in an air quality management area will not be permitted unless appropriate mitigation is in place, and that in these circumstances financial contributions to strategic air quality mitigation measures will be necessary.

The Reporter stated that representations from the Walker Group and Homes for Scotland oppose contributions to mitigate air quality issues where these would be towards bus fleet improvements and relocating bus stops, because they consider these fail the test of reasonableness in Circular 3/2012: Planning Obligations and Good Neighbour Agreements. The Reporter noted however that as indicated in the Council's statement of case, the LDP does not seek developer contributions towards bus fleet improvements or bus stop relocation (Proposal T20), and instead seeks contributions towards green infrastructure and traffic management.

The Reporter concluded that paragraphs 4.36 to 4.37 and paragraphs 6.33 to 6.35 of the LDP explain the impacts of air quality and the need to resolve this, and that Policy T19 and Proposal T20 do not seek developer contributions towards bus fleet improvements and relocating bus stops. Proposal T21 seeks contributions from new development towards the Musselburgh Urban Traffic Control System in order to ameliorate their impact on the air quality of Musselburgh town centre. This is a traffic signalisation project that does not include contributions to bus stop relocation or bus fleet improvement. Proposal T21 is also contained in Table DEL1.

The Reporter concluded that the Council's approach is to identify a series of measures required for air quality mitigation, and that only some of these will be delivered through developer contributions. No modifications were recommended as a result of representations. The Reporter however concluded that the penultimate sentence of paragraph 6.34 could be read to imply that the Council would seek contributions towards bus fleet improvements and bus stop relocations, even though the policy framework does not seek to do this. The Reporter recommended a modification to the penultimate sentence of paragraph 6.34 to resolve this and to remove confusion.

Officers recommend that these conclusions and recommended post-examination modification 4 are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. Replacing the second part of paragraph 6.29 (third, fourth, fifth and sixth sentences) commencing "A developed site..." with the following:

"A development site must control and release runoff rates at greenfield rates over a range of rainfall events including the 1 in 30 year event and the 1 in 200 year event in agreement with East Lothian Council as flood prevention authority. This helps manage flood risk within the development site and also ensures there is no increase in flood risk to adjacent and downstream sites. The SEPA surface water flood map shows areas that may be subjected to ponding from either pluvial or sewer flooding and can be used to indicate areas where further assessments are required, such as a flood risk assessment. This map does not show flow path direction. Pre development flow paths through the site should be maintained after the completion of the development."

2. Amending the final sentence of Policy NH10: Sustainable Drainage Systems to read:

“Proposals must also demonstrate through a design-led approach how SuDS proposals are appropriate to place and designed to promote wider benefits such as placemaking, green networks and biodiversity enhancement.”

3. In paragraph 6.32, adding the following text after the third sentence:

“However, the avoidance principle should be applied whenever possible in compliance with Scottish Planning Policy.”

4. In paragraph 6.34, modifying the penultimate sentence and adding two new sentences immediately after it to read as follows:

“Developers of major development sites in these areas will be expected to make appropriate and proportionate financial contributions towards air quality mitigation measures. This excludes measures described in Proposal T20. Policy T8 and its supporting text describe the circumstances in which developer contributions may be sought towards improvements to the bus network as a consequence of new development.”

Officers recommend that post-examination modifications 1-4 be accepted by the Council.

Issue 29	Cultural Heritage	
Development plan reference:	Cultural Heritage (pages 133-136)	Officer(s) Leigh Taylor / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>NEW POLICY AND GUIDANCE</p> <p>The Reporter notes comments from Historic Environment Scotland (HES) that the LDP cultural heritage policies are appropriate and consistent with national policy, and notes HES support for the Council’s approach to supplementary guidance. The Reporter concluded that the LDP does not take a contrary view to national policy. The Reporter also concluded that HES guidance notes are already material considerations and other procedures relating to HES are referred to in other sections of the cultural heritage chapter of the LDP. No modifications were recommended.</p> <p>Officers recommend that these conclusions are accepted by the Council.</p> <p>POLICY CH2: DEVELOPMENT AFFECTING CONSERVATION AREAS</p> <p>In addressing a representation from David Campbell, the Reporter stated that any revisions to conservation area boundaries would be carried out under the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997. They also stated that whilst it is sometimes useful to combine both consultation processes, this could be undertaken separately to the LDP process. The Reporter accepted the Council’s case that current boundaries remain valid and that there is no urgent need to review them. Such a review could take place once the supplementary planning guidance on Conservation Area Character Statements and any replacement appraisals are in place. The Reporter concluded that no modification was necessary.</p> <p>In addressing a representation from Inveresk Village Society, the Reporter stated that the Conservation Area Character Appraisal is already a material consideration to help determine whether proposed development in this area is appropriate. The Reporter concluded that there was no evidence to justify why Inveresk conservation area requires a preventative policy for garden development or a more stringent approach than would be used in other conservation areas. The Reporter concluded that no modification was necessary.</p> <p>Officers recommend that these conclusions are accepted by the Council.</p>		

POLICY CH5: BATTLEFIELDS

In addressing a representation from Brian Hall, the Reporter stated that it is not their role through the LDP examination to convey any war grave designation upon the battlefield at Prestonpans or any other sites, as there are separate processes for this. The Reporter concluded that no evidence exists to suggest para. 6.52 of the LDP and Policy CH5 would fail to offer sufficient protection. Finally, the Reporter stated that matters relating to visitor attractions and tourism are covered in Issue 11. No modifications were recommended.

Officers recommend that these conclusions are accepted by the Council.

POLICY CH6: GARDENS AND DESIGNED LANDSCAPES

The Reporter stated that it is important for the LDP to accurately distinguish between the roles and responsibilities of Historic Environment Scotland and Scottish Government. The Reporter therefore recommend making Scottish Government's proposed modification to paragraph 6.54.

Officers recommend that this conclusion and post-examination modification 1 are accepted by the Council.

In addressing representations from Haddington and District Amenity Society and HES, the Reporter noted that Technical Note 13 paragraph 4.16 explains that Clerkington is not on the national inventory, but it is the only garden or designed landscape of regional significance in East Lothian. The Reporter noted the Council's case which stated that it has been recorded in its own historic gardens and designed landscape records. The Reporter concluded that Policy CH6 protects all gardens and designed landscapes on both the national inventory and the Council's own historic gardens and designed landscape records. Policy CH6 already protects the gardens and designed landscapes at Clerkington.

The Reporter noted that the HADAS also seeks coverage of the Clerkington area by Policies DC8: Countryside Around Towns and DC9: Special Landscape Areas. In response to a Further Information Request, HADAS provided a detailed map showing the boundaries of the Clerkington area taken from the Clerkington Designed Landscape Management Plan. The Reporter concluded that the entirety of this geography, and a wider area, is also already covered by Policy DC8, as shown on the Proposal Map. Policy DC9 is designed to protect local landscape designations and the Reporter considered that Policy CH6 already does this given that Clerkington is a garden and designed landscape.

Matters relating to Policies DC8 and DC9 are considered in more detail in Issue 26. The Reporter made no recommendations for modifications.

Officers recommend that these conclusions are accepted by the Council.

The Reporter noted that the representation from HADAS also sought similar protection for the land north of Haddington, although they did not specify the geographic extent of this area. The Reporter stated that the Proposal Map shows that this area is not covered by either Policy DC8 or Policy DC9. The Council's case argued that the A1 road provides a physical separation between the town and the countryside to the north. The Reporter concurred with this stated there was no evidence to demonstrate the necessity for covering this area by Policies DC8 and/or DC9. The Reporter stated however, were any of the land north of Haddington to be or to become part of a garden or designed landscape on the national inventory or the Council's own records, then it too would be protected by Policy CH6. No modifications were recommended.

Officers recommend that these conclusions are accepted by the Council.

In addressing a representation from SNH, the Reporter stated that in Issue 11: Planning for Employment and Tourism, the Council has noted the removal of Archerfield and Elvingston estates from the National Inventory of Gardens and Designed Landscapes in September 2016. The Reporter concluded therefore that Policy CH6 no longer applies and the designation of these two sites under this policy should be removed from Inset Map 3. The Reporter stated however that should the Council add these estates to its own record of regionally and locally important gardens and designed landscapes in the future then Policy CH6 would apply. This modification was recommended by the Reporter.

Officers recommend that these conclusions and post-examination modification 2 are accepted by the Council.

POLICY CH7: GREYWALLS, GULLANE

In addressing a representation from Zoe Bennett-Levy, the Reporter stated that as the Council's case explains, Policy CH7 protects Greywalls at Gullane specifically because it is a listed building and is also on the National Inventory of Gardens and Designed Landscapes. Listed buildings are protected by Policy CH1 and gardens and designed landscapes by Policy CH6. Greywalls at Gullane would therefore be afforded protection for both designations even if Policy CH7 had not been included in the LDP.

The Reporter agreed with the Council's case that the context for the category A Listed Monkton House differs from that of Greywalls. Monkton House along with the category B Listed Monkton Gardens are already covered by Policies CH1: Listed Buildings and DC7: Development in the Edinburgh Green Belt. The Reporter concluded that there was no evidence that Monkton House and Gardens are on the national inventory of gardens and designed landscapes or the Council's historic gardens and designed landscape records. The Reporter concluded that if this was the case or was to become the case in the future, Policy CH6 would provide appropriate protection. The matter of protecting the cultural heritage and setting of Monkton House and Monkton Gardens in relation to Proposals MH1, MH2 and MH3, is covered in Issue 3: Musselburgh Cluster. The Reporter made no recommendations for modifications.

Officers recommend that these conclusions are accepted by the Council.

POLICY CH8: WEST ROAD FIELD, HADDINGTON

In addressing a representation from Haddington and District Amenity Society, the Reporter concluded that there are no modifications they could recommend to the LDP that would bring about progress any more quickly on this site.

Officers recommend that these conclusions are accepted by the Council.

MISCELLANEOUS

In addressing a representation from HES, the Reporter concluded that they can only recommend modifications to the LDP itself and not to any background documents.

In addressing a representation from WA Dodd which sought monitoring of all listed buildings and the introduction of a policy specifically for category C(s) listed buildings, the Reporter stated that responsibility lies with HES and not the Council. In addition, all categories of listed buildings are covered by Policy CH1. The Reporter made no recommendations for modifications.

Officers recommend that these conclusions are accepted by the Council.

The Reporter also stated that the representation from WA Dodd also sought an additional policy to protect the town wall to the north of Haddington town centre. The Reporter stated that on their site inspection, part of the wall is fronted by an area of grass not allocated for any development in the LDP. They also stated that the Council's case states the wall is already listed and therefore the walls and their setting are protected under Policy CH1. No modifications were recommended.

Officers recommend that these conclusions are accepted by the Council.

The Reporter notes the representation from Musselburgh Grammar School which made reference to the lack of any statement in the LDP regarding Musselburgh's unique culture and heritage. The Reporter concluded that whilst the LDP's cultural heritage section does not refer to particular settlements, the Council's case states that supplementary planning guidance and forthcoming Musselburgh Conservation Area Character Appraisal will identify the key heritage and cultural matters apparent in any settlement or locality. The Reporter concluded that detail such as this is

more appropriate for supplementary planning guidance and is not necessary for inclusion within the LDP. No modifications were recommended.

Officers recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. In paragraph 6.54, sentence one, replacing the word "Government" with the word "Planning" so it reads "Scottish Planning Policy requires..."
2. Deleting the Policy CH6 designations from Inset Map 3 for both the Archerfield and the Elvington estates.

Officers recommend that post-examination modifications 1-2 be accepted by the Council.

Issue 30	Design Policies	
Development plan reference:	Design (pages 137-141)	Officer(s) Leigh Taylor / A Stewart

1. Summary of Reporters Conclusions and Recommendations:

POLICY DP2: DESIGN

The Reporter noted that the Council are to prepare Supplementary Planning Guidance on Design Standards for new Housing Areas, and stated that this would assist the operation of Policies DP2 and DP8 and is likely to improve design quality of new development coming forward.

A representation from Musselburgh Area Partnership disagreed with the wording of paragraph 1.16 of the LDP in relation to general design quality being achieved in the area. The Reporter considered that the LDP provides a suitable level of response to ensure the design of new development is fully considered with regard to its surrounding context and for these detailed matters to be considered as part of the development management process. No modifications were recommended.

Officers recommend that these conclusions are accepted by the Council.

A representation from SNH stated that Policy DP2 should more explicitly align with the SPP transport mode hierarchy and policy principles of Designing Streets. The Reporter noted that bullet point four of Policy DP2 deals with the requirement for a well-connected network of paths and roads to be provided. The Reporter stated that the Council's case highlights that the type of development proposed will have an influence on the extent to which it is able to facilitate, in all instances across the site, priority for active travel. Major housing proposals will be required to satisfy Policy DP4 and demonstrate how they will be accessed by a movement framework which favours walking and cycling. Policy T1 supports development in locations which are accessible by all modes. The Reporter stated that the LDP is to be read as a whole and that the aims of Policy DP2 do not conflict with the application of the transport mode hierarchy expressed within Scottish Planning Policy or are inconsistent with Scottish Government's Policy Statement: Designing Streets. No modifications were recommended.

Officers recommend that these conclusions are accepted by the Council.

POLICY DP3: HOUSING DENSITY

Representations from the Walker Group, Homes for Scotland and APT Planning and Development Ltd each raised concerns over Policy DP3 raising matters such as the average density being achieved in East Lothian, the flexibility of the policy to allow a range and choice of house types

and general design quality, and the impact of the policy on delivering the housing targets for East Lothian.

The Reporter noted that the Council's basis for seeking a minimum density of 30 dph is to secure a range of environmental and design benefits as explained within paragraph 7.13 of the LDP. The minimum threshold of 30 dph is derived from examples of such densities already secured within the area as referred to within the paragraph 7.13 and within the Monitoring Statement. The Reporter states that in response to a further information request, the Council supplied additional evidence of increasing densities on certain local plan strategic sites and in developments approved between 2013 and 2017, which demonstrate an average density of 29 dph. The Reporter also noted that the Council has highlighted in certain locations (Wallyford and Cockenzie) sites have provided in excess of this average, whereas elsewhere (Haddington and North Berwick) there is acknowledgement that this has proved more challenging.

The Reporter also noted that the Council's case states that the unit numbers for the site allocations within the LDP are generally based on an average 30 dph. Some sites are expected to exceed this density and some will not reach it for a variety of reasons. Overall however, a balanced approach has been adopted which seeks to deliver on the housing numbers whilst responsive to the local characteristics, the need for open space, meeting key urban design principles and providing well integrated/socially inclusive communities. The Reporter also noted that a density of 30 dph is considered by the Council to be realistic for the majority of the allocations within the LDP and only minor increases in unit numbers are expected.

The Reporter noted that the Council has suggested, as a modification, that the plan could make explicit that any residual land remaining on a site (beyond that required to meet the allocated units) should contribute towards any future housing supply target or towards augmenting any potential failure in the five-year effective housing land supply. Whilst the Reporter acknowledged this, it was stated that Policy HOU2 already provides for circumstances where a five-year effective supply is not being maintained (consistent with SESplan Policy 7). In Issue 12, the Reporter concluded that the LDP allocates sufficient land to meet the housing requirement. No modification was recommended to this policy as a result.

The Reporter noted the support for lower densities in some instances within Policy DP3 and the acknowledgement within paragraph 7.14 that smaller sites may not always be able to achieve 30 dph. The Reporter expressed understanding of why the Council would not wish to see a diminution in the quality of new development, but did not consider that this is necessarily wholly attributable to density levels, and requires balance and flexibility to ensure overcrowding and loss of amenity do not result.

The Reporter noted that the Policy DP3 is relatively unchanged from that in the adopted Local Plan. The Reporter stated that within SESplan, Policy 5 requires LDPs, where appropriate, to indicate the phasing and mix of uses to be permitted on any allocated housing site. No reference is made to achieving higher average densities *per se*.

The Reporter noted the concerns raised in the representation from the Walker Group, and whilst they agreed that a minimum average density of 30 dph may not be appropriate to apply in all instances, the principle approach can be a useful tool to use as a starting point in the design

process. The Reporter also noted that whilst SESplan nor SPP mention setting density levels or define 'higher density', the Council are not prevented from adopting such an approach, and has direction to operate such a policy/standards provided there is rationale and evidential basis.

The Reporter concluded that there is no evidence to suggest Policy DP3 is overly restrictive or that its application would be inconsistent with the characteristics of the area. The Reporter also concluded that general intent of the LDP to secure higher density development through a mix of house types is consistent with Scottish Planning Policy. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

POLICY DP4: MAJOR DEVELOPMENT SITES

The Reporter highlighted SPP and the range of design tools to guide the quality of development, and that only design statements are required under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008 for major or national developments.

The Reporter noted that representations on this policy make reference to the success of 'masterplan guidance' to inform the design of a site in phases, allowing flexibility for future developers.

The Reporter understood why the suggestion for this approach would provide more flexibility for individual developers. However, the Reporter had reservations that it may not present sufficient detail in terms of a concept plan for the whole site. It is also not clear how such an approach would be able to take on board and convey the full range of information required as set out in Policy DP4. The Reporter concluded that the lack of such information would not be appropriate for certain major developments and the suggested approach would weaken the design-led approach promoted by Scottish Planning Policy and PAN 68. No modification was recommended.

Representations were also received regarding specific proposals and the need for masterplans and design briefs. The Reporter noted that in the Council's response to a further information request, confirmation was received that all major development proposals would require the submission of a masterplan, a requirement which is reflected in some of the larger and more complex proposals of the LDP. The Reporter notes the Council's suggestion to either refer to the requirement for a masterplan for all major proposals in the LDP, or to remove all references in proposals and rely upon Policy DP4. The Reporter concluded that the LDP is to be read as a whole and that as Policy DP4 is intended to apply to all major development sites, no modification was recommended.

The Reporter further notes that Policies MH17, PS3, TT17 and NK12 currently require comprehensive masterplan solutions to be submitted as part of any planning application for any allocated site. They also state that proposed masterplans must conform to the relevant development brief. The Reporter reasoned that the requirement for a masterplan applies only to

policies within cluster areas, however noted that policies are not specific. The Reporter also noted that in the Council's response to a further information request, the Council accepted there is some duplication within the LDP between the above policies in cluster areas and Policy DP4. The Reporter also noted the Council accepted there is some inconsistency where some allocated sites of major development type do not state there is a requirement for a masterplan to be submitted. Some modifications were suggested by the Council to resolve this.

The Reporter concluded that there is a discrepancy between these policies, the proposals within the LDP and Policy DP4. However, it was noted that Policy DP4 appears to establish the approach intended by the Council. Whilst the suggested rewording or deletion of the six policies could resolve the matter, only unresolved representations to Policies MH17, PS3, TT17 and NK12 are before the Reporter for consideration. The Reporter stated that there would clearly be a consequential effect on the other two identical policies in the LDP and had there been similar representations to these, a recommendation to delete there would also have been made.

Officers recommend that these conclusions are accepted by the Council.

POLICY DP7: INFILL, BACKLAND AND GARDEN GROUND DEVELOPMENT

The Reporter noted that the representation from East Lammermuir Community Council is made in the context of its objection to housing allocations within Spott and Innerwick which are dealt with in Issue 8: Dunbar Cluster. No particular sites/development opportunities for inclusion as infill are suggested within the representation.

The Reporter stated that the Council has explored opportunities for brownfield and infill development but concluded that settlements are well consolidated, have few meaningful remaining urban opportunities, and are also restricted by historic centres. The Reporter concluded that the reuse of urban brownfield land, where it complies with Policy DP7, continues to remain a priority for the LDP and suitable opportunities can come forward as necessary under this policy. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

POLICY DP9: DEVELOPMENT BRIEFS

The Reporter states that the main concerns raised in the representations relate to the lack of flexibility within the policy in needing to conform to such documents, particularly where the developers of such sites have not had an input into their production. A more collaborative approach is requested and that proposals should only be required to 'generally' conform.

A representation was also received from SNH which stated the status of development briefs as being unclear and that given their role in securing natural heritage safeguards and enhancements, a sufficient 'hook' should be provided for in the plan to give them the required statutory weight.

The Reporter noted that the development briefs are not yet finalised and that the timing of their production may have overlapped with the submission of certain planning applications. The Reporter went on to state that the content of the draft briefs is not a matter for the examination, only the principle of their intended use as identified by plan, and in particular Policy DP9.

The Reporter noted that within each cluster chapter of the LDP, it is made clear that the briefs are supplementary planning guidance. As non-statutory guidance, a sufficient 'hook' within the LDP (as referred to within Circular 6/2013: Development Planning) would not be required.

The Reporter also noted that in Policy DP9, only once the development briefs are adopted will proposals be required to conform to them. The Reporter noted that Council's case states the final versions of the briefs will introduce more flexibility and clarify non-negotiable aspects.

The Reporter stated that the briefs essentially provide a level of further detail and advice relating to the specific proposals. They have been drawn up to be consistent with the LDP policies, and that there may be very good reasons, for example, resulting from a physical change in circumstances across the site, why a proposal may not be able to conform to every element of a particular brief. The Reporter concluded that this level of flexibility should not be prevented by the policies or proposals of the LDP.

The Reporter concluded that whilst there are concerns made through representations, the status of the briefs is to be supplementary planning guidance and therefore as material considerations it will be for the decision maker to take them into account as they deem appropriate. Any amendments or updates could also be made to the briefs at any time and not tied to the development plan process. The Reporter concluded that despite the wording of Policy DP9 requiring development proposals to conform to the relevant framework or brief, there would still be a substantial degree of flexibility in the weight that could be attached to the terms of a framework or brief. No modification was recommended.

Officers recommend that these conclusions are accepted by the Council.

DESIGN MISCELLANEOUS

The Reporter concluded that they were unable to respond to the representations by North Berwick Community Council, Haddington and District Amenity Society and Peter Burt Viking as they principally concern the usage and implementation of the policies of the LDP.

Officers recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

None

Issue 31	Delivery	
Development plan reference:	Delivery (pages 142-144)	Officer(s) Graeme Marsden / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>PRELIMINARY</p> <p>The Report of Examination notes that its conclusions on this issue should be read in conjunction with those at Issues 15: Education, 16: Community, Health and Social Care Facilities, 18a: Transport General, 18b: Transport Active Travel, 18c Transport Public Transport, 18d: Transport Trunk Road Network and 33: Appendix 1 Developer Contribution Zones.</p> <p>POLICY DEL1: INFRASTRUCTURE AND FACILITIES PROVISION</p> <p>The Report of Examination notes that Policy DEL1 requires new development to make appropriate provision for infrastructure and community facilities in accordance with Scottish Government Circular 3/2012. Developer contributions will be required where a proposal generates a need for a key intervention (including identified by the plan or Action Programme) and it is within the contribution zone that applies to that intervention.</p> <p>The representations on this issue are mainly concerned that developer contributions being sought do not meet the tests in Circular 3/2012. Furthermore, the representations indicate that the Elsieck Supreme Court judgment raises important implications for the Council in seeking to secure cumulative financial contributions; to avoid the risk of challenge on these grounds, there is a need for a clear and direct link between new development and the improvements sought in order to meet the policy tests set out in the Circular. There are also concerns about the lack of clarity of the modelling, and that some of the transport contributions are small and so are difficult to reconcile against the test of necessity. On this basis, they suggest the deletion of the reference to contribution zones within Policy DEL1.</p> <p>The Report of Examination highlights that the Council explains that Scottish Government Circular 6/2013: Development Planning expects the interventions for which and locations where developer contributions will be sought to be clearly set out in LDP1. The Council indicates that LDP1 does this within Table DEL1, Policy DEL1 and Appendix 1. The Report of Examination also notes that intention to use Supplementary Guidance: Developer Contribution's Framework is appropriate and referenced within LDP1 appropriately.</p>		

The Report of Examination notes that the Scottish Government commented that Table DEL1: Developer Contributions Framework Relevant Policies/Proposals should be clearer as to which policies should be additionally referenced to identify what developer contributions requirements may be. The Council responded to a Further Information Request (FIR) that this should additionally include Policies OS3, OS4, T7, T8 and T31 respectively on open space standards, play space standards, transport information technology, bus network improvement and electric charging points.

The Report of Examination accepted the inclusion of OS3 and OS4 but not the others as those policies did not refer to the need for developer contributions. The council highlighted that many of these other items will be determined on a case by case basis. It is not entirely correct therefore for LDP1 to say that the policies and proposals that provide the basis for the supplementary guidance are set out in Table DEL1 as the Supplementary Guidance is not intended to cover all these aspects. To avoid further confusion, the Report of Examination recommends a more suitable introduction and title for Table DEL1.

Officers recommended that these conclusions and recommended post-examination modifications 1-8 and 10 are accepted by the Council.

Table DEL1 refers to Policy DC10: The Green Network. The council indicates that Green Network contributions are set out in the development briefs and are measures required to comply with open space and design policies of the plan and that no financial contributions are expected. Therefore, the Report of Examination recommends that the reference to Policy DC10 is deleted from Table DEL1.

Officers recommended that these conclusions and recommended post-examination modification 9 are accepted by the Council.

The Report of Examination notes that it is the 'in principle' ability to seek developer contributions that the Examination can consider. Matters such as the scale of developer contributions and the links between developments and infrastructure interventions are a matter for the Supplementary Guidance: Developer Contributions Framework (DCF). However, the Reporter states that the Council's approach is proportionate; the Report of Examination supports the Council's approach and the principles towards seeking contributions towards education, health & social care and transportation infrastructure, as set out in other sections of the examination report.

In October 2017 the Supreme Court upheld the decision of the Inner Court of Session decision that the Aberdeen City & Shire Strategic Transport Fund (STF) Supplementary Guidance and its approach to developer contributions was unlawful. This was partially because contributions sought were not in scale with the level of relationship between development and transport interventions. The STF sought a per house contribution regardless of impact and therefore there were instances where developments were expected to make contributions to transportation interventions despite

there being no, or a trivial level of connection, between the development(s) and the impact on and need for individual interventions.

The Supreme Court decision also determined that the exact level of contributions could not be prescribed in advance of an assessment of each application. Therefore supplementary guidance cannot set out an exact level of contributions that each development must make. During the Examination the Council received a Further Information Request (FIR) seeking confirmation of how it would intent to operate Policy DEL1 and its associated Supplementary Guidance in light of the Supreme Court decision. The Council's response set out the clear differences between the STF and LDP Policy DEL1 and the draft DCF, which the reporter acknowledged. However, because the level of developer contributions cannot be prescribed, the Council suggested modifications to LDP1 Policy DEL1 and preceding paragraphs 8.4 and 8.5 so that the DCF set out the 'likely nature and scale' of contributions rather than the exact level and contributions will be determined on a case by case basis. The reporter accepted the recommended modifications to Policy DEL1.

Officers recommended that these conclusions and recommended post-examination modification 11 are accepted by the Council.

Wallace Land Investments also suggests that the Council's delivery mechanism should be more transparent. The Report of Examination supports the reasons for this suggestion, the policy already requires contributions sought to be consistent with the tests of Circular 3/2012 and the plan (at paragraph 8.11) recognises that front funding and subsequent recovery of costs into a fund on a pro-rata basis could be a possibility.

In terms of considering the viability of development, the draft supplementary guidance refers to the potential to excuse developers from certain contributions where the merits of a proposal would clearly outweigh the public interest in requiring certain contributions. In general, however, attempts will be made to find solutions to allow a more beneficial cash flow including the use of phased payment of contributions. As these matters are already referred to in the draft guidance, they do not require to be repeated within the plan itself. Therefore, no further changes are considered necessary.

East Lothian Liberal Democrat Party and North Berwick Community Council's concern that there is a lack of emphasis on the impacts on existing local infrastructure is mostly already addressed within the plan. The council has acknowledged relevant infrastructure issues where it can and proposes a suitable policy framework to respond to issues as they arise. The council explains that the implementation of the plan will consider this further including the potential to reflect area partnership's aspirations.

Craighall Primary Contribution Zone is predicated on the allocation of sites within Craighall and therefore reflects the requirement to establish a new primary school. The council explains the rationale for the boundary and the Reporter confirms that there are no reasons to doubt that it is not appropriate.

Officers recommended that these conclusions are accepted by the Council.

OTHER MATTERS

The Report of Examination notes that the Council carried out additional transportation modelling work at Transport Scotland's request. The Council submitted the results of this in responses to further information requests 16 and 17 (see Issues 18a-d). This further work identified that a previously potentially required junction upgrade at Dolphingstone A1 junction and the dualling the A198 north of the Bankton A1 junction and the upgrade of the Meadowmill Roundabout is needed to mitigate LDP1 development.

Previously, the latter two interventions were only considered to be required to accommodate Blindwells proposal (BW2) and not the cumulative impact of LDP1 development. In the case of the former, vehicular route choice between the Salter's Road and Dolphingstone A1 interchanges within the initial modelling work was too finely balanced to provide a definitive position on the need for an intervention at Dolphingstone interchange. Following the additional modelling work, the Council sought to include additional developer contribution zones for these interventions and revised contribution zones for the other transportation interventions through the Examination. However, the Report of Examination rejected these suggested modifications to LDP1 because they were not made consulted on within the proposed LDP and there were no unresolved representations on these matters.

Officers recommended that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

The Reporter recommends to modify the local development plan by:

1. Rewording paragraph 8.4 to read as follows:

"Further detail on the likely nature and scale of developer contributions is set out within Supplementary Guidance Developer Contributions Framework. The exact nature and scale of developer contributions required will be assessed on a case by case basis, based on the same approach used in the preparation of the Supplementary Guidance: Developer Contributions Framework. Applicants and developers must commit to provide for their developer contributions before planning permission will be approved for appropriate proposals."

2. In paragraph 8.5, replacing sentence three to read as follows:

"This is so developers and communities have early sight of the need for additional infrastructure and the likely nature and scale of associated developer contributions that will be required from new planned development in the area."

3. In paragraph 8.5, replacing the text of bullet point three to read as follows:

“likely nature and scale of developer contributions that will be required from planned development to deliver the key interventions necessary to implement the plan.”

4. Amending paragraph 8.9 to read as follows:

“The LDP policies and proposals that provide the basis for seeking developer contributions are set out in Table DEL1 below.”

5. Amending the title of Table DEL1 to read as follows:

“Table DEL1: Developer Contributions Policies/Proposals.”

6. Adding the following policy reference to Table DEL1:

“Policy OS3: Minimum Open Space Standard for New General Needs Housing Development.”

7. Adding the following policy reference to Table DEL1:

“Policy OS4: Play Space Provision in new General Needs Housing Development.”

8. Adding the following policy reference to Table DEL1:

“Policy T8: Bus Network Improvements.”

9. Deleting from Table DEL1 the following policy reference:

“Policy DC10: The Green Network.”

10. Replacing the second and third sentences of paragraph 8.12 to read as follows:

“This will be identified as early as possible in the Development Management process, as will the exact nature and scale of all the required contributions. The availability or ability to provide additional capacity for windfall proposals in addition to planned development will also be assessed on a case by case basis.”

11. Rewording Policy DEL1 to read as follows:

“New development will only be permitted where the developer makes appropriate provision for infrastructure and community facilities required as a consequence of their development in

accordance with Scottish Government Circular 3/2012 or any revision. Any necessary provision for interventions must be phased as required with the new development.

Developer contributions will be required from all new development proposals that meet or exceed the scale thresholds below, including windfall proposals:

- Proposals of 5 or more dwellings, including affordable homes; and
- Employment, retail, leisure or tourism proposals of 100 square metres gross floor space or larger.

The items for which developer contributions will be required shall include but not be limited to the key interventions identified by the LDP and its Action Programme. Developer contributions will be required where a development proposal would generate a need for an intervention and the proposed development is within a contribution zone that applies to that intervention.

The likely nature and scale of developer contributions required in association with the developments that are planned for by this LDP is set out within the Supplementary Guidance: Developer Contributions Framework.

The exact nature and scale of developer contributions required in association with all relevant new development proposals, including windfall proposals, will be assessed on a case by case basis.

Developer contributions will always be used to deliver the mitigation for which they were originally intended.

Planning conditions and/or legal agreements will be used as appropriate and required to secure any necessary provision from developers, which could include land and/or a capital contribution.”

Officers recommend that post-examination modifications 1-11 be accepted by the Council.

Issue 32	Proposals Map	
Development plan reference:	Proposals Map (including inset maps)	Officer(s) Leigh Taylor / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>PRELIMINARY</p> <p>The Reporter stated that a number of matters raised in the representations also concern consequential changes if certain policies or sites are added or deleted from the plan as a result of representations made elsewhere. To avoid duplication, in dealing with each request, the Reporter has included references to the relevant issue that this matter is considered under.</p> <p>The Reporter also stated that the Council has suggested improvements regarding other mapping issues. However, the Reporter stated that they are only tasked with dealing with unresolved representations to the LDP, and therefore have not provided recommendations with regard to these matters. The Reporter concluded that the Council is able to make any consequential modifications to the text or maps which arise from the Reporter's recommended modifications.</p> <p>Officers recommend that these conclusions are accepted by the Council.</p> <p>ALL MAPS</p> <p>The Reporter stated that in Issue 26, Ritchie Brothers request that Policy DC8 Countryside Around Towns is deleted and replaced with Policy DC1 Rural Diversification which would mean consequential changes to the proposals map. In Issue 26, the Reporter concluded that Policy DC8 should remain, and therefore no modifications are required.</p> <p>Officers recommend that these conclusions are accepted by the Council.</p> <p>NORTH BERWICK CLUSTER – NEW INSET MAP CREATED</p> <p>The Reporter noted that Wallace Land and Investments suggestion to allocate Fenton Barns for residential development and the representation by CRS Ltd to identify a settlement boundary</p>		

around the existing built development at Fenton Barns would have consequential changes to the proposals map. The Reporter concluded that these matters are responded to in Issue 13 and are not supported, and that no modification is required.

Officers recommend that these conclusions are accepted by the Council.

LANDSCAPE DESIGNATION – INSET MAP 3

The Reporter stated that the scope of the content of the proposals map is set out on the first page of the document and does not include all proposals, only those which are useful to convey at a wider scale. Inset Map 3 does not include onshore transmission infrastructure. Locations for this type of infrastructure are not necessary to display at this wider scale. They are also more susceptible to change which would not generally affect the other infrastructure shown on Inset Map 3. The Reporter noted the Council has chosen to indicate potential electricity grid connections diagrammatically on Strategy Diagram 3, and concluded that this is sufficient for the purposes of this LDP. No modifications to Inset Map 3 are recommended in response to the representation by Neart na Gaoithe Off-shore Wind Ltd.

The Reporter stated that in Issue 9a, they concluded that Proposal NK8 Fenton Gait East, Gullane is to be retained within the LDP and, consequently, no modification to Inset Map 3 is required.

The Reporter highlighted that their recommendation to delete Proposal MH13 Howe Mire from the LDP in Issue 3 means that the green belt would continue to exist immediately to the north of Eskfield Cottages. The Reporter concluded that it would seem logical to maintain the land occupied by Eskfield Cottages within the green belt.

The Reporter stated that the request to identify Williamstone Farm Steading within the settlement boundary was considered in Issue 9 where they concluded that it should remain in the countryside. No modification is required in respect of this representation.

Officers recommend that these conclusions are accepted by the Council.

INSET MAP 5 - ABERLADY

The Reporter noted SportScotland comments on the LDP's approach in terms of the protection afforded to Craigiellaw Golf Course which is not designated under Policy OS1: Protection of Open Space. Similar comments by SportScotland are made in relation to other golf courses within East Lothian within this Issue.

The Reporter notes that the Council explains that the LDP designates golf courses adjacent to settlements as countryside, which better reflects their location and would allow Policies DC1: Rural Diversification and DC2: Conversion of Rural Buildings to Housing to apply. The Reporter also notes the Council's response suggests that golf courses are still protected from inappropriate development through Policy OS1, as well as Scottish Planning Policy. Scottish Planning Policy, paragraph 226, generally safeguards outdoor sports facilities (which includes golf courses) from development. The Reporter stated that in Issue 17, they recommended modifications to Policy OS1 and the supporting text in paragraph 3.123 to ensure all recreational, leisure and amenity open space and facilities, including outdoor sports facilities, would be safeguarded under Policy OS1, regardless of its significance or whether it is designated as such on the inset maps. The Reporter concluded that no modification to Inset Map 5 is necessary.

The Reporter noted that Policy CH6 deals with proposals affecting gardens and designed landscapes as identified in the national inventory or sites of local or regional importance. The Reporter notes that the Council explains that the inset maps are produced at different scales to show a variety of information. Inset Map 3 which covers the whole of East Lothian includes the designated areas covered by Policy CH6 whereas Inset Map 5 is at a settlement scale. The Reporter concluded that as all relevant maps are meant to be consulted in the consideration of specific proposals, it is not necessary for Policy CH6 to be added to Inset Map 5. No modification recommended.

Officers recommend that these conclusions are accepted by the Council.

INSET MAP 9 – DIRLETON

The Reporter noted that the Council explains that the LDP designates golf courses adjacent to settlements as countryside which better reflects their location and would allow Policies DC1: Rural Diversification and DC2: Conversion of Rural Buildings to Housing to apply. In this case, the Archerfield Links Golf Course is also partly covered by Policy TOUR1 which supports the principle of high quality golf based hotel, leisure and recreation development at Archerfield Estate. The Reporter notes the Council's response suggests that golf courses are still protected from inappropriate development through Policy OS1, as well as Scottish Planning Policy. Scottish Planning Policy, paragraph 226, generally safeguards outdoor sports facilities (which includes golf courses) from development. The Reporter noted that in Issue 17, they recommended modifications to Policy OS1 and the supporting text in paragraph 3.123 to ensure all recreational, leisure and amenity open space and facilities, including outdoor sports facilities, would be safeguarded under Policy OS1, regardless of its significance or whether it is designated as such on the inset maps. The Reporter concluded that there are therefore no modifications required to Inset Map 9.

In addition, the Reporter concluded that as the representation by Muir Homes to allocate the site at Foreshot Terrace is responded to in Issue 13 and that they do not recommend the allocation of this site, no consequential changes to the settlement boundary of Dirleton are required.

Officers recommend that these conclusions are accepted by the Council.

INSET MAP 10 – DREM

The Reporter stated that the request to safeguard Drem expansion area is responded to in Issue 9: North Berwick Cluster. This safeguarding of an expansion area at Drem is not recommended.

The Reporter also stated that the same representation requests the reference to Drem Station within Proposal T9 dealing with car parking provision should be reflected in Inset Map 10 and a wider area of car park provision should be indicated to the north and south of the station. The Reporter noted that on Inset Map 10, an area labelled 'Transport Safeguard' is already included to the north of the station. With regard to a larger area of car parking being identified to the south, the Reporter concluded that they have responded to this matter in Issue 18c: Public Transport, and do not agree this is required. No modifications to Inset Map 10 are recommended.

Officers recommend that these conclusions are accepted by the Council.

INSET MAP 11 – DUNBAR, BELHAVEN AND WEST BARNES

The Reporter stated that they responded to SportScotland's request to include recreational uses as preferred uses in harbour areas within Issue 11. It is not accepted by the Reporter that this is necessary and therefore no modification is recommended.

The Reporter stated that they have responded to the request by Taylor Wimpey to allocate or safeguard the land at Eweford for residential led mixed use development within Issue 13. The Reporter does not support this proposal and therefore no modification to Inset Map 11 is required.

Officers recommend that these conclusions are accepted by the Council.

INSET MAP 14 – ELPHINSTONE

The Reporter noted the Council's response in relation to the matter raised by SportScotland is that while not all grass pitch sites are designated as open space under OS1, they would still be protected by Policy OS1 and Scottish Planning Policy. The Council's case also stated that SportScotland would also be consulted on any applications to change the use of such sites. The Reporter stated that in Issue 17, they recommended modifications to Policy OS1 and the supporting text in paragraph 3.123 to ensure all recreational, leisure and amenity open space and facilities, including outdoor sports facilities, would be safeguarded under Policy OS1, regardless of its significance or whether it is designated as such on the inset maps. The Reporter concluded that no modification to Inset Map 14 is recommended.

Officers recommend that these conclusions are accepted by the Council.

INSET MAP 19 – GULLANE

The Reporter stated that the matter of identifying any potential expansion of the primary school within Proposal NK7: Saltcoats, Gullane is discussed in Issue 9a. While the Reporter acknowledges it is a possibility that an extension might be required (as highlighted in NK7 and ED7) they did not consider it necessary to reflect this on Inset Map 19. The Reporter also noted that the Council indicates that an extension has not been assessed as required at this stage therefore no safeguarded area can be identified. However the matter can be taken account of in any detailed layout submitted for the site. The Reporter concluded that there are no modifications recommended to Inset Map 19.

Officers recommend that these conclusions are accepted by the Council.

INSET MAP 20 – HADDINGTON

The Reporter notes that the representation by Lord Wemyss Trust requests the removal of the designation Countryside Around Towns at Haddington. The Reporter stated that in Issue 26, they have responded to this request and do not recommend a modification to remove the designation. No modification to Inset Map 20 is recommended.

The Reporter concluded that in Issue 7 as they do not agree that Proposal HN4 requires to be modified to reflect the latest planning permission, no modification to Inset Map 20 is recommended.

The Reporter concluded that in Issue 6, as they recommended the deletion of Proposal TT15: Humbie North, it is not necessary to respond to the request by a representee to amend the site area, and that no modification to Inset Map 21 is required in response to this representation.

Officers recommend that these conclusions are accepted by the Council.

INSET MAP 22 – INNERWICK

The Reporter noted that the scope of the content of the proposals map is set out on the first page of the document and does not include all proposals, only those which are useful to convey at a wider scale. They also noted that Inset Map 22 does not include onshore transmission infrastructure. Locations for this type of infrastructure are not necessary to display at the settlement scale. They are also more susceptible to change. The Reporter noted that the Council has chosen to indicate potential electricity grid connections diagrammatically on Strategy Diagram

3, and concluded that this is sufficient for the purposes of this plan. Therefore, no modification to Inset Map 22 is recommended in response to this representation.

Officers recommend that these conclusions are accepted by the Council.

INSET MAP 26 – MUSSELBURGH AND WALLYFORD

The Reporter notes that the Council explains that the LDP designates golf courses adjacent to settlements as countryside which better reflects their location and would allow Policies DC1: Rural Diversification and DC2: Conversion of Rural Buildings to Housing to apply. The Reporter also noted that the Council's response suggests that golf courses are still protected from inappropriate development through Policy OS1, as well as Scottish Planning Policy. Scottish Planning Policy, paragraph 226, generally safeguards outdoor sports facilities (which includes golf courses) from development. The Reporter concluded that in Issue 17, they recommended modifications to Policy OS1 and the supporting text in paragraph 3.123 to ensure all recreational, leisure and amenity open space and facilities, including outdoor sports facilities, would be safeguarded under Policy OS1, regardless of its significance or whether it is designated as such on the inset maps. The Reporter concluded that no modifications to Inset Map 26 are recommended.

Officers recommend that these conclusions are accepted by the Council.

The Reporter stated that their recommendation to delete Proposal MH13: Howe Mire from the LDP in Issue 3 means that the green belt would continue to exist immediately to the north of Eskfield Cottages. The Reporter concluded that, accordingly, it would seem logical to maintain the land occupied by Eskfield Cottages within the green belt. The Reporter notes the Council's comments that in their view, Inset Map 26 does not currently reflect that the entire site at Eskfield Cottages, including the access road, is within the green belt. The Reporter stated that at the scale presented on the inset map, this was unclear. The Reporter concluded that notwithstanding this, there will be an opportunity to refine any detailed boundaries once account is taken of the recommendation to delete MH13, and recommended no modifications in response to this representation.

Officers recommend that these conclusions are accepted by the Council.

INSET MAP 28 – NORTH BERWICK

The Reporter noted that the Council explains that the LDP designates golf courses adjacent to settlements as countryside which better reflects their location and would allow Policies DC1: Rural Diversification and DC2: Conversion of Rural Buildings to Housing to apply. The Reporter also noted that the Council's response suggests that golf courses are still protected from inappropriate development through Policy OS1, as well as Scottish Planning Policy. Scottish Planning Policy, paragraph 226, generally safeguards outdoor sports facilities (which includes golf courses) from

development. The Reporter concluded that in Issue 17, they recommended modifications to Policy OS1 and the supporting text in paragraph 3.123 to ensure all recreational, leisure and amenity open space and facilities, including outdoor sports facilities, would be safeguarded under Policy OS1, regardless of its significance or whether it is designated as such on the inset maps. No modifications to Inset Map 28 were recommended.

Officers recommend that these conclusions are accepted by the Council.

INSET MAP 32 – PRESTONPANS, PORT SETON AND COCKENZIE

The Reporter stated that the Council's response in relation to the matter raised by SportScotland is that while not all sports facilities are designated as open space under OS1, they would still be protected by Policy OS1 and Scottish Planning Policy. SportScotland would also be consulted on any applications to change the use of such sites. The Reporter stated that in Issue 17, they recommended modifications to Policy OS1 and the supporting text in paragraph 3.123 to ensure all recreational, leisure and amenity open space and facilities, including outdoor sports facilities, would be safeguarded under Policy OS1, regardless of its significance or whether it is designated as such on the inset maps. The Reporter concluded that no modifications to Inset Map 32 are recommended.

Officers recommend that these conclusions are accepted by the Council.

The Reporter stated that in Issue 13 they responded to the request by Mr A P Dale and Mr R F Dale to allocate land at Port Seton Links for residential development. This proposal is not supported and no modification to Inset Map 32 is required.

Officers recommend that these conclusions are accepted by the Council.

INSET MAP 35 - TRANENT

The Reporter stated that in Issue 6, they agree that it is necessary to amend Proposal TT1 to remove a reference to mixed use on the site given that Proposal TT2 is identified separately. The Reporter also stated that in Issue 6, they also recommend a modification to Inset Map 35 for consistency.

Officers recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

None

Issue 33	Appendix 1: Developer Contribution Zones	
Development plan reference:	Appendix 1 (Pages 145-214)	Officer(s) Christine Galvin / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>A representation from Network Rail requested more information on contributions and how these would be assessed. The Reporter concludes that such matters are more appropriate for supplementary guidance. Concerns are raised about developer contributions being sought to offset existing issues, is dealt with in Issue 31, but the Reporter notes that there are various references already contained within the plan which outline the Council's approach.</p> <p>There is an objection to the inclusion of site PS1 (Longniddry South) within the contribution zone for Salters Road Interchange (Proposal T17) as shown in Appendix 1. The Reporter concludes that the contribution zones are included within the plan for the purposes of identifying the particular circumstances where developer contributions would be sought, consistent with Circular 3/2012: Planning Obligations and Good Neighbour Agreements and Policy DEL1. The Examination Report concludes that it is not justifiable to amend the contribution zone for Salter's Road Interchange, however, it is noted that modifications are proposed to the plan in Issue 31 (Delivery), which indicate that the likely nature and scale of developer contributions required would be assessed on a case by case basis. Such assessment may affect the way the zones are interpreted on an individual basis.</p> <p>Officers recommended that these conclusions are accepted by the Council.</p>		
2. Reporter's Recommended Modification(s):		
None		

Issue 34	Local Development Plan Miscellaneous	
Development plan reference:	Across the whole LDP	Officer(s) Leigh Taylor / A Stewart
1. Summary of Reporters Conclusions and Recommendations:		
<p>LDP GENERAL COMMENTS</p> <p>The Reporter notes that a number of representations criticise the general structure of the LDP and the difficulty in understanding it. The Reporter also notes however that the representations make no specific suggestions as to how the LDP may be made easier to read. The Reporter noted the colour coding used for different sections of the LDP and that the ability to navigate could be improved by adding additional references to the Contents page. However, the Reporter accepted the complex nature of the information somewhat restricted how clear the LDP could be made. The Reporter did not make any recommended modifications as a result of these representations.</p> <p>The Reporter noted the reference to mixed use in the Main Strategy Diagram alongside particular proposals, which appeared to correspond with the proposals identified within each of the cluster areas. They also noted the definition of ‘Density and Mixed Use’ within the Glossary although stated that the description appears to focus more on how to determine development density rather than define mixed use.</p> <p>The Reporter noted in the Council’s case that to clarify, the term ‘mixed use’ has been applied where more than one use other than housing is proposed. The Reporter noted the term is used for proposals where there may be a combination of at least two land uses such as housing and employment, housing and community uses or housing and a school. The Reporter stated the specific concerns of the Walker Group relate to Proposal TT1 and have been responded to in Issue 6 where a recommendation was made to remove the term mixed use from this proposal in this particular instance as land for the expansion of the school is identified separately. The Reporter concluded that other than this, the Council’s general approach with regard to mixed use was considered clear and consistent.</p> <p>The Reporter noted the representation from Martin White related to the assessment underpinning housing sites in Gullane. The Reporter noted the legislative requirements relating to when Environmental Impact Assessment is carried out, and noted the Strategic Environmental Assessment undertaken alongside the preparation of the LDP. The Reporter noted the draft Environmental Report considers the environmental impacts of the spatial strategy including the relative merits of a compact growth strategy alongside a more dispersed approach. The Reporter stated that representations objecting to the cumulative effect of the proposed allocations within Gullane have been responded to in Issue 9a. The Reporter concluded that while the SEA has been undertaken at a strategic level, appropriate mitigation for the cumulative impacts of development on local infrastructure and facilities is identified within the LDP and will be sought through relevant development proposals.</p>		

The Reporter noted that representations by Kirsty Towler, J M Stevenson and E MacDonald highlight a number of concerns relating to the already advanced progress of sites to be allocated within the LDP, the lack of infrastructure to support the level of new housing, the lack of employment land and allocations in the right locations (the Tyne Valley Ribbon is suggested), impacts on tourism and the loss of prime agricultural/coastal land. Specific objection is also raised to certain allocated sites within the Prestonpans, Blindwells, Haddington and North Berwick Clusters – our response on these is dealt with in Issues 4, 5, 7, 9 and 9a.

The Reporter noted many of the other concerns from representees have been dealt with in Issue 2: Spatial Strategy, Issue 12: Planning for Housing and Issue 11: Planning for Employment where the principle of the scale of housing and employment allocations required and the locations chosen is considered in detail. The Reporter stated they endorse the spatial strategy of the LDP, the overall scale of development proposed and the majority of the land allocations, including the use of prime agricultural land for development where this is necessary as a part of a sustainable settlement strategy. The amount of land allocated for employment purposes is considerably in excess of the SESplan requirement. The Reporter stated that given the overall timescales in bringing forward this local development plan, and the shortfall in housing land supply acknowledged by the council in the interim, it is inevitable that certain sites may have gained planning permission. The Reporter concluded that the amount of housing land allocated in the LDP is sufficient to meet the SESplan requirement, they are satisfied that key infrastructure required is identified in the LDP, suitable measures are to be put in place to provide or fund these, including developer contributions, and that policies are in place to encourage tourism development and to protect the landscape, nature conservation interests and the cultural heritage of the area.

The Reporter concluded that the matter of development density is considered in Issue 30 and that the LDP recognises that higher density development will be sought in particular instances (through Policy DP3) although 'high rise' is not specifically endorsed and each development proposal will require to demonstrate an appropriate design response which reflects the circumstances of the site and its location.

The Reporter stated they agree with the Council that the request by East Lammermuir Community Council for developers to offer construction apprenticeships is not a matter for the LDP but for the implementation of it.

The Reporter noted three representations (Dennis W Harding, Brian Morland and East Lammermuir Community Council 0414/1) raise specific concerns about the participation process in preparing the LDP. The Reporter stated they have considered these concerns earlier in the examination of conformity with the Participation Statement, however for completeness they have also dealt with them here.

The Reporter notes the Council's case explains that the consultation hub was set up to reflect the structure of the proposed LDP and the Schedule 4 format, and was not canvassing support. With regard to the Main Issues Report, the Reporter noted the Council confirms there is no statutory requirement to notify residents directly of sites proposed at that stage, but highlights the general consultation undertaken throughout this process. The Reporter notes the Council further submits that the timing of the consultation on the proposed LDP was not deliberately timed to undermine the ability of the community council to comment. The Reporter concluded that having considered

all the evidence, the information submitted by the Council in its Statement of Conformity demonstrates that its actions with regard to consultation and the involvement of the public and planning stakeholders as respects the proposed LDP have been generally in conformity with those set out in the Participation Statement of the authority.

Officers recommend that these conclusions are accepted by the Council.

2. Reporter's Recommended Modification(s):

None