

**REPORT TO:** East Lothian Council

**MEETING DATE:** 26 June 2018

**BY:** Depute Chief Executive (Partnerships and Community Services)

**SUBJECT:** East Lothian Local Development Plan 2018 – Action Programme and Supplementary Planning Guidance for Consultation

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## **1 PURPOSE**

- 1.1 This report seeks Council approval to carry out consultation on a suite of draft documents associated with the proposed East Lothian Local Development Plan as modified following Examination in Public (i.e. the East Lothian Local Development Plan 2018 (ELLDP 2018)), namely:
- an updated draft version of the ELLDP 2018 Action Programme;
  - an updated draft version of the non-statutory Affordable Housing Supplementary Planning Guidance; and
  - a draft version of the non-statutory Special Landscape Areas Supplementary Planning Guidance.
- 1.2 The Town and Country Planning Scotland Act 1997 (as amended) requires the ELLDP 2018 to be accompanied by an Action Programme that is to be approved by the Council within three months of adopting the plan.
- 1.3 In the case of the Supplementary Planning Guidance, the ELLDP 2018 itself identifies that the above guidance will be prepared by the Council to assist the operation of relevant policies within the plan.

## **2 RECOMMENDATIONS**

- 2.1 That the Council approves for consultation the following draft consultation documents:
- an updated draft of the ELLDP 2018 Action Programme, as set out within Annex 1 of this report;

- an updated draft of the non-statutory Affordable Housing Supplementary Planning Guidance, as set out within Annex 2a of this report; and
- a draft of the non-statutory Special Landscape Areas Supplementary Planning Guidance, as set out within Annex 2b of this report.

### **3 BACKGROUND**

#### ***Purpose and processes for preparing an Action Programme and non-statutory Supplementary Planning Guidance***

- 3.1 On 29 May 2018 the Council approved the East Lothian Local Development Plan 2018 (ELLDP 2018) as the local development plan it intends to adopt and, if clearance is provided by the Scottish Ministers such that the Council may adopt this plan, the Council also agreed to constitute and adopt the ELLDP 2018. If adopted by the Council, the ELLDP 2018 will replace the East Lothian Local Plan 2008 as the up-to-date Local Development Plan (LDP) for East Lothian.
- 3.2 Whilst the ELLDP 2018 is not yet adopted, there is a requirement that it be supported by an Action Programme, and it is the Council's intention that the ELLDP 2018 also be supported by non-statutory Supplementary Planning Guidance documents that are the subject of this report. Initial drafts of the Action Programme and Affordable Housing Supplementary Planning Guidance were consulted on when the proposed LDP was published for representation. Comments received on these earlier versions of the documents have been taken into account in the updated consultation versions that are now before the Council (see Members' Library Service Reference: 89/18 draft LDP Action Programme: Consultation Responses - June 2018 Bulletin) as have the findings of the Examination in Public on the proposed LDP. Additionally, an initial consultation draft of the Special Landscape Areas Supplementary Planning Guidance document has been prepared for consultation.
- 3.3 Planning authorities are required to prepare their Action Programmes in accordance with Sections 21, 25 and 26 of the Town and Country Planning (Scotland) Act 1997 (as amended). An Action Programme sets out how the authority proposes to implement the plan. Action Programmes are therefore to contain a list of actions required to deliver each of the plans policies and proposals, the name of the person or body who is to carry out the action, and the timescale for carrying out each action.
- 3.4 A more detailed description of the content of the ELLDP 2018 consultative draft Action Programme is set out in the relevant section below.
- 3.5 The statutory process for the preparation of the Action Programme must be followed. For the Action Programme to be prepared, the Council must consult on a draft version of it with the Key Agencies, the Scottish Ministers and anyone the Council proposes specifying by name in the Action Programme; the Council must also consider their views when finalising the

Action Programme for adoption. After the consultation, the Council are to publish the Action Programme within three months of the adoption of the plan. The Action Programme is to be kept under review and republished at least every two years. Whenever an Action Programme is published, the authority are to send two copies to Scottish Ministers, place copies in local libraries and publish it electronically.

- 3.6 In terms of non-statutory Supplementary Planning Guidance, whilst there is no statutory provisions setting out the scope or process for preparing it, if it is to carry enhanced weight as a material consideration in planning decisions it must be consulted on and adopted by the Council. For this type of guidance, there is no requirement for the Scottish Ministers to review it before the Council may adopt it. The intention is that matters to be addressed within non-statutory Supplementary Planning Guidance are those that would be too detailed for inclusion in the plan, but nonetheless merit more detailed policy guidance to assist with the operation of policies or proposals and the delivery of the plan.
- 3.7 A more detailed description of the content of each of the consultative draft Supplementary Planning Guidance documents is set out in the relevant sections below.
- 3.8 The reason for re-consulting on some of these documents is to ensure statutory compliance and to ensure that stakeholders have the opportunity to comment on the updated versions. The revised draft documents take into account the recommendations of the Report of Examination on the proposed LDP insofar as relevant to them, thus they are consistent with the ELLDP 2018. The updated versions of the documents also take into account comments received during previous public consultation exercises carried out in respect of previous versions of them, as relevant and appropriate. If adopted, these documents will help users of the ELLDP 2018 understand more clearly how the Council wants its policies and proposals to be applied and delivered on a consistent basis.
- 3.9 Once approved for consultation, the documents may be taken into account as material considerations in planning decisions as appropriate, but cannot carry as much weight as if they are adopted by the Council. Approval for public consultation of these draft documents at this stage is intended to help ensure that their preparation is progressed without delay and in parallel with the adoption processes for the ELLDP 2018.
- 3.10 The overall intention is that these documents, once finalised following their period of public consultation and any other procedures as relevant, may be adopted by the Council as soon as possible following adoption of the ELLDP 2018.

### ***ELLDP 2018 Action Programme***

- 3.11 On 6 September 2016, the Council approved for consultation a draft of the proposed LDP Action Programme. This coincided with the representation period for the proposed LDP so both documents could be read together.

- 3.12 Most of the received consultation responses to the draft Action Programme did not seek changes to it. The responses referred to specific policies and proposals within the proposed LDP, or emphasised the role of the Action Programme in ensuring the alignment of key stakeholders to deliver the LDP interventions. Whilst a number of responses expressed some concern with regard to the future provision of health services, dentists and emergency services, the Report of Examination found that the plan contains sufficient detail to enable relevant proposals to come forward. The Report of Examination 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'*.
- 3.13 Two representees made direct and specific comments with regard to the draft Action Programme. One representation highlighted a perceived inconsistency between the draft Action Programme and the proposed LDP, with regard to the education costs for Proposal TT12: Woodhall Road (16 homes) and Proposal TT14: Park View (55 homes), both Pencaitland, namely that the same cost is included for both sites. However, there was no inconsistency between the draft Action Programme and the proposed LDP since the former included total costs for specific education interventions and not proportional costs associated with specific development proposals such as TT12 or TT14.
- 3.14 The other representation, whilst explicitly referring to the draft Action Programme, was in fact focused on specific policies of the proposed LDP. Any issues raised in this representation were appropriately dealt within the Report of Examination.

#### *Updated Action Programme*

- 3.15 The updated version of the Action Programme is set out within Annex 1 of this report. It reflects the most up-to date information on developer contributions and specific interventions and projects included within the emerging statutory Supplementary Guidance: Developer Contributions Framework. The structure of this draft Action Programme follows that of the previous draft, and comprises of 4 sections as follows:
- Introduction
  - Priority Actions
  - LDP Guidance
  - Monitoring Assessment for LDP Review
- 3.16 Within these sections, the draft Action Programme sets out the guidance, policies and proposals of the LDP and the actions needed to implement them to successfully deliver the Plan.
- 3.17 The Action Programme will be a live document reflecting the continuous process of delivering the ELLDP 2018. The Council will monitor progress on delivering the plan's policies and proposals to determine when

interventions or actions may be required to ensure timeous delivery of the LDP. Each proposal and policy within the Action Programme identifies the key agents of action, how they will deliver this through key actions, and the timescale within which they will do it. The lead agency noted in the Action Programme will be responsible for the implementation of the actions they are assigned. They will also have the responsibility for regular reporting and for monitoring and updating of the Action Programme.

- 3.18 Review updates on progress towards delivering the key actions will be reported to Senior Officers via team meetings, and then to Elected Members every two years or more frequently should the Council require.

***Non-statutory Supplementary Planning Guidance***

- 3.19 A description of the background, scope and purpose of the consultation drafts of the non-statutory Supplementary Planning Guidance is set out below:

*Affordable Housing Supplementary Planning Guidance*

- 3.20 On 6 September 2016, the Council approved for consultation a draft of the Affordable Housing Supplementary Planning Guidance. This coincided with the representation period for the proposed LDP so both documents could be read together.

- 3.21 The proposed draft Supplementary Planning Guidance (SPG) on Affordable Housing supports *Policy HOU3: Affordable Housing Quota* and *Policy HOU4: Affordable Housing Tenure Mix* of the Proposed LDP in relation to the delivery of affordable housing. It sets out how the planning system can assist with facilitating the delivery of affordable housing.

- 3.22 The formal consultation which took place during the period 19 September 2016 to 7 November 2016 yielded no responses; however, there were responses received in relation to policies on affordable housing provision set out within the LDP. These responses were specific around the inclusion of 25% affordable housing for amenity, sheltered and retirement homes and were addressed within the Report of Examination.

*Updated Affordable Housing Supplementary Planning Guidance*

- 3.23 The updated version of the Affordable Housing Supplementary Planning Guidance is set out within Annex 2a of this report.

- 3.24 The guidance has been redrafted to provide additional guidance and clarity for all those with an interest in affordable housing with specific reference to the following:

- Specialist Housing;
- updated eligibility criteria for Mid-Market Rent with revised income thresholds;

- updated eligibility criteria for discounted sale with revised house prices; and
- updated commuted sum figures.

3.25 This draft SPG is intended to provide further information and detail on how the relevant policies of the ELLDP 2018 should be interpreted and applied. It provides a framework for the implementation of East Lothian Council's Affordable Housing Policy (as it relates to LDP policy i.e. quota, tenure mix, specialist provision etc.) and outlines the mechanisms by which affordable housing can be delivered within a broader economic context. It aims to set out detailed guidance alongside the Strategic Development Plan (SDP1) and ELLDP 2018 policies on affordable housing. This draft SPG on Affordable Housing has been prepared to:

- set out information and advice to individuals and organisations with an interest in affordable housing;
- provide clarity in relation to the affordable housing requirement and contributions to be sought; and
- promote transparency and consistency with regard to the developer's affordable housing obligations.

#### *Special Landscape Areas Supplementary Planning Guidance*

3.26 The draft version of the Special Landscape Areas Supplementary Planning Guidance is set out within Annex 2b of this report.

3.27 The Special Landscape Areas Supplementary Planning Guidance has been produced to support the landscape policies of the East Lothian Local Development Plan 2018 (ELLDP 2018). With the adoption of this plan, Special Landscape Areas (SLAs) will replace Areas of Great Landscape Value as the local landscape designation (that were introduced in the 1960s) with further amendment mainly in the 1970s/80s. There has clearly been the potential for considerable landscape change since then.

3.28 As part of the preparation of ELLDP 2018, a review of East Lothian's landscapes was undertaken in line with relevant guidance produced by Scottish Natural Heritage and Historic Environment Scotland. Thirty two SLAs have been identified through this review. As part of the process of identifying new SLAs, a six-week public consultation exercise was undertaken in early 2015. The views expressed were taken into account in selecting SLAs. The boundaries for the new SLAs were included in ELLDP 2018 and have been subject to consultation and representation. No representations were received with regard to the boundaries of the SLAs and no changes were made. They are now fixed by ELLDP 2018. The Local Landscape Designation review was included as Technical Note 9 of ELLDP 2018 (see Member's Library Service References: 141/16, 142/16, 143/16, 144/16, 145/16, 146/16, 147/16 31 - August 2016 Bulletin).

[https://www.eastlothian.gov.uk/meetings/meeting/5986/members\\_library\\_service](https://www.eastlothian.gov.uk/meetings/meeting/5986/members_library_service).

3.29 The Special Landscape Areas Supplementary Planning Guidance provides a tool for assessment of proposed development. This will be done by firstly considering the nature and merits of the proposal against the character of the Landscape Character Areas (which informed the designation of the SLAs) and then, if within an SLA also the special qualities of the relevant SLA. The purpose of the SLA designations is part of East Lothian's all landscapes approach and aims to:

- safeguard and, where relevant, improve important landscapes and landscape features which are particularly valued;
- protect some of the most important landscape settings for recreation and tourism within East Lothian;
- promote understanding and awareness of the distinctive character and special qualities of the landscapes of a local authority area.

#### **4 POLICY IMPLICATIONS**

4.1 The ELLDP 2018 Action Programme and non-statutory Supplementary Planning Guidance described within this report would become an essential component of delivering the strategy and policies of the ELLDP 2018. The Action Programme would be used to assess progress towards the delivery of the policies and proposals of the ELLDP 2018 and provide a monitoring tool to help initiate any need for corrective action as and when required and appropriate. The Supplementary Planning Guidance in particular will be used in the determination of planning applications.

#### **5 INTEGRATED IMPACT ASSESSMENT**

5.1 The subjects of this report has been through the Integrated Impact Assessment process through the ELLDP 2018 and no negative impacts have been identified.

#### **6 RESOURCE IMPLICATIONS**

6.1 Financial – The financial implications of the Action Programme are as already described in association with the ELLDP 2018 at this time. The financial implications of any future review of the Action Programme will be subject to consultation and Council approval at the appropriate time.

6.2 Personnel – service providers will be required to provide responses to proposals in line with the policy guidance set out within the relevant Supplementary Planning Guidance documents.

6.3 Other - None

## 7 BACKGROUND PAPERS

- 7.1 Draft proposed LDP Action Programme (2016) – (See Item 02b of East Lothian Council Meeting of 6 September 2016)
- 7.2 Draft Affordable Housing Supplementary Planning Guidance (2016) – (See Item 03b of East Lothian Council Meeting of 6 September 2016 )

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