

ITEM No. 8 – Housing Land Position Statement

Report by: Fiona McBrierty, Development Planning & Environment Manager, West Lothian Council

Purpose

The purpose of this report is to seek approval of a position statement in relation to housing land which sets out those matters to be considered by the SESplan member authorities when determining applications for residential development which are considered to be contrary to the development plan. The position statement is attached as Appendix One.

Recommendations

It is recommended that the Joint Committee:

1. Notes and agrees terms of the Housing Land Position Statement (Appendix One).

Resource Implications

None.

Legal and Risk Implications

The rejection of SDP2 by Scottish Ministers results in a gap in up to date strategic guidance for the SESplan area.

SDP1, approved in June 2013 and associated Housing Land Supplementary Guidance adopted in October 2014, remains the extant development plan for Edinburgh and South East Scotland until such time as it is replaced. Transitional arrangements arising from the requirements of the Planning (Scotland) Act 2019 will require to be published together with further secondary legislation setting out in more detail the requirements arising from the new Planning (Scotland) Act 2019 particularly in relation to the preparation of Regional Spatial Strategies.

Policy and Impact Assessment

No separate impact assessment is required.

1. Background

1.1 On 16 May 2019 Scottish Ministers issued their decision letter advising of rejection of SDP2. The decision letter sets out three reasons for rejection of the Plan:

1. The Scottish Ministers were not satisfied that the Plan has been informed by an adequate and timely transport appraisal;
2. The plan does not take sufficient account of the relationship between land use and transport; and
3. The Scottish Ministers do not support the use of supplementary guidance to resolve this issue.

1.2 The Minister found that the requirements of Scottish Planning Policy (SPP), specifically paragraphs 272-275 had not been met and therefore the plan was deficient. Ministers made no specific reference to housing land and numbers.

1.3 The Planning (Scotland) Act 2019 removes requirements to prepare Strategic Development Plans; these are to be replaced by Regional Spatial Strategies prepared by one or more planning authorities acting together. A Regional Spatial Strategy will have less status than the SDP, as it is not part of the development plan. There is no requirement for LDPs to be consistent with the Regional Spatial Strategy. However, LDPs will be required to have regard to an adopted Regional Spatial Strategy.

1.4 In the absence of a new SDP and a Regional Growth Framework/Regional Spatial Strategy SDP1 continues to provide strategic policy guidance for the SESplan area. This will impact on preparation of the next round of local development plans (LDPs) across the SESplan area. In the interim, the member authorities may be exposed to risk in terms of development proposals which are contrary to the development plan and with regard to the need to maintain an effective five year housing land supply.

1.5 If there is not an up to date development plan, paragraph 33 of Scottish Planning Policy (SPP) is invoked whereby the presumption in favour of development that contributes to sustainable development will be a significant material consideration in determining planning applications.

2. Housing Land Position Statement

2.1 In the absence of a new SDP, following QC advice, SESplan has been informed that background material used to inform SDP2 can be used to inform a Regional Growth Framework/Regional Spatial Framework

and that the background material can be treated as a material consideration in the determination of planning applications. The weight given to this information may, however, be subject to challenge at appeal and the weight Reporters will give to these documents in considering appeals is uncertain.

2.2 To assist in the Development Management process, SESplan has prepared a position statement on housing to provide guidance to the SESplan member authorities when determining planning applications whilst a Regional Spatial Framework/Regional Spatial Strategy are agreed.

2.3 In the interim, the spatial strategy of SDP1 and the housing land requirement from 2019 to 2024 together with the associated LDP housing allocations remain the basis on which planning applications will be determined and any resulting appeals defended until such time as SDP1 is replaced. Planning applications can also be determined with regard to other material considerations, namely Housing Needs and Demand Assessment 2 (HNDA2) and the SDP2 Examination report.

2.4 All of the SESplan member authorities have adopted Local Development Plans in place, which have been prepared within the context of SDP1. All of these are less than five years old, however, Scottish Government requires that LDPs must be adopted within five years of the previous plan. Given this current legislative requirement, this places some of the SESplan member authorities at risk given the date of adoption of their current LDP. The Planning (Scotland) Act 2019 now requires the preparation of LDPs every 10 years.

2.5 SPP expects that at least a 5-year supply of effective housing land should be provided at all times. SPP explains that it is the housing land audit that is critical to assessing effective housing land supply. PAN 2/2010, Affordable Housing and Housing land Audits indicate that an audit has two functions:

- 1) to demonstrate the availability of sufficient land to meet the requirement for a continuous 5-year supply; and
- 2) to provide a snapshot of the amount of land available for the construction of housing at any particular time.

2.6 SPP and PAN 2/2010 indicate that the housing land audit should be treated as the most up to date evidence on which to monitor housing land supply. This has a particular bearing on assessing proposals against the terms of policy 7 of SDP1.

2.7 The most recent Housing Land Audits covering the SESplan area date from 2018. All have been agreed by Homes for Scotland and inform the 5 year effective supply position. These are a material consideration in determining planning applications for residential and mixed use developments.

2.8 Where it is considered that there is a shortfall in the housing land supply, policy 7 of SDP1 applies. This policy sets 3 criteria which are required to be met, namely;

- a) The development will be in keeping with the character of the settlement and local area;
- b) The development will not undermine green belt objectives; and
- c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

2.9 Other relevant policies in SDP1 are policies 8 and 9 with regard to infrastructure required to support development.

2.10 All of these matters provide the context within which the SESplan Housing Land Position Statement has been prepared and in turn a context for the member authorities to use in the determination of planning applications. Such matters, where considered appropriate, can be referenced in decision making on planning applications deemed contrary to the development plan and in responding to Planning Appeals. When assessing development proposals for sites not allocated for development in the development plan, the Housing Land Position Statement sets out therefore those matters which the SESplan member authorities may have regard to, namely:

- 1) the provisions and requirements of policies 7, 8 and 9 of the approved SDP1 which address housing land supply, transport and infrastructure issues;
- 2) the level of housing provision allocated and/or safeguarded in adopted LDPs;
- 3) updated information from the latest Housing Land Audit, where based on HoNDA2;
- 4) the Housing Needs and Demand Assessment 2015 (HoNDA2);
- 5) SDP2 Examination report; and
- 6) SDP2 Proposed Plan Housing Background Paper (October 2016).

2.11 It is proposed that the Housing Land Position Statement remain in force until such time as a Regional Growth Framework/Regional Spatial Strategy and/or new LDPs are in place and therefore that the weight which can be given to the documents set out in the Housing Position Statement will have a bearing on the assessment of planning applications in the future.

3. Conclusion

3.0 The Housing Land Position Statement sets out those matters which the SESplan member authorities may have regard to and reference in the determination of planning applications and responding to Appeals. The terms of the Housing Land Position Statement would remain in force until such time as a new development plan is in place.

Appendices

Appendix 1 – SESplan Housing Land Position Statement

Report Contact

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