



## West Lothian Council

### COUNCIL EXECUTIVE

### DUALLING OF THE A801 DUALLING SPG: CONSULTATION RESPONSES

### REPORT BY THE TRANSPORTATION MANAGER

#### **A. PURPOSE OF REPORT**

The purpose of this report is to advise council executive of the consultation response to the policy to secure developer contributions to provide funding for dualling the section of the A801 between Pottishaw Roundabout and M8 junction 4 and to approve a revised supplementary planning guidance.

#### **B. RECOMMENDATION**

It is recommended that council executive approve the report and the revised supplementary planning guidance contained in Appendix 5 as the basis for developer contributions towards the partial dualling of the A801.

#### **C SUMMARY OF IMPLICATIONS**

##### **I Council Values**

Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; and working in partnership

##### **II Policy and Legal**

The former Policy Partnership and Resources Committee approved a report by the Transportation Manager on 20 June 2006 for a Supplementary Planning Guidance (SPG) to secure developer contributions to provide a road upgrade of the A801 by dualling the section from M8 Junction 4 to Pottishaw roundabout.

The policy is closely linked to the development strategy contained within the approved Edinburgh and Lothians Structure Plan 2015 and the adopted West Lothian Local Plan.

The policy supports the development management and development plan processes.

In approving the policy in 2006 the Committee instructed that officers should consult with stakeholders and report back the consultation findings.

The review of the consultation responses was deferred until the findings of the local plan public inquiry were reported in 2008 and the council

formally adopted the plan in January 2009.

Since adoption there has been considerable interest by developers in scoping the transportation elements of the Armadale core development area.

Pre-application consultation with developers is now substantially complete resulting in several planning applications being submitted for the CDA sites in Armadale. This has allowed unit costs to be calculated together with an up to date cost estimate.

### **III Resources - (Financial, Staffing and Property)**

The policy will ensure that developer contributions will be raised from new development within the catchment area and targeted to fund the upgrading of the section of the A801 between M8 Junction 4 and Pottishaw roundabout.

Where Section 69 or Section 75 legal or planning agreements are to be used, developers will be asked to contribute to the cost of preparing agreements.

### **IV Consultations**

The original policy was consulted externally with developers, their architects and planning consultants and with community councils with an interest in the catchment area and internally with Planning Services, Finance and Legal. The Development and Transport Policy Development and Scrutiny Panel on 24 June recommended the revised Supplementary Planning Guidance to the Council Executive for approval.

## **D TERMS OF REPORT**

### **Introduction**

The adopted West Lothian Local Plan supports a sustained level of growth with up to 25,000 houses together with associated employment, retail, education and leisure development planned.

The collective scale of proposed development in the settlements of Armadale, Bathgate, Blackburn, East Whitburn and Whitburn is such that the single carriageway section of the A801 between M8 junction 4 and Pottishaw roundabout will require upgrading to dual carriageway standard to provide safe and appropriate road infrastructure to facilitate the traffic from the proposed development in this part of West Lothian.

The key principles are consistent with

- Policies HOU 5 and TRAN 5 (parts a and b) of *The Edinburgh and Lothians Structure Plan 2015*;
- Policies CDA 1, IMP 17 and TRAN 4 of the *West Lothian Local Plan*;
- Scottish Government Circular 1/2010 – *Planning Agreements*;
- The Scottish Government’s *Transport Assessment and Implementation: A Guide*;
- Scottish Planning Policy 17 *Planning for Transport*, and
- *Scottish Planning Policy 2010*.

In approving the SPG, the committee requested that a consultation exercise be undertaken and the findings reported back. This report provides the findings of the consultation exercise together with the comments of the Scottish Government’s Reporters following the public local inquiry into the FWLLP. The 2006 SPG committee report is provided in Appendix 1.

While there is no statutory duty placed on the council to endorse, as council policy, the views of either the consultees or the Reporter, officers have sought to use all of the information provided to identify best practice for this policy.

### **Consultation**

The consultation exercise invited responses from architects, agents, community council’s and house builders who have interests in representation or development within the catchment area. The list of consultees is provided in Appendix 2.

The consultation received four responses, all of whom were developers or their representatives. The responses together with officers’ comments are provided in Appendix 3.

The relevant comments of the Scottish Government reporter for the local plan inquiry were also considered and these are provided in Appendix 4.

The responses included comments and objections to:

1. the general need for the dualling;
2. the timing of the SPG;
3. the council not funding the proposal itself;
4. contributing to the cost of preparing Section 75 (planning) or Section 69 (legal) or agreements;
5. how funds will be held;
6. the phasing of works;
7. understanding which land use classes must contribute;
8. understanding the justification for the catchment area boundary;
9. the lack of specified junction improvements;
10. the uncertainty of the level of contributions;
11. the uncertainty of additional requirements by Transport Scotland;
12. the fairness of the policy.

The consultees’ comments have been noted, the objections considered on their respective merits and their materiality to the policy determined. In each case, objection’s were found to be not material to either the SPG or the local, regional and national policies listed above.

In some cases consultees request to be informed of the outcome of the consultation.

It is proposed that all consultees should be notified of the outcome following a council decision.

Officers will engage with Transportation Scotland as soon the local process of consultation and council approval is finalised.

## **LOCAL PLAN INQUIRY – THE REPORTER’S FINDINGS**

The local plan inquiry sat between August 2006 and February 2007. The inquiry report was published in March 2008. The report included that the A801 is a strategic link, that the policy conformed to SODD Circular 12/1996 (now superseded by SG Circular 1/2010), that the council had provided sufficient information and that no changes to the WLLP were required.

## **OFFICERS VIEW**

Transportation and Planning officers considered the comments from the consultees and the Scottish Government reporter together with changes in Scottish Planning Policy. From discussions with developers the current state of the development market was established. From this information it was identified that the policy needed to be more specific in setting out developer requirements and to make clearer, any exemptions from the policy.

The revised supplementary planning guidance (SPG) policy is provided in Appendix 5 and includes two key changes to the text. Firstly, that developers will be invited to contribute to the cost of preparing Section 69 agreements in order to speed up the process but they will not be required to do so. Secondly, it will make clear that sites, which had planning consent before the policy was introduced, are exempt.

## **FINANCIAL**

The transport assessment of dualling requirements for the A801 was based on the fact that the development at J4M8 was restricted to use class 6 (storage and distribution). This development received outline consent prior to the approval in 2006 of the supplementary planning guidance for the A801.

However, in 2007 the developers of J4M8 came forward with a proposal to increase the development area and in particular include significant class 4 (office/ business use) not in accordance with the finalised West Lothian Local Plan. Discussions with the developer made it clear that an assessment of the impact on the A801 of this proposed use class change would be needed and that the developer would be responsible for fully funding all works identified as necessary as part of this proposed change of use to class 4.

The assessment work shows junction modifications are required at Pottishaw roundabout, the existing site access roundabout on the A801 and also the need for the south section from the site access roundabout to junction 4 of the M8.

There is a minded to grant decision for the J4M8 office development. This is subject to a section 75 legal agreement which is currently being negotiated with the developer to secure the A801 works at the appropriate time, or else a payment equivalent to the value of the works to contribute to the cost of the A801 upgrade.

It is recommended that the SPG for contributions for the A801 dualling should assume that the office development at J4M8 does not proceed and that only class 6 use is developed as currently approved. An appropriate claw back clause should be included in all other development legal agreements for A801 contributions to refund costs associated with works required as part of J4M8 class 4 uses. Once the legal agreement for J4M8 is concluded then a reduced contribution for remaining works could be evaluated and applied as appropriate to further development proposals.

The financial climate and the construction industry have taken a severe downturn since the policy was introduced. The rate of construction is lower than required by the structure plan and the market remains uncertain. The scale and timing of a recovery is uncertain. However, the principle that the developer should fund the additional capacity required by new development remains unchanged.

Following detailed discussions with developers, the cost estimate was revised in October 2009 at £4,008,631 for the works and a unit price of £1,438 per trip on the A801. The detail of this estimate is provided in Appendix 5.

## **E CONCLUSION**

On 20 June 2006, the Policy Partnership and Resources Committee approved a policy for developer contributions for a supplementary planning guidance to fund the dualling of the section of the A801 from Pottishaw Roundabout to M8 junction 4. The committee requested that the policy should be the subject of a stakeholder consultation and the outcome reported back to committee.

The consultation tested the policy and found that the objections raised were not material and it was concluded that the policy complies with national planning guidance and the development plan.

The policy was also tested at the Local Plan Public Inquiry where the Scottish Government Reporter recorded that no changes were required.

The Development and Transport Policy Development and Scrutiny Panel on 24 June recommended the revised Supplementary Planning Guidance to the Council Executive for approval.

The consultation exercise for the SPG for developer contributions to fund the dualling of the A801 from Pottishaw Roundabout to M8 junction 4 confirmed that the policy is sound and should remain unchanged.

## **F. BACKGROUND REFERENCES**

Adopted West Lothian Local Plan

Edinburgh and the Lothians Structure Plan 2015

SODD Circular 12/1996 – “Planning Agreements” (superseded)

Scottish Government Circular 1/2010 Planning Agreements

Town and Country Planning (Scotland) Act 1997

Scottish Planning Policy 17: Planning for Transport

Scottish Planning Policy 2010

Scottish Government: Transport Assessment and Implementation: A Guide

Appendices/Attachments: Five

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