



COUNCIL EXECUTIVE

REPLACING SUPPLEMENTARY PLANNING GUIDANCE (SPG) ASSOCIATED WITH THE NOW SUPERSEDED WEST Lothian LOCAL PLAN

REPORT BY HEAD OF PLANNING, ECONOMIC DEVELOPMENT & REGENERATION

A. PURPOSE OF REPORT

The purpose of this report is to advise the Council Executive of proposals to replace the suite of planning guidance (SPGs) which had previously supported the West Lothian Local Plan 2009 (WLLP). This is necessitated by the new West Lothian Local Development Plan (LDP) having been adopted in September 2018 and requiring to be supported by new guidance.

B. RECOMMENDATION

It is recommended that Council Executive:

1. notes the replacement lists of statutory Supplementary Guidance (SG) and non-statutory Planning Guidance (PG) set out in Appendices 1, 2 and 4 of the report in order to support the adopted West Lothian Local Development Plan; and
2. endorses the recommendations of the Head of Planning, Economic Development & Regeneration to not directly replace those SPGs identified in Appendix 3.

C. SUMMARY OF IMPLICATIONS

I Council Values	Focusing on our customers' needs; being honest, open and accountable; making best use of our resources; working in partnership.
II Policy and Legal (including Strategic Environmental Assessment, Equality Issues, Health or Risk Assessment)	New statutory Supplementary Guidance (SG) and non-statutory Planning Guidance (PG) will over the course of the coming year replace previous Supplementary Planning Guidance (SPG) which had been produced in support of the superseded West Lothian Local Plan. The new SG and PG will support the West Lothian Local Development Plan and the development management process.

It has previously been determined that new planning guidance is in itself unlikely to have significant environmental effects and it is not anticipated that there will be a requirement to make it the subject of separate Strategic Environmental Assessment (SEA). The required 'screening' procedures will however be undertaken in each case.

There are similarly no equality, health or risk assessment issues associated with the new guidance.

III Implications for Scheme of Delegations to Officers	None.
IV Impact on performance and performance Indicators	None.
V Relevance to Single Outcome Agreement	<p>Outcome 3 - Our economy is diverse and dynamic, and West Lothian is an attractive place for doing business.</p> <p>Outcome 4 - We live in resilient, cohesive and safe communities.</p> <p>Outcome 8 - We make the most efficient and effective use of resources by minimising our impact on the built and natural environment.</p>
VI Resources - (Financial, Staffing and Property)	There are no financial implications for the council with the exception of guidance that requires developers to make financial contributions to support or off-set the impact of new development.
VII Consideration at PDSP	The programme for replacing SPGs was reported to a meeting of the Development and Transport Policy Development and Scrutiny Panel on 20 June 2019. No comments were made.
VIII Other consultations	No external consultation has been undertaken but there has been internal discussion with Development Management and Education Planning.

D. TERMS OF REPORT

D1 Background

Supplementary Guidance and Planning Guidance provides additional detail on specific subject areas within development plans and in many instances explains how planning policies will be implemented.

An extensive suite of 'Supplementary Planning Guidance' (SPG) had supported the now superseded West Lothian Local Plan (WLLP) but when that plan was replaced in September 2018 by the West Lothian Local Development Plan (LDP) this guidance ceased to have formal status. The consequence is that the ongoing materiality of the guidance is diminished, particularly in relation to the determination of planning applications and when relied upon to support the council's position at planning appeals.

In anticipation of this scenario, the council intimated in Appendix 4 of the LDP that it would bring forward a raft of new Supplementary Guidance and Planning Guidance to support the policies of the LDP with 12 months of its adoption and which would at the same time be compliant with Planning Circular 6/2013: *Development Planning*, current national planning policies and the policies of the Strategic Development Plan (SDP1).

D2 Main Report

The starting point for the preparation of new Supplementary Guidance and Planning Guidance has been to appraise the effectiveness and relevance of the previous guidance that supported the superseded WLLP and to decide whether any of it merits or requires replacement, either in whole or in part. This analysis has informed the tables which are produced as Appendices 1, 2, 3 and 4 to the report.

Appendix 1 records which of the superseded SPGs have already been successfully replaced. Since the adoption of the LDP in September of last year significant headway has been made with notable completions including new guidance on Planning and Noise, Affordable Housing, Air Quality, Development in the Countryside, Planning and Drainage and the Residential Development Guide.

Appendix 2 identifies the superseded planning guidance (SPGs) which it is proposed to replace and cross references the 'old guidance' with the new. In the main, this embraces policy topics which are of a more universal nature and which can seamlessly carry over from one development plan to another or a consolidation of topic related guidance. They include a house extension and alteration guide, guidance on the development of contaminated land, the location and operation of mobile snack bars and developer contributions for the provision of education and transport infrastructure. Planning Circular 6/2013: *Development Planning* states that if guidance remains up-to-date, authorities may re-adopt it in connection with the replacement plan after consultation, provided a proper connection with the new plan also remains.

Appendix 3 identifies the superseded planning guidance (SPGs) which it is not proposed to replace and includes guidance on the erection of pigeon lofts, the control of amateur radio antenna (CB radio) and satellite dishes, telecommunications masts, construction training and local employment agreements and change of use of properties to offices in Linlithgow High Street.

It provides the justification for not replicating these particular SPGs as part of the new raft of planning guidance supporting the LDP and which generally speaking is because the guidance is obsolete, does not have sufficient relevance to contemporary situations or has been overtaken by the introduction of new planning policies or procedures.

Appendix 4 identifies the balance of the Supplementary Guidance and Planning Guidance to support the LDP which is new. This includes guidance on Air Quality, the Green Network, Wind Energy, Woodlands, Trees and Hedgerows and developer obligations relative to infrastructure provision.

Statutory guidance (SG) must be explicitly referenced within the LDP and is submitted for approval to Scottish Ministers. Once adopted, SG forms part of the LDP. Non-statutory guidance is called Planning Guidance (PG) and is not subject to approval by Scottish Ministers and is also not part of the development plan. While having less weight as a consequence, it is nonetheless still a 'material consideration' when determining planning applications.

It should, however, be noted that the new Planning Bill, which was passed by the Scottish Parliament on 20 June 2019 and received Royal Assent on 29 July 2019, removes the provision for planning authorities to issue statutory supplementary guidance. So going forward, the preparation of guidance will in all likelihood have to revert to the 'non statutory' guidance once new secondary legislation is in place. However, timescales and any transitional arrangements which will apply, have not been published by the Scottish Government.

The practicalities of assembling new Supplementary Guidance and Planning Guidance has necessitated some minor deviations from Appendix 4 of the LDP with regard to the format adopted for some of the guidance (changed from Supplementary Guidance to Planning Guidance) or combined and consolidated with others, but overall, the scope of the guidance remains fundamentally unchanged.

E. CONCLUSION

There is a requirement to prepare new bespoke planning guidance to support the West Lothian Local Development Plan and the starting point has been to establish if there is value in directly replicating any of the previous SPGs.

Where deemed to be no longer relevant or fit for purpose they are not being replaced. However, where it is prudent to do so, previous SPGs will be reviewed, brought up to date and re-badged as either 'statutory' Supplementary Guidance (SG) or 'non-statutory' Planning Guidance (PG). In some instances new guidance will be prepared to support new policies and proposals in the LDP.

F. BACKGROUND REFERENCES

- West Lothian Local Development Plan
- Planning Circular 6/2013: *Development Planning*

Appendices/Attachments: Four

Appendix 1: Superseded SPGs which have already been replaced

Appendix 2: Superseded SPGs which it is proposed to replace

Appendix 3: Superseded SPGs which it is not proposed to replace

Appendix 4: New planning guidance

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