

Environmental Assessment (Scotland) Act 2005

Strategic Environmental Assessment (SEA) Screening Determination

**Supplementary Guidance (SG)
Developer Contributions Towards Public Art**

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1. Introduction

This statement sets out West Lothian Council's determination in accordance with Section 10(1) of the Environmental Assessment (Scotland) Act 2005 on whether or not a Strategic Environmental Assessment (SEA) is required for Supplementary Guidance (SG) – Developer Contributions Towards Public Art.

Screening is the first stage in the SEA process. The purpose of screening is to establish whether or not a Plan, Programme or Strategies (PPS) will have significant environmental effects. Screening takes the form of a formal submission, where the responsible authority (the Council) seeks the views of the following Consultation Authorities on whether a PPS is likely to have significant environmental effects and therefore whether a SEA is required:

- ◆ Historic Environment Scotland (HES)
- ◆ Scottish Environmental Protection Agency (SEPA), and
- ◆ Scottish Natural Heritage (SNH)

As well as consulting the above bodies, responsible authorities are required to take into account the criteria set out in Schedule 2 of the 2005 Act when determining whether or not the plan is likely to have significant effects. The details of this process are contained within the Screening Report.

If the responsible authority and the consultation authorities agree that the plan or programme is unlikely to have significant environmental effects, the responsible authority is required to make a determination to that effect under section 8(1) of the 2005 Act.

2. Record of SEA Determination and Publicity Requirements

Title of Plan, Programme or Strategy:	Supplementary Guidance (SG) – Developer Contributions Towards Public Art
Responsible Authority:	West Lothian Council

Record of SEA Determination:

In accordance with section 9(1) of the 2005 Act, West Lothian Council submitted to the Consultation Authorities a screening report summarising its views as to whether West Lothian Local Development Plan Supplementary Guidance (SG) – Developer Contributions Towards Public Art will have significant environmental effects.

In formally determining under Section 8(1) of the Act whether a SEA is required, the Council has taken into account the views of the three Consultation Authorities; Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Environment Scotland which were issued through the SEA Gateway on 7 November 2019.

West Lothian Council and the Consultation Authorities are in agreement that the West Lothian Local Development Plan Planning Guidance (PG) - Planning for Nature : Development Management and Wildlife is not likely to have significant environmental effects and the Council has therefore determined that an SEA will not be required for the plan under Regulation 13(1) of the 2005 Act.

CONSULTATION AUTHORITY	LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS
Historic Environment Scotland	No
Scottish Environment Protection Agency	No
Scottish Natural Heritage	No
OVERALL VIEW ON LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS	No

Formal Determination	Statement of Reason
7 November 2019	<p>West Lothian Council's reasoning for determining that there are no overall likelihood of significant environmental effects is as follows:</p> <p>West Lothian Council has prepared a Local Development Plan to replace the West Lothian Local Plan 2009 (WLLP 2009) in accordance with the requirements of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) etc. Act 2006.</p>

	<p>The new West Lothian Local Development Plan (LDP) was adopted on 4 September 2018 and is consistent with the Strategic Development Plan for Edinburgh and South East Scotland (SDP).</p> <p>The LDP focuses on providing for, and managing, future land use change across the council area in line with SESplan SDP requirements. The LDP comprises a development strategy for the period to 2024 and a detailed policy framework to guide future land use in a way which best reflects the SDP vision, strategic aims and objectives.</p> <p>The West Lothian Local Development Plan Supplementary Guidance (SG) – Developer Contributions Towards Public Art sets out a framework that West Lothian Council will use to assess planning applications for development on sites in the adopted West Lothian Local Development Plan. The role of the West Lothian Local Development Plan Supplementary Guidance (SG) – Developer Contributions Towards Public Art is simply to help interpret and provide further detail in respect of policies that are already set out in the adopted West Lothian Local Development Plan which was subject of a full Strategic Environmental Assessment and which will also be reviewed in the Post Adoption Strategic Environmental Assessment.</p>
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Publicity Requirements for the Determination:	
<p>In accordance with section 10(1) of the Environmental Assessment (Scotland) Act 2005, within 28 days of the determination having been made, the Council will send a copy of the formal determination and related statement of reasons (prepared in accordance with section 8(2)(b) to the Scottish Government SEA Gateway and the three Consultation Authorities.</p> <p>In accordance with section 10(2) of the 2005 Act, within 14 days of the determination having been made, a copy of the determination, along with the Screening Report, shall be provided for inspection by the public at West Lothian Council’s principal office at the West Lothian Civic Centre, Howden South Road, Livingston, EH54 6FF or on request from wldp@westlothian.gov.uk.</p>	
<p>The determination shall also be published in the West Lothian Courier and Linlithgow Journal & Gazette newspapers to notify the public and will be available to view at www.westlothian.gov.uk from 5 December 2019. A copy of the statutory notice is provided as Appendix 2.</p>	
Signature:	Craig McCorriston, Head of Planning, Economic Development & Regeneration
Date:	26 November 2019

3. SEA Screening Report

Cover Note

Part 1

To:

SEA.Gateway@gov.scot

or

SEA Gateway
Scottish Government
2-H (South)
Victoria Quay
Edinburgh
EH6 6QQ

Part 2

An SEA Screening Report is attached for the plan, programme or strategy (PPS) entitled:

Supplementary Guidance (SG) – Developer Contributions Towards Public Art

The Responsible Authority is:

West Lothian Council

Complete Part 3 or 4 or 5

Part 3

Screening is required by the Environmental Assessment (Scotland) Act 2005. Our view is that:

An SEA is required because the PPS falls under the scope of Section 5 (3) of the Act and is likely to have significant environmental effects.

An SEA is required because the PPS falls under the scope of Section 5(4) of the Act and is likely to have significant environmental effects.

An SEA is not required because the PPS is unlikely to have significant environmental effects.

Part 4

The PPS does not require a SEA under the Act. However we wish to carry out a SEA on a voluntary basis. We accept that because the SEA is voluntary the Statutory 28 days timescale for views from the Consultation Authorities cannot be guaranteed.

Part 5

None of the above apply. We have prepared this screening report because:

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Part 6

Contact Name: Fiona McBrierty

Job Title: Development Planning Manager

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Contact Phone: 01506 28 24 18

Contact email: fiona.mcbrierty@westlothian.gov.uk

Part 7

Signature: Fiona McBrierty

Date: 26 November 2019

Key Facts

West Lothian Council has undertaken screening of Supplementary Guidance (SG) – Developer Contributions Towards Public Art with regard to the requirements of section 9 of the Environment Assessment (Scotland) Act 2005.

The Screening Report has been submitted to the Scottish Government SEA Gateway, setting out the views of West Lothian Council on the likelihood of the significant environmental effects of Supplementary Guidance (SG) – Developer Contributions Towards Public Art with regard to the requirements of section 9 of the Environment Assessment (Scotland) Act 2005 and the potential for requiring a SEA.

Responsible Authority:	West Lothian Council
Title of PPS:	Supplementary Guidance (SG) – Developer Contributions Towards Public Art

<p>Purpose of PPS:</p>	<p>The purpose of this Supplementary Guidance (SG) is to support Local Development Plan policy ENV 34 (Art and Development). It is also pertinent to policy INF 1 (Infrastructure Provision).</p> <p>The Supplementary Guidance will expand on the principles set out in the aforementioned policies and provide detailed guidance to help achieve the outcomes expected from development proposals in locations in West Lothian. The guidance will support consistent interpretation and application of policies through the development management process. The guidance will illustrate good practice in-line with the policy and other national guidance. The potential environmental effects of any proposed development considered under the terms of the policies can only be properly assessed at the planning application stage when the specific site and development details are known.</p> <p>In particular, this SG further defines the terms used in the policies and explains and interprets other matters necessary for the implementation of the policy and provides general planning criteria applicable to all sites.</p>
<p>What promoted the PPS: (e.g. a legislative, regulatory or administrative provision)</p>	<p>Supplementary Planning Guidance (SPG) governing developer contributions towards public art was originally produced in November 2006 to support policies COM 11 and COM 12 of the West Lothian Local Plan (2009) and which reinforced the council's commitment to public art and enhancement of the public realm in West Lothian.</p> <p>West Lothian Council adopted the West Lothian Local Development Plan on 4 September 2018 after Scottish Ministers confirmed the council could do so. It now forms part of the Development Plan for West Lothian along with the Strategic Development Plan (SDP) for Edinburgh and South-east Scotland.</p> <p>The Council has a programme to prepare a suite of new guidance to support the recently adopted West Lothian Local Development Plan, Specifically, 'Developer Contributions Towards</p>

	Public Art' has been written with the intention of becoming statutory guidance (SG).
PPS Subject: (e.g. transport)	The policies are integral to the strategic spatial land use strategy which applies across West Lothian. In terms of this SG they are particularly related to proactively encouraging and influencing developers to contribute to the provision of public art in West Lothian thus contributing to the public realm and environmental enhancement.
Period covered by the PPS:	Anticipated date of adoption - December 2019
Frequency of updates:	Supplementary Guidance will ordinarily be reviewed and updated every 5 years, but sooner if circumstances require. However, it should be noted that the Planning (Scotland) Act 2019 removes requirements to prepare Supplementary Guidance.
Area Covered by the PPS:	<p>This SG covers the West Lothian Local Development Plan area. The SG explains the requirements of a planning application which requires a contribution towards public art and how the council is likely to deal with such applications. It confirms the developer contribution rates that will be applied to developments, how this will be delivered and also sets out exemptions. The SG sets out those factors that require to be taken into account in the council's consideration of any planning application for developments meeting the criteria for contributions towards public art.</p> <p>As well as guiding interested parties on what is expected of them, the SG also acts as an aid to community groups, members of the public and others to understand the relevant issues relating to the provision of public art and to engage effectively with the planning system when planning applications are being made.</p>
Summary of nature/content of PPS:	A Local Development Plan (LDP) is prepared by the local planning authority, in this case West Lothian Council. It sets out a local interpretation of the requirements of national and strategic policy. In particular it must conform to the approved Strategic Development Plan (SDP) which has been prepared by the strategic planning authority

	<p>(SESplan) and its purpose is to implement requirements on a more detailed site-specific basis than exists within the SDP.</p> <p>The LDP comprises a written statement detailing a spatial strategy, including policies and proposals together with a Proposals Map.</p> <p>LDP's are intended to provide the vision and strategy for how communities will grow and develop in the future and also to provide certainty for communities and prospective investors about where development should take place and where it should not. LDP's also identify detailed policies and proposals which are the basis for decision making on future planning applications.</p> <p>The purpose of this Supplementary Guidance (SG) is to support Local Development Plan Policy ENV 34 (Art and Development).</p> <p>The SG has been conceived to set out developer contribution rates and the type of developments from which contributions will be required and is closely allied with the policy context of the West Lothian Local Development Plan and Scottish Government guidance. The SG is intended to positively influence the nature of projects which will come forward.</p>
Are there any plan objectives?	No
Copy of PPS attached	Yes
Date:	26 November 2019

Likely Significance of Effects on the Environment
<p>The Council has considered the likely significance of effects on the environment of the Supplementary Guidance (SG) – Developer Contributions Towards Public Art with regard to the requirements of section 9 of the Environment Assessment (Scotland) Act 2005. The screening was undertaken with references to the criteria in Schedule 2 of the 2005 Act and is set out in Table 1 (below).</p>

Table 1: Likely Significance of Effects on the Environment

Criteria for determining the likely significance of effects on the environment <i>[The paragraph numbers in the table 1(a), 1(b), 2(a), 2(b) etc. refer to paragraphs in Schedule 2 of the Environmental Assessment</i>	Likely to have significant environmental effects? (Yes / No)	Summary of significant environmental effects (negative and positive)

The characteristics of plans and programme

<p>1(a): The degree to which the PPS sets a framework for the projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources.</p>	<p>No</p>	<p>It is the adopted Local Development Plan which sets a framework for assessing applications for new development and this SG sets out the types of development for which developer contributions towards public art will be sought.</p> <p>The council has prepared this Supplementary Guidance to proactively encourage and influence developers to contribute to the provision of public art in West Lothian thus contributing to the public realm and environmental enhancement. The purpose of this Supplementary Guidance (SG) is to support Local Development Plan Policy ENV 34 (Art and Development).</p> <p>The SG has been conceived to set out developer contribution rates and the type of developments from which contributions will be required and is closely allied with the policy context of the West Lothian Local Development Plan and Scottish Government guidance. The SG is intended to positively influence the nature of projects which will come forward.</p> <p>The implementation of the Supplementary Guidance is unlikely to result in significant environmental effects that are additional to those previously identified when Policies ENV 34 and INF 1 underwent SEA assessment as part of the adopted Local Development Plan.</p>
<p>1(b): The degree to which the PPS influences other PPS including those in the hierarchy.</p>	<p>No</p>	<p>Supplementary Guidance (SG) – Developer Contributions Towards Public Art provides background guidance to policy within the adopted Local Development Plan and does not seek to directly influence other programmes and strategies.</p> <p>Although in itself new, this SG is essentially a refresh and an update of previous Supplementary Planning Guidance (SPG) which supported the now superseded West Lothian Local Plan.</p>

		<p>The SG explains the requirements of a planning application which requires a contribution towards public art and how the council is likely to deal with such applications and specifically supports policy ENV 34 and INF 1. It confirms the developer contribution rates that will be applied to developments, how this will be delivered and also sets out exemptions. The SG sets out those factors that require to be taken into account in the council's consideration of any planning application for developments meeting the criteria for contributions towards public art.</p> <p>It is at the same time consistent with the wider objectives of the overarching West Lothian Local Development Plan which has itself already undergone SEA.</p>
<p>1(c): The relevance of the PPS for the integration of environmental considerations in particular with a view to promoting sustainable development.</p>	No	<p>This SG focuses on proactively encouraging and influencing developers to contribute to the provision of public art in West Lothian thus contributing to the public realm and environmental enhancement. The purpose of this Supplementary Guidance (SG) is to support Local Development Plan Policy ENV 34 (Art and Development).</p> <p>The SG has been conceived to set out developer contribution rates and the type of developments from which contributions will be required and is closely allied with the policy context of the West Lothian Local Development Plan and Scottish Government guidance. The SG is intended to positively influence the nature of projects which will come forward.</p> <p>The general premise of policies that govern public art and developer contributions (and reinforced by the SG) is that contributions will only be sought from the types and scale of development set out in the SG.</p>
<p>1(d): Environmental problems relevant to the PPS</p>	No	<p>The West Lothian Local Development Plan has regard to the multitude of environmental issues which have the potential to affect the environment of West Lothian.</p> <p>The SG is one of a series which are designed</p>

		<p>to set out developer contribution rates.</p> <p>The SG does not introduce any new policy considerations and consequently no negative environmental consequences are foreseen as being directly attributable to the SG.</p>
1(e): The relevance of the PPS for the implementation of Community legislation on the environment (for example PPS linked to waste management or water protection)	No	<p>None identified. The SG does not introduce any new policy considerations and would not be directly relevant to this issue. If subsequently applicable, however, this could be considered in the assessment of individual planning applications.</p>

The characteristics of the effects and the area likely to be effected		
2(a): The probability, duration frequency and reversibility of the effects	No	<p>There are no significant environmental effects that can be attributed to the SG.</p>
2(b): The cumulative nature of the effects	No	<p>There are no significant environmental effects that can be attributed to the SG.</p> <p>A key purpose of the SG is to set out developer contribution rates towards public art and to proactively encourage and influence developers to contribute to the provision of public art in West Lothian thus contributing to the public realm and environmental enhancement.</p> <p>Adherence to the SG should, if anything, have a positive effect on the environment of West Lothian.</p>
2(c): Trans-boundary nature of the effects (i.e. environmental effects on other EU Members States)	No	<p>No trans boundary effects have been identified.</p> <p>The SG is in itself unlikely to have significant environmental impact beyond West Lothian, but that is not to diminish the positive value of the policy in a local context.</p>
2(d): The risks to human health or the environment (for example due to accidents)	No	<p>No significant effects have been identified. The SG will, if anything, have a positive effect and will generally assist in contributing to the public realm and environmental enhancement which can only be beneficial to human health and wellbeing. Proposals will in</p>

		any event be assessed in detail as and when planning applications are submitted.
2(e): The magnitude and spatial extent of the effects (geographical area and size of population likely to be affected)	No	There are no significant effects identified. The SG only applies to development proposals set out in the SG and within the administrative area of West Lothian and its effect is invariably constrained.
2(f): The value and vulnerability of the area likely to be affected due to: (i) Special natural characteristics or cultural heritage (ii) Exceeded environmental quality standards or limit values; <u>or</u> (iii) Intensive land use	No	The SG seeks to assist in the provision of public art and will have only positive effect in the West Lothian area. The overarching SEA for the LDP has previously considered any potential significant environmental effects and provided mitigation measures where necessary. It is considered that adherence to the requirements of the SG will be of negligible consequence and will not in any event adversely affect the value and vulnerability of the criterion.
2(g) The effects on areas or landscapes which have a recognised national, Community or international protection status.	No	Any development will also need to comply with the development plan which includes a range of policies to ensure the cumulative impact of development does not adversely affect designated landscapes and the principal landscape character/type of the area. There will be no implications for this PPS. The overarching SEA for the LDP has previously considered potential effects. It is considered that adherence to the requirements of the SG will be of negligible consequence and will not in any event adversely affect the value and vulnerability of the criterion.

Summary of Environmental Effects

The Council has considered the likely significance of effects on the environment of Supplementary Guidance (SG) – Developer Contributions Towards Public Art and these are set out below.

Table 2: Summary of Environmental Effects

Supplementary Guidance (SG) – Developer Contributions Towards Public Art supports Local Development Plan Policies ENV 34 (Art and Development) and INF 1 (Developer Contributions) by providing further guidance and detail on the circumstances in which developer contributions will be sought towards public art.

The West Lothian Local Development Plan has itself already undergone an extensive SEA examining its policies, proposals and land use allocations. They demonstrate West Lothian Council's commitment to environmentally sensitive development and the addition of Supplementary Guidance (SG) – Developer Contributions Towards Public Art and is considered to strengthen and re-inforce this position.

The SG does not propose new development but instead sets out the types of development from which contributions will be sought towards public art and the developer contribution rates.

Development always has the potential to have adverse environmental consequences but additional care needs to be exercised in relation to sites of a particularly sensitive environmental nature. The specific policies referenced in the guidance will not however be applied in isolation; There are other policies included in the Local Development Plan which will additionally be applied in the assessment of proposals where developer contributions towards public art will be sought.

The council considers it unlikely that the supporting Supplementary Guidance (SG) – Developer Contributions Towards Public Art will have any significant environmental effects as it will provide only information for decision makers, the public and other stakeholders on the type of developments for which developer contributions towards public art will be sought.

Overall, it is considered that the Supplementary Guidance (SG) – Developer Contributions Towards Public Art is a qualifying plan or programme that will not have significant environmental effects and that, as part of a wider policy framework, significant environmental effects arising from new development permitted under the terms of the adopted Local Development Plan and associated guidance will be avoided. It is for this reason that West Lothian Council believes that Supplementary Guidance (SG) - Developer Contributions Towards Public Art does not require a Strategic Environmental Assessment. However, should a particular instance arise where adherence to the SG was considered to be potentially detrimental to the environment, the Development Management process would be expected to have regard to such matters and to apply appropriate and proportionate mitigation measures through planning conditions on any planning permissions released by the council.

4. Responses from Consultation Authorities

CONSULTATION AUTHORITY	LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS
Historic Environment Scotland	No
Scottish Environment Protection Agency	No
Scottish Natural Heritage	No
OVERALL VIEW ON LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS	No

- SEA GATEWAY
- SEPA
- HISTORIC ENVIRONMENT SCOTLAND
- SCOTTISH NATURAL HERITAGE

5. Appendices

Appendix 1 – Statutory Guidance (SG) - Developer Contributions Towards Public Art

Appendix 2 - Statutory Notice