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**PROPOSED EAST LOTHIAN LOCAL DEVELOPMENT PLAN
FURTHER INFORMATION REQUEST 06, ISSUE 12 – PLANNING
FOR HOUSING
HOMES FOR SCOTLAND SECOND RESPONSE**

09 OCTOBER 2017

ABOUT HOMES FOR SCOTLAND

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Second Response to East Lothian Proposed Local Development Plan Examination – FIR 06, Issue 12, Planning for Housing

Introduction

Homes for Scotland (HFS) welcomes the opportunity to comment on the Council's response to Further Information Request 06, Issue 12 of the Proposed East Lothian Local Development Plan Examination on Planning for Housing.

This submission responds to questions 4 – 25 of the Reporter's Further Information Request, and makes comment on the response submitted by East Lothian Council (ELC) on 22nd September 2017.

HFS considers that the 2017 Housing Land Audit (HLA) represents the most up to date position on land supply and programming for East Lothian. It was agreed between ELC and HFS in September 2017 and therefore should be used in place of the 2015 HLA at all times in the LDP evidence base, policies and text.

The adoption of the latest agreed HLA for LDP Examinations is endorsed by Scottish Ministers through the recent Edinburgh LDP Examination.

HFS has updated East Lothian Proposed LDP Table HOU2 and submits Table 1 below as evidence to support the HFS response to questions 2 – 25. The methodology used within this updated table is explained throughout the subsequent response to the relevant questions.

For clarity, the updated Table HOU2 set out in Table 1 includes the following:

- SESplan housing requirement equal to the SPP 2014 housing supply target (HST);
- A generosity margin has been added to the housing supply target as required by SPP 2014 (paragraph 116) to provide the housing land requirement (HLR);
- The agreed 2017 HLA has been used to inform housing completions to 2017, the contribution from the established supply, contribution from new allocations, and contribution from Blindwells;
- A HST and HLR have been calculated for the period 2024-28 to be compliant with SPP 2014 (paragraph 119). This methodology follows the method adopted by the Reporter in the Edinburgh LDP Examination (as set out below in paragraph 7.3);
- For the period 2024-28 the contribution from the established supply and contribution from Blindwells have been incorporated within the contribution from new allocations row;
- The resulting undersupply or surplus of housing land based on the total land supply compared to the housing land requirement has been calculated (explained in paragraph 7.6 below).

A 20% generosity margin that is set out in Table 1 below aligns with the Council's own view on land supply as set out in the 2017 HLA to 2024 at least. HFS is also of the view that a 20% generosity margin best reflects the dynamic nature of the established land supply within East Lothian.

The following HST supporting documents are submitted together with this response.

- HFS Document 1 - Edinburgh LDP Examination Report (June 2016)
- HFS Document 2 – Homes for Scotland letter to East Lothian Council re Housing Site Programming, 1st March 2016
- HFS Document 3 – Letter from Chief Planner, 29th September 2017

Table 1 – Updated Table HOU2 (20% Generosity)

Housing Land Requirement	2009-19	2019-24	2024-28	2009-28
SESplan Housing Requirement (Housing Supply Target)	6,250	3,800	3,040	13,090
Generosity (20%)	1,250	760	608	2,618
Housing Land Requirement	7,500	4,560	3,648	15,708
Meeting the Housing Land Requirement				
Housing Completions 2009 -2017	3,064	0	0	3,064
Contribution from Established Supply (2017 Audit)	1,213	3,213	594	5,020
Contribution from Small Sites	70	106	140	316
Contribution from New Allocations	331	3,545	1,265	5,141
Contribution from Future Windfall Sites	42	105	55	202
Loss of Supply to Dwelling Demolitions	-3	-8	-6	-17
Contribution from Blindwells	0	291	388	679
Total Land Supply	4,647	7,146	2,296	14,089
Undersupply / Surplus of Housing Land	-2,783	2,692	-1,212	-1,303

Housing Supply and Generosity

Question 4.

The reporter notes the council's explanation that it has chosen to add generosity to the supply of housing, not the housing requirement, to ensure enough effective land is available at all times.

(a) In the proposed plan, paragraph 3.32, it is stated: ***“The resultant housing land shortfall has informed the amount of additional housing land needed and new site allocations made by this LDP”***. The council is asked to explain how this statement corresponds with that stated within the council's Position Statement: ***“Additional sites were selected and added to the proposed LDP housing land supply until the cumulative completions from them met SESplan's Housing Requirement / Housing Land Requirement for each plan period. Additional sites were selected and added until the requirement for each plan period was exceeded by 10-20%”***.

4.1 Scottish Planning Policy (SPP) 2014 requires the overall housing supply target to be increased by a margin of 10 – 20% *“to establish the housing land requirement, in order to ensure that a generous supply of land for housing is provided. The exact extent of the margin will depend on local circumstances, but a robust explanation for it should be provided in the plan”* (paragraph 116). SPP then goes on to state in paragraph 118 that *“Strategic development plans should set out the housing supply target for the plan area, each local authority area, and each functional housing market area.”*

4.2 SESplan was prepared and approved before SPP 2014 was published. As such SESplan's terminology differs from that of SPP 2014, referring to a housing requirement. Homes for Scotland contends that it can be reasonably presumed that the SESplan housing requirement can be equated to the housing supply target within SPP 2014.

4.3 This matter was discussed for Issue 05 of the Edinburgh LDP Examination Report (HFS Document 1) where the Reporter concluded that the approved SDP's 'housing requirements' are the 'housing supply targets':

“The housing supply target is based on the HNDA but is a policy view of the number of homes that are needed by local authority area. SESplan predates current Scottish Planning Policy so does not use the word target but refers to housing requirements and housing land requirements. However for the purposes of the examination there is nothing to suggest to me that the figures in SESplan should not be interpreted as the target”.

4.4 The Reporter's recommendations for Edinburgh LDP Examination were accepted by Scottish Ministers. Therefore, to comply with SPP 2014, the East Lothian LDP must add a generosity margin of 10-20% to the SESplan housing requirement (the housing supply target) to provide a housing land requirement. In addition to adding this generosity margin, the LDP must provide a *“robust explanation”* (SPP paragraph 116) for the margin chosen given the local circumstances.

- 4.5 The function of the generosity margin to ensure that additional land is added through the LDP to guarantee that a generous supply of land for housing is provided and the HST can therefore be met in full.
- 4.6 HFS does not agree with the Council's methodology in providing generosity to its land supply. The council states in bullet 3 on page 2 of its FIR response under "the provision of generosity in the supply" that to provide generosity:
- "more proposed new housing site allocations were added to the supply of housing land until the cumulative contribution of dwelling completions anticipated from all sites would meet and exceed the housing land requirement for each plan period (2009-2019 and 2019-2024) by around 10-20%. This was to take account of the SDP examination findings and the SPP 2014 generosity range of between 10-20%."*
- 4.7 We do not consider that the requirements of SPP are met by this approach. SPP is clear in paragraph 116 and in diagram 1 on page 30 that an appropriate generosity margin of 10-20% is to be added to the HST to establish the HLR. It does not allow for other approaches, such as this one where the Council has sought to use the programming within the 2015 Housing Land Audit (HLA) and assumed programming set out within Technical Note 1, Appendix 2 to inform the generosity margin. There is no policy support for this methodology.
- 4.8 The Proposed East Lothian LDP does not explicitly set out the generosity margin of between 10-20% within the LDP together with the necessary reasoned justification. This is necessary to comply with the requirements of SPP 2014 and ensure that a generous supply of land for housing is provided. Table HOU2 should be updated to include the specific generosity margin.

(b) Related to the above, further explanation is required on how the council has determined the actual levels of generosity in the supply for each of the periods 2009/19 (10%) and 2019/24 (43%) as set out in Table 1, Appendix 1 of Technical Note 1 and the overall 23% generosity for period 2009/24. For instance, are the levels of generosity policy-led in some way depending on local circumstances? Where is this explained within the plan?

- 4.9 Please refer to the response to question 4a) above.
- 4.10 The Council's response to this question deals mainly with its use of the 2015 HLA and its assumptions for programming of allocated sites which have been set out within Technical Note 1, Appendix 2. HFS suggests that this programming should be updated, based on the agreed 2017 HLA for the following reasons:
- 4.11 The 2017 Housing Land Audit was agreed in September 2017 between HFS and East Lothian Council. This Audit includes LDP allocated sites, and is therefore the most up to date agreed position on land supply and programming of all sites in East Lothian. The programming set out within Technical Note 1, Appendix 2 has been superseded by the agreed 2017 HLA.
- 4.12 There was no formal period of consultation and agreement on programming carried out for the preparation of Technical Note 1, Appendix 2 by East Lothian Council, therefore the programming set out within the Appendix has not been agreed with the

home building industry. Conversely, the 2017 Housing Land Audit is not only a more up to date reflection of the programming of LDP sites, and all other sites in East Lothian, but it has also been agreed with Homes for Scotland, representing its home builder members, and represents a more reliable evidence base for the LDP than the programme in the Technical Note. The adoption of the most up to date Housing Land Audit for LDP Examinations has been deemed appropriate for the Edinburgh LDP Examination. The Reporter's recommendations and conclusions were accepted by Scottish Ministers.

- 4.13 East Lothian Council engaged Homes for Scotland in discussion on the programming in advance of the formal Proposed LDP consultation, and allowed HFS to comment on the proposed programming. At this time, in March 2016, HFS wrote to East Lothian Council (HFS Document 2). We dispute the Council's statement within paragraph 5, page 5 of its response to this FIR where it states:

"Importantly, Homes for Scotland was of the view that it would be possible for 'the Council' to meet the SDP Housing Land Requirement if it reconsidered the programming of sites that it proposed to allocate within its proposed LDP. The implication of this is that the anticipated rate of development on sites should be accelerated from the rate proposed by the Council at that time."

- 4.14 The Council's assumption here is incorrect. The letter from HFS expresses the following "elements of risk" in the way the Council anticipates the numbers being realised:
- The Council assumes all new site allocations will deliver homes from 2018/19 onwards. That would require planning permission for all those sites to be granted this year. This is unlikely as, to date, not all of the sites are subject of a planning application (as written in 2016);
 - Some of the sites are in locations which have unresolved infrastructure challenges;
 - Not all of the sites have a home builder attached to them; and
 - Some of the sites are very ambitiously programmed in terms of annual yields.
- 4.15 Our letter also stated that, "*we believe there is scope for you to reconsider your programming (to take these issues into account)*". The letter clearly showed support for the Council's approach, but raised concerns and suggested that the Council reconsiders its programming. In any event, the 2017 HLA has now been agreed and this should be used for all programming of land supply going forward as it supersedes the earlier assumed programming of the Council, set out in Technical Note 1, Appendix 2.
- 4.16 Homes for Scotland therefore wishes to clarify that, as set out within the Council's response to this FIR in paragraph 4 of page 5, we are not of the view that additional sites should be added to the LDP to address the identified undersupply in the first period to 2019. Additional allocations would be unlikely to deliver enough homes by 2019 to make a meaningful reduction in the undersupply to 2019. Furthermore, HFS agrees with the Council's statement in this paragraph that we have, overall, been positive in our comments in respect of the proposed LDP in terms of the engagement undertaken by the Council and the overall capacity of the land supply proposed within the LDP. HFS continues to support East Lothian Council's approach on housing delivery, and offers support and clarification within its comments on this FIR.

The comments raised within the responses to this FIR reflect HFS' consistent approach in promoting compliance of the LDP with SPP and in promoting the use of the most up to date evidence available.

Question 5.

In adding generosity to the supply rather than the housing requirement, the reporter notes the council's reasons for this are twofold: in recognition of the SESplan examination findings; and due to concerns over measuring the 5-year effective land supply against an inflated requirement which is not meant to be satisfied and would be unnecessarily challenging. Are there any other reasons why the council has added generosity to the supply?

- 5.1 Please see the response above to question 4a) and 4b).
- 5.2 Despite the Council's reasoning for the provision of "additional generosity in the housing land supply", the methodology used by the Council in adding generosity to the housing land supply does not comply with SPP 2014 which requires that a generosity margin of 10-20% must be added to the housing supply target to reach a housing land requirement and ensure that a generous supply of land is available to allow the housing supply target to be met in full.

Question 6.

What is the council's understanding of why SPP 2014 requires that a generous supply of land for housing is provided?

- 6.1 The function of the generosity margin is to ensure that additional land is added through the LDP to guarantee that a generous supply of land for housing is provided and the HST can therefore be met in full. It allows for the possibility that not all allocated sites will be deliverable at the rate anticipated at the time of adoption of the plan.
- 6.2 Regardless of the reasoning behind this, SPP remains clear that a generosity margin of 10-20% must be added to the housing supply target to reach a housing land requirement to ensure that a generous supply of land for housing is provided (SPP paragraph 116 and process also illustrated in Diagram 1, page 30).

Question 7.

The council is asked to confirm whether any distinction has been made between the amount of housing programmed to be built and the amount of housing land available at the point of adoption of the plan, with regard to the figures set out within Table HOU2.

- 7.1 As previously stated, HFS believes that table HOU2 within the LDP must be updated using the 2017 agreed HLA rather than the 2015 HLA. The 2017 Audit gives up to date programming. Updated versions of Table HOU2 are provided within the introduction to this submission (on page 4) which give completions to 2017 and include the established land supply and programmed LDP allocations as set out in the 2017 HLA.
- 7.2 The updated versions of Table HOU2 also address an issue raised by HFS in its Proposed Plan consultation response. SPP (paragraph 119) requires that "*Local development plans in city regions should allocate a range of sites which are effective or expected to become effective in the plan period to meet the housing land requirement of the strategic development plan up to year 10 from the expected year of adoption.*" The East Lothian LDP is expected to be adopted in 2018, therefore the Council must allocate land up to 2028. The Proposed Plan, however, does not explicitly set out allocations for the period of 2024-28. In the HFS updated Table HOU2 (at question 4a), the housing land supply and housing land requirement (based on a 20% generosity margin) have been set out to 2028.
- 7.3 Within the updated HFS Table HOU2, we set out a specific requirement for the post-2024 period of 4 years from 2024-28. This has been calculated using agreed methodology from the Edinburgh LDP examination, whereby the Reporter accepted City of Edinburgh Council's calculations of annualising the 2019-24 figure and rolling out for a further 2 years (where 10 years post adoption was 2026). For East Lothian, this would be calculated by dividing the housing supply target for the period of 2019-24 of 3,800 homes by 5, and multiplying that 760 homes by four to equate to a housing requirement of 3,040 for the final 4 years of the Plan, as set out within the table(s).
- 7.4 HFS does not consider there to be any necessity to provide a 'read across' between SPP 2010 and SPP 2014 and that the table provided on page 9 of the Council's response is misleading. SPP2010 was revoked prior to the commencement of the preparation of this LDP. Table HOU2 in the LDP should set out the housing supply target (the SDP housing requirement), the chosen generosity margin adopted by the authority, and the resulting housing land requirement to 10 years post-adoption (to 2028), not to 2032. An updated version of Table HOU2 should follow the HFS example (set out in question 4a) rather than the example provided by the authority.
- 7.5 HFS does not believe that there is any "inflated requirement" following the justification set out in our response to question 4a) and reasonably concluding that the SESplan housing requirement is equal to the SPP 2014 housing supply target therefore requiring the addition of a generosity margin (of 20%) to reach a housing land requirement for each of the plan periods 2009-19, 2019-24 and 2024-28. The housing requirement set by SESplan for East Lothian includes an element of redistribution of Edinburgh's need and demand which was a policy decision of SESplan, and one which was agreed by all member authorities at the time of approval of the SDP. The housing requirements set out within SESplan are required

by statute to be met by the LDP, and the LDP is also required to comply with the provisions of SPP 2014.

- 7.6 HFS notes the undersupply in land allocated by the LDP expected to deliver by the end of the first SDP period of 2009-19, however we acknowledge that the addition of further sites at this stage will not solve this issue, as these sites would be unlikely, at this late stage, to make a meaningful contribution to the SDP period up to 2019. Yet there remains a requirement to allocate enough land to meet the housing supply target in each of the three periods of the plan (2009-19, 2019-24, and 2024-28). Looking at the HFS amended versions of Table HOU2 on page 4 above, for a generosity margin of 20% there is a surplus in the SDP period from 2019 to 2024, and for a generosity margin of 20% there is an undersupply in the final period from 2024-28. Overall across the LDP plan period to 2028, there is an undersupply of 1,303 homes when a generosity margin of 20% is adopted.
- 7.7 HFS agrees with the Council's conclusion that it has a 6 year effective housing land supply based on the 2017 HLA.

Question 8.

The reporter notes the council's comments regarding the intention of SPP 2010 and the council's view that SDP allocations are not an 'interim' requirement. As SESplan and its associated supplementary guidance has identified a requirement for the period 2009/19, what ultimately does this mean for this local development plan?

- 8.1 SESplan Policy 5 is clear that the requirement (housing supply target) for both periods 2009-19 and 2019-24 must be met within the LDP.
- 8.2 SPP 2010 has been replaced by SPP 2014 before the East Lothian LDP process began, and is therefore not a relevant consideration for this or any other LDP.

Housing Land Audit

Question 9.

The reporter notes the council's position that it is the 2015 housing land audit that the plan is based on and that this audit does not include the new allocation sites as it pre-dates the publication of the proposed plan. Further to this:

(a) The 2015 audit should be provided in an excel spreadsheet format.

(b) Clarification is required on the current status of the 2016 and 2017 audits and how far they have been agreed with Homes for Scotland. If not agreed, drafts should be provided (in excel format) along with commentary on any sites in dispute.

- 9.1 HFS considers the 2017 HLA to be the most appropriate audit to use for the LDP, instead of the 2015 HLA. There were no disputed sites within the 2017 HLA and it has been agreed by both HFS and East Lothian Council. The adoption of the most up to date Housing Land Audit for LDP Examinations has been deemed appropriate for the Edinburgh LDP Examination. The Reporter's recommendations and conclusions were accepted by Scottish Ministers.

Question 10.

The reporter notes the council's concerns over the use of Planning Advice Note (PAN) 2/2010 'marketability' criterion in order to determine the effectiveness and the programming of sites through the audit process which is stated, can result in a numerical shortfall of effective housing land.

(a) Clarity is sought on the extent to which the programming of sites within the effective supply within the 2015 audit is based on the entire PAN 2/2010 criteria set out in paragraph 55, including marketability.

(b) Table HOU2 indicates that the established land supply is based on the 2015 audit. Relative to the council's concerns regarding marketability, does it consider that the contribution from the established land supply up to 2024 (total 4,813 units) shown in Table HOU2 is an underestimate of the amount of effective land?

(c) If so, what established sites does the council consider could be effective and contribute over the period to 2024?

- 10.1 HFS agrees that all factors within PAN 2/2010 are taken into account during the Audit process.
- 10.2 The Council notes "on-going delay in site starts" reflected in the 2017 HLA. HFS does not consider this to be an accurate depiction of the land supply and delivery position in East Lothian. Each year the Audit process represents a snapshot in time of the land supply and programmed completions in East Lothian. The 2017 HLA is the first Audit to include the LDP allocations within the Audit as this is the starting point for the plan. The delay that the Council refers to can only be assumed to be equated to delays when comparing the agreed 2017 HLA to the assumed programming included within Technical Note 1, Appendix 2 which was calculated using the 2015 HLA as a base, and did not have the benefit of being agreed with the home building industry, or having the full and up to date programming for home builders, as the 2017 HLA does. As summarised above in question 4b), the HFS letter of March 2016 raised potential issues with the over-optimistic programming set out within the Technical Note supporting the LDP.
- 10.3 An additional factor in the changes to housing delivery since the 2015 Audit is the time taken for the Council to grant planning permission (and other approvals such as building warrant and RCC) for housing sites, and the rate of development is often controlled by the Council within planning conditions, therefore on certain sites this rate cannot be exceeded by the home builder.
- 10.4 If, as the council suggests, the constrained sites may be able to be developed within the plan period, a justification must be provided by the authority as to the reasons that each site is constrained and what actions would be required to make them effective. HFS is willing to work with the Council on reducing the number of constrained sites, and encouraging delivery (although we acknowledge that there are very few constrained sites within the East Lothian HLA, with only 106 homes in total constrained in the 2017 HLA).

Question 11.

It is also noted within the 2015 audit that although a small list of constrained sites is included within the schedule, a figure for the total constrained is excluded from the summary. Details of why this is the case is required and how these sites are considered constrained.

- 11.1 Homes for Scotland reiterates that the 2017 Housing Land Audit should be used by East Lothian Council for its Local Development Plan as the most up to date agreed position on land supply and programming available.
- 11.2 HFS notes that only 40 units were considered constrained in the 2015 HLA, and 106 constrained in the 2017 Audit. Neither audit provides reasons why these sites are constrained. While the Council remarks that "these sites are constrained mainly due to marketability issues" there is no evidence provided to substantiate this suggestion. From a HFS perspective, it seems that ownership and availability to home builders is the issue in the majority of constrained sites in the 2017 HLA rather than marketability issues

Question 12.

As the 2015 audit only provides site programming up to 2022, explanation is required of how the established land supply figure of 2,143 units for the period 2019/24 in Table HOU2 has been arrived at.

- 12.1 Rather than relying on a continuation of programming from sites within the 2015 Audit, the 2017 HLA provides programming up to 2024 and should be used in place of the 2015 HLA as the most up to date reflection of the land supply position and programming from 2017 onwards to 2024. It can also be used to extrapolate required numbers to 2028 as the Council has already done so in the all sites 2032 tab in the 17 HLA.

Question 13.

Finally on this matter, the council is asked whether a more up to date audit should now be used as the basis for the plan given that progress on some sites may now have moved on from 2015, and if so, how this would affect the figures in Table HOU2.

- 13.1 HFS considers the 2017 Audit to be the most appropriate basis for the Plan given that some sites have now moved on from 2015, and Table HOU2 should be updated accordingly. HFS includes an updated version of Table HOU2 on page 4 within the introduction of this submission which we request that the Reporter considers in relation to this question.
- 13.2 The HST and HLR should be identified to 10 years post-adoption of the LDP, to 2028. The Council has not provided this calculation in the LDP or in the table on Page 15 of its FIR response. This is contrary to SPP policy 119.
- 13.3 The Council's methodology for calculating the HST post-2024 differs from the HFS methodology. HFS has used the method that the Reporter in the Edinburgh LDP Examination adopted – this is set out above in paragraph 7.3. ELC relies on the HNDA to project out from 2024 onwards, but this figure does not include a generosity margin, nor the SDPA policy decision to redistribute some of Edinburgh's need and demand to neighbouring authorities. We therefore consider the HFS approach to be the most reasonable methodology for calculating the HST for the final 4 years of the LDP. The Reporter's recommendations and conclusions for the Edinburgh LDP Examination were accepted by Scottish Ministers..

New allocations

Question 14.

With reference to Technical Note 1, Appendix 2, on what basis has the council determined the programming of each of the new allocations over the period 2017/19 and the period 2019/24?

- 14.1 Homes for Scotland suggests that the programming set out within Technical Note 1, Appendix 2 should be updated, based on the agreed 2017 Housing Land Audit for the following reasons:
- 14.2 The 2017 Housing Land Audit was agreed in September 2017 between Homes for Scotland and East Lothian Council. This Audit includes LDP allocated sites, and is therefore the most up to date agreed position on land supply and programming of all sites in East Lothian. The programming set out within Technical Note 1, Appendix 2 has therefore been superseded by the agreed 2017 Housing Land Audit.
- 14.3 There was no formal period of consultation and agreement on programming carried out for the preparation of Technical Note 1, Appendix 2 by East Lothian Council, therefore the programming set out within the Appendix has not been agreed with the home building industry. Conversely, the 2017 Housing Land Audit is not only a more up to date reflection of the programming of LDP sites, and all other sites in East Lothian, but it has also been agreed with Homes for Scotland, representing its home builder members engaged in the delivery of housing in the local authority area.
- 14.4 East Lothian Council engaged Homes for Scotland in discussion on the programming in advance of the formal Proposed LDP consultation, and allowed HFS to comment on the proposed programming. At this time, in March 2016, HFS wrote to East Lothian Council (HFS Document 2) expressing concern over “ambitiously programmed” sites and the assumption that allocated sites will deliver homes from 2018/19 onwards which is considered over-optimistic. This letter also stated, “*we believe there is scope for you to reconsider your programming (to take these issues into account)*”. Therefore, concern was raised by Homes for Scotland on the suggested programming at this time. Now that the 2017 Housing Land Audit has been agreed, we conclude that this audit should be used instead of any programming set out within Technical Note 1, Appendix 2.

Question 15.

How far does the programming of the new allocations match that within the latest housing land audit? Where there is a discrepancy this should be explained.

15.1 HFS suggests that the agreed 2017 HLA is used to ensure that there are no discrepancies.

Question 16.

With reference to paragraph A1.43 of Technical Note 1, what '*similar assumptions*' to the 2015 audit have been applied to determining the programming of the new allocations.

16.1 HFS has no comments on this question.

Question 17.

How have the criteria within PAN 2/2010 (paragraph 55) been used to consider the effectiveness and programming of new allocation sites? How has marketability been taken account of? Does the council consider that the contribution from the new allocations up to 2024 (total 5,021 units) shown in Table HOU2 is likely to be an underestimate?

- 17.1 HFS agrees with the Council that the contribution of 5,021 homes from new allocations to 2024 shown in Table HOU2 does not represent an underestimate. We believe it, in fact, to be an overestimate. In the updated Table HOU2 on page 4 of this response, based on the 2017 HLA, we calculate that the contribution from new allocations to 2024 is 4,331 units. We also agree that all criteria within PAN 2/2010 have been taken account of in discussions between HFS and the Council on the 2017 HLA.
- 17.2 HFS notes that the council refers again to on-going delay in site starts. The delay that the Council refers to is assumed to be equated to delays when comparing the agreed 2017 HLA to the assumed programming included within Technical Note 1, Appendix 2 which was calculated using the 2015 HLA as a base, and did not have the benefit of being agreed with the home building industry, or having the full and up to date programming for home builders, as the 2017 HLA does. As summarised above in question 4b), the HFS letter of March 2016 raised potential issues with the over-optimistic programming set out within the Technical Note supporting the LDP.

Question 18.

With regard to the council's interim planning guidance and the comments in paragraphs A1.40 and A1.41 of Technical Note 1, which anticipate early progress on new allocations; to what extent have the new allocations progressed through the planning application process? A list of current planning applications and permissions granted including dates and plan proposal references should be provided.

18.1 HFS notes the table and has no comments on this question.

Question 19.

Given that the outcome of the examination is now to be later than that anticipated within Technical Note 1 (stated as mid-autumn 2017), is the council still confident that the proposed programming of new allocations, particularly for the year 2017/18 can be achieved? In allocating sites, how has the council demonstrated that it is confident that land can be brought forward for development within the plan period and that the range of sites allocated will enable the requirement to be met?

- 19.1 HFS agrees that there will be an undersupply against the HST to 2019 in the emerging LDP, however we have acknowledged throughout this submission that there is little that can be done at this stage to address this undersupply given the timescale for adoption of the LDP in 2018. Further allocations will be unlikely to make a meaningful contribution to the undersupply by 2019. However, SESplan still requires that the overall target to 2024 is met.
- 19.2 As previously stated, HFS believes that the programming set out within Technical Note 1 is superseded by the agreed 2017 HLA which sets a more up to date programming for new allocated sites.
- 19.3 HFS does not accept that a 91% generosity margin is added to the HST at any point, as suggested by the Council in its response. This ignores the undersupply against the HST to 2019, and is misleading. HFS suggests that this figure is disregarded by the Reporter.
- 19.4 In considering the updated tables on page 4 of this submission, in both generosity scenarios, HFS concludes that the HLR to 2024 is expected to be met based on the 2017 agreed Audit.

Five-year effective supply

Question 20.

The reporter notes that Technical Note 1, Appendix 1 (Table 16c) sets out the 5-year effective land supply calculation from the year 2015. With regard to SPP paragraph 119, how does the plan demonstrate that it provides for a minimum 5-years effective land supply at all times? Has the council produced any rolling calculations of the 5-year effective supply?

- 20.1 HFS does not consider that the council has carried out a 'rolling' calculation of the 5-year effective housing land supply. The Council's calculation has interpreted 'rolling' as addressing the cumulative undersupply from 2009-17 within the 5-year effective supply target.
- 20.2 However, Homes for Scotland considers that the LDP will provide a 5 year housing land supply at all times from the date of adoption against the housing supply targets. This is only due to the Council's adoption of a generosity allowance of 20% to identify the appropriate housing land requirement.

Question 21.

21. Within Advice Box 1 on page 68 of the proposed plan, what is meant by “*or any housing monitoring paper*”? Does the council have an example for this examination?

21.1 The Council's response to this question confirms that it cannot commit to the preparation of a housing monitoring paper, therefore we suggest that the words “*or any housing monitoring paper*” are removed from the Advice Box on page 68 and the most recent HLA is used. The Audit is agreed annually and could be supplemented with an additional table to calculate the 5-year effective housing land supply.

Question 22.

With reference to paragraph 3.48 of the proposed plan:

(a) How does the council intend to operate the process of excluding ‘marketing constraints’ in determining whether there is a programmed shortfall of dwelling completions?

(b) What particular factors would be considered with regard to ‘marketing constraints’?

- 22.1 In the Council’s response, it states that market conditions have been the problem since the base date of the plan (2009/10). HFS suggests that acknowledgement must be given to the delays in the East Lothian LDP, now programmed for adoption some 8 years after the SDP base date. In addition, delays in the determination of planning applications and delays in making infrastructure decisions (e.g. the new secondary school in Musselburgh) are also factors in slower than anticipated housing delivery.
- 22.2 Further, the Council states that market constraints were created post 2008 that significantly affected the housing market and affected the ability of housing providers to deliver homes in East Lothian. Although HFS would acknowledge the significant impact of the recession on the industry, in East Lothian marketability does not seem to be a factor constraining site delivery. The bullets below set out the number of constrained units within the HLA from 2010 to 2017:
- 2010 HLA – no constrained sites
 - 2011 HLA – no constrained sites
 - 2012 HLA – no constrained sites
 - 2013 HLA – no constrained sites
 - 2014 HLA – 32 units constrained (no reason specified)
 - 2015 HLA – 40 units constrained (no reason specified)
 - 2016 HLA – 48 units constrained (no reason specified)
 - 2017 HLA – 106 units constrained (no reason specified)
- 22.3 Given the lack of constrained sites within the HLA from 2010 to 2013 and the very small number of units constrained from 2014 to 2017, it can reasonably be concluded that delays due to marketability of housing sites is not a significant issue in East Lothian. Indeed, HFS argues that ownership rather than marketability is the main issue for the majority of the 106 units constrained within the most up to date HLA.
- 22.4 The Council takes marketability into consideration as part of the HLA process, and the most recent Audit (2017) was agreed in September 2017 between HFS and ELC. HFS does not consider a ‘delayed’ site start to be a marketability issue. A number of factors influence the delivery timescales of a development including achieving necessary planning consents, negotiating the Section 75 agreement, securing Roads Construction Consent and other technical constraints can regularly hold up the commencement of development. All of these factors are taken into account in the annual HLA process.
- 22.5 Based on the 2017 Audit, and the relevant Planning Advice Note (PAN) 2/2010 (Affordable Housing and Housing Land Audits), HFS confirms that there is a 5-year effective supply of housing land at the point of adoption of the Plan.

- 22.6 PAN 2/2010 remains the relevant guidance on HLAs. The Council refers to the Scottish Government's Draft Planning Delivery Advice in its response. HFS does not consider this to be a relevant consideration.
- 22.7 Scottish Government Chief Planner, John McNairney, wrote to stakeholders on 29th September 2017. This letter (HFS Document 3) provides a key summary of Scottish Government workstreams, including the Draft Planning Delivery Advice. Within this section on page 2 the letter states:
- "Last year we consulted on the draft advice on housing delivery. Whilst stakeholders agreed with much of the content there remains disagreement on key elements around the provision of an effective housing land supply. Given the advanced stage of the planning review we want to avoid any conflict between established planning policy and guidance contained in SPP and the draft advice. Accordingly we are minded to withdraw the draft advice."*
- 22.8 Given that the Chief Planner is '*minded to withdraw the draft guidance*', we consider that the draft advice has limited, if any weight, and that PAN 2/2010 remains the relevant guidance. Indeed the Chief Planner goes on to confirm that "*in the meantime the terms of circular 2/2010 and SPP remain in force to provide policy context*". We assume the Chief Planner means to refer to the Planning Advice Note (PAN) rather than a Circular here, and this updated confirmation from Scottish Government on the status of the existing PAN and the draft delivery advice is welcome.
- 22.9 Irrespective of the small number of constrained sites in East Lothian, and our view that ownership rather than marketability is the predominant factor constraining these units, it is not appropriate to remove marketability as a relevant factor when calculating the 5-year effective housing land supply. As evidenced above, PAN 2/2010 remains the relevant guidance on HLAs, and the PAN includes marketability as part of the list of factors to be taken into consideration in demonstrating the 5-year effective housing land supply.

Question 23.

In paragraph 3.47 of the proposed plan (last sentence) it states: “*These are significant material considerations*”. The council is asked to clarify what it means by this statement relative to the presumption in favour of development that contributes to sustainable development within SPP.

23.1 HFS considers that the Draft Planning Delivery Advice should not be referred to as a relevant consideration in the LDP.

23.2 Scottish Government Chief Planner, John McNairney, wrote to stakeholders on 29th September 2017. This letter (HFS Document 3) provides a key summary of Scottish Government workstreams, including the Draft Planning Delivery Advice. Within this section on page 2 the letter states:

“Last year we consulted on the draft advice on housing delivery. Whilst stakeholders agreed with much of the content there remains disagreement on key elements around the provision of an effective housing land supply. Given the advanced stage of the planning review we want to avoid any conflict between established planning policy and guidance contained in SPP and the draft advice. Accordingly we are minded to withdraw the draft advice.”

23.3 Given that the Chief Planner is ‘*minded to withdraw the draft guidance*’, we consider that the draft advice has limited, if any weight, and that PAN 2/2010 (Affordable Housing and Housing Land Audits) should remain the relevant guidance. Indeed the Chief Planner goes on to confirm that “*in the meantime the terms of circular 2/2010 and SPP remain in force to provide policy context*”. We assume the Chief Planner means to refer to the Planning Advice Note (PAN) rather than a Circular here, and this updated confirmation from Scottish Government on the status of the existing PAN and the draft delivery advice is welcome.

24.4 SPP itself sets out the range of principles by which policies and decisions should be guided in paragraph 29, and goes on to state in paragraph 33 that “*where relevant policies in a development plan are out-of-date or the plan does not contain policies relevant to the proposal, then the presumption in favour of development that contributes to sustainable development will be a significant material consideration*”. HFS considers the draft Planning Delivery advice to have very little weight in the decision-making process by comparison to the ‘presumption’ which has ‘significant weight’.

Question 24.

Within the Housing Position Statement, the council makes reference to the Draft Planning Delivery Advice: Housing and Infrastructure. The council considers that the calculation of the 5-year effective supply contained within the draft advice excludes completions achieved since the base date of plan (a reflection that actual take-up could be a function of market demand). Explanation is required on how the council reaches this conclusion and where in the draft advice this matter is confirmed.

- 24.1 HFS considers that the Draft Planning Delivery Advice should not be referred to as a relevant consideration in the LDP or any supporting documents such as the Housing Position Statement. As set out above under question 24, the Chief Planner's letter of 29th September stating that he is '*minded to withdraw the draft guidance*' is evidence enough to show that the draft guidance has very little weight, and to support the removal of all references to the Draft Planning Delivery Advice from the LDP and its supporting documents.

Policy HOU2 – maintaining an adequate 5-year effective housing land supply

Question 25.

Clarification is required on the following criteria contained within the policy:

(a) Location – how would this criterion operate where a proposal does not comprise an ‘*extension to an existing settlement*’?

25.1 SESplan Policy 7 does not explicitly relate to extension of existing settlements as defined by the LDP, therefore HFS does not believe that SESplan Policy 7 takes the argument as far as the Council has in restricting the application of a land release policy to existing settlements only. However, it is acknowledged that SESplan Policy 7 states that any development considered acceptable under the policy must be “in keeping with the character of the settlement and the local area”.

(b) Scale – why is the maximum figure of 300 units considered appropriate? What evidence can the council point to that development below this scale would not predetermine or prejudice land allocation considerations in a future review of the plan?

25.2 HFS does not consider a maximum figure of 300 units to be appropriate and does not agree with the Council’s justification of this figure.

25.3 SESplan Policy 7 does not impose a maximum figure for land allocations or applications coming forward in the event of an undersupply. We believe that a housing development brought forward through Policy HOU2 in the event of an identified undersupply in the 5-year effective housing land supply should demonstrate its effectiveness and be capable of beginning within the 5-year period, and should be capable of making a meaningful contribution within that 5-year period. That does not mean that at least half of the development must be delivered within the 5-year period as suggested in the Council’s response, nor does it require the entire development to be delivered within that period or require the scale of the site to be restricted to 300 units or less. The scale of the undersupply should also be assessed at the time of an application coming forward under Policy HOU2. Each site is considered on its own merits, and there are other policy considerations in place through Policy HOU2 that would mean scale of development would be taken into account as the application is determined, without setting an arbitrary maximum figure.

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