

FALKIRK COUNCIL

**Subject: FALKIRK LOCAL DEVELOPMENT PLAN –
SUPPLEMENTARY GUIDANCE
FEEDBACK ON CONSULTATION ON FOURTH BATCH**
Meeting: EXECUTIVE
Date: 29 SEPTEMBER 2015
Author: DIRECTOR OF DEVELOPMENT SERVICES

1.0 INTRODUCTION

- 1.1 Members will recall that a report outlining the process for preparing Supplementary Guidance (SG) in Falkirk was presented to the Executive on 25 February 2014. The Executive authorised officers to prepare and undertake consultation on the sixteen SG notes referred to in the Proposed Falkirk Local Development Plan (LDP). It was agreed that the outcome of these consultations and the proposed content of the finalised SGs would be reported back to the Executive on an ongoing basis.
- 1.2 Since that time the Council's suite of SGs linked to the LDP has increased from 16 to 17. The LDP Examination Report recommended that the Council should produce statutory SG on Renewable Energy, which should set out detailed policy considerations against which all proposals for renewable energy infrastructure developments will be assessed. On 13 May 2015 the Council agreed to accept all of the Reporters' recommendations to the LDP Proposed Plan.
- 1.3 As previously noted consultation on the majority of the SGs is being undertaken in several batches throughout 2014/15 as and when they are produced or revised. Three batches of SGs have already gone through their statutory consultation process, with the results of consultation and recommendations reported to the Executive on 27 May and 19 August 2014 and 17 March 2015. It is anticipated that these 10 finalised SGs will be approved with the Council's LDP shortly.
- 1.4 The fourth batch of SGs has now gone through its statutory consultation process. The following three SGs were included in the fourth batch:
- SG04 Shopfronts
SG11 Healthcare and New Housing Development
SG15 Low and Zero Carbon Development
- 1.5 This report sets out the results of the consultation and recommends a minor amendment to Draft SG15.
- 1.6 Once the SGs are finalised they will be submitted to the Scottish Ministers for approval. At the same time the Council must also send Scottish Ministers a statement setting out the publicity measures they have undertaken, the comments received and an explanation of how these comments have been taken into account. After 28 days have elapsed the authority may adopt the Supplementary

Guidance unless Scottish Ministers have directed otherwise. At that point the supplementary guidance forms part of the Local Development Plan (LDP) and assumes the same status for decision making.

2.0 SUMMARY OF SUPPLEMENTARY GUIDANCE

- 2.1 For background information purposes this section of the Committee Report includes a summary of the three SGs contained in the fourth consultation batch.

SG04 Shopfronts

- 2.2 SG04 is an updated version of the previous SPG Shopfronts (May 2006). It provides design guidance for businesses making a planning application to alter, refurbish or replace shopfronts.

SG11 Healthcare and New Housing Development

- 2.3 SG11 is a new topic. It provides guidance to developers on the level of financial contributions expected where new residential development is proposed within an area which will create deficiencies in primary healthcare capacity.

SG15 Low and Zero Carbon Development

- 2.4 SG15 is a new topic. It provides guidance and advice to developers on how low and zero carbon development technologies may be incorporated into the development process to ensure that there has been an overall reduction in CO² emissions to meet Building Standard Regulations.

3.0 CONSULTATION PROCESS

- 3.1 Over 300 key agencies, organisations and individuals were notified by letter or email of the commencement of the consultation process and the availability of the three Consultative Draft SGs on the Council website. All Community Councils were included in this mailing. Copies of the three SGs were also deposited at Council Offices (Abbotsford House and the Municipal Buildings), all Council Libraries and One Stop Shops.

- 3.2 Consultation took place over a 6 week period between 22 May 2015 and 3 July 2015.

- 3.3 Responses were received from the following 9 organisations:

Historic Scotland (SG04, SG15)
Ecosse Regeneration Management Ltd (SG11)
Gladman Developments Limited (SG11)
Hansteen Land Limited (SG11)
Homes for Scotland (SG11)
Manor Forrest Limited (SG11)
Stewart Homes (Scotland) Limited (SG11)
Ochilview Developments Limited (SG11)
Mrs Gillian Bellingham (SG11)

- 3.4 Detailed summaries of the comments received and the Council's draft responses are contained in Appendix 1. The issues raised by these organisations and the Council's response are summarised under the three SG headings.

4.0 PROPOSED CHANGES TO DRAFT SGs

- 4.1 In the light of the responses to the consultation a minor change is proposed to SG15. The revised wording is set out in Appendix 1. Subject to the insertion of the proposed change into the finalised version of SG15, the three SGs are recommended for approval.

5.0 IMPLICATIONS

- 5.1 Legal: The requirements and procedures for the preparation of SG are set out in Section 22 of the Town & Country Planning (Scotland) Act 1997, as inserted by the Planning, etc (Scotland) Act 2006, and in the Town & Country Planning (Development Planning) (Scotland) Regulations 2008.
- 5.2 Financial: None
- 5.3 Personnel: None.
- 5.4 Policy: Supplementary Guidance once adopted, will constitute a part of the statutory Development Plan for the Falkirk Council area.

6.0 RECOMMENDATION

- 6.1 That the Executive agrees to finalise:

SG04 Shopfronts

SG11 Healthcare and New Housing Development

SG15 Low and Zero Carbon Development

including modifications in response to consultation as detailed in Appendix 1, and to submit them to the Scottish Ministers for final approval.

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Director of Development Services

16th September, 2015

Contact officer: Louise Blance, Planning Officer, ext 4717

LIST OF BACKGROUND PAPERS

1. Falkirk Local Development Plan

Any person wishing to inspect the background papers listed above should contact Louise Blance on 01324 504717

APPENDIX 1

SUMMARY OF COMMENTS AND PROPOSED RESPONSES

SG04 Shopfronts

Organisation	SPG Para/ Section	Comment	Proposed Response
Historic Scotland	General	Welcome the provision of guidance to manage appropriate repair, restoration or alteration of historic shopfronts and modern shopfronts in historic buildings.	Comment noted.

SG11 Healthcare and New Housing Development

Organisation	SPG Para/ Section	Comment	Proposed Response
Ecosse Regeneration Management Ltd	General	The principle of charging developers for healthcare services via a levy on housing development is objected to in the strongest possible terms. The ever increasing cost of developer contributions threatens to undermine the economic viability of a substantial majority of development sites. It should not be up to housing developers to fund healthcare facilities via a development tax.	It had been established, through the LDP Examination process, that the principle of seeking developer contributions to address deficiencies in primary healthcare capacity arising directly from new house building is sound, so this is not an issue in considering this Supplementary Guidance for approval. The issue of development viability can be taken into account at the stage when a planning application is being determined, as provided in paragraph 5.15-5.16 of the draft SG.
Gladman	General	Agree with the Council and the Reporter	Support welcomed

Developments Limited		(Issue 23 LDP Report) that healthcare issues are an appropriate development plan consideration.	
	General	Concerned about the complexity of involving NHS Forth Valley in the development management process where SG is engaged.	The Council is aware of the need for a seamless working relationship with NHS Forth Valley in dealing with planning applications. NHS Forth Valley is a key stakeholder in the Community Planning Partnership where there is an established commitment to close working relationships.
	General	The majority of GP surgeries are not owned by the NHS but are businesses with decisions on expansion and changes taken with commercial as well as healthcare factors in mind. The private business of a third party may not be necessarily signed up to a Section 75 Agreement.	Noted. Any developer contributions will be transferred to NHS Forth Valley to address capacity deficiencies identified by NHS Forth Valley, and not to individual GP surgeries.
	General	Primary care services are funded by calculations on the basis of patient numbers, therefore any population increase as a result of development should give rise to additional funding in any event.	While funding is related to patient numbers through the weighted patient population allocations these are primarily related to demographic factors such as age and gender adjusted for additional needs such as morbidity, deprivation and remoteness. It had been established, as noted above, that the principle of seeking developer contributions to address deficiencies in primary healthcare capacity arising directly from new house building is sound.
	General	No provision is made for the development of sites not identified in the LDP.	Paragraph 5.9 of the draft SG states that the policy and SG will apply to any application for housing for 4 units and above in the pressured areas, so windfall sites as well as allocated sites are included.
	Section 5	Concerned that the process costs and requirements are unknowable until an application is submitted. This raises the	It is normal practice for final costs and contribution level to be discussed and negotiated at the application stage

		possibility of delay and harm to the development strategy of Falkirk LDP.	
	General	Suggest SG could be improved by addressing the impacts of Policy HSG01 and more detail on how deficiency in supply is to be monitored, and how funds collected will be used.	Policy HSG01 covers the housing growth strategy of the Council, which has already been approved. Options to change that strategy may be proposed by stakeholders during the preparation of the next LDP. The LDP strategy will be monitored regularly and NHS Forth Valley will be asked to provide regular updates on capacity issues.
Hansteen Land	General	Object to the SG in general on the basis that it reads as a list of aspirations that will be sought in all circumstances from developers and it is therefore not compliant with the requirements of Scottish Government Circular 3/2012 dealing with developer contributions.	The SG has been carefully prepared, through extensive liaison with NHS Forth Valley, to ensure that it is clear that contributions will only be sought from developments in locations where there is a capacity deficiency as identified by NHS Forth Valley, so it is not an indiscriminate wish list. Proposals for housing across much of the Council area will be unaffected by the implementation of the SG. The Council is well aware of the 5 test requirements to comply with Circular 3/2012 and will ensure that obligations are entered into which meet these tests.
	General	Question the need for an overall developer contributions document because we believe that this matter can be dealt with through policy and appropriate conditions.	The LDP contains a commitment to publish SG through policy INF06, and this has been approved through the Examination process and by the Council. Where appropriate the Council may attach conditions to a planning consent or use a S69 Agreement, as stated in paragraph 5.12 of the SG
Homes for Scotland	General	Homes for Scotland does not accept the principle of requiring the providers of new homes to contribute to the expansion of healthcare facilities. As such we objected to the policy at the Proposed Plan stage	The Reporter at the LDP Examination considered the arguments of Homes for Scotland and others with regard to the principle of requiring developer contributions through policy INF06, and these were rejected in favour of the Council's position. The Council accepted all of the

			Reporter's recommendations when the LDP was approved for adoption on 13 May 2015.
	Section 4	<p>No evidence has been provided to demonstrate that new development in the areas identified (Denny and Bonnybridge & Banknock) will create a requirement for new GP services, particularly at the rates indicated in the table on page 07. It appears to have been assumed that that the residents of new development in these areas will all be net additions to the current customer base of local GP service. i.e. that there is full in-migration from other areas. The table on page 7 shows an assumption that each new home will have yielded 2.24 'new' patients by 2024. No source is given for this assumption. At best therefore, the Council is only able to estimate how many 'potential additional patients' may move into these new homes. Until occupation has taken place it will not be possible to assess whether there is indeed any impact on local GP services, or whether this represents a net increase in patient numbers or a shift between existing practices.</p>	<p>The evidence of capacity deficiency is provided in the 5th column of the table on page 7 of the LDP, where the remaining capacity at GP surgeries is indicated for Denny (64 spaces) and Bonnybridge/Banknock (8 spaces). This is clearly insufficient to cope with all of the likely additional patients generated by the planned new housing shown in the third column of the table (2,077 for Denny and 1,060 for Bonnybridge/Banknock).</p> <p>The question of whether all occupants of new houses are new patients is one which was raised and discussed with NHS Forth Valley. While some residents may well move to a new house within one GP surgery catchment area, the house vacated will be occupied by a new resident (or residents) so a net increase in the catchment population will still take place. Research to inform the Council's forthcoming HNDA shows that the Denny and Bonnybridge area has the highest percentage of new build sales to external buyers of all settlement areas in Falkirk Council area. The same situation occurs for school catchments where there are increases in the numbers of school pupils generated by new housing and the Council has applied that policy requirement successfully for a number of years.</p> <p>The figure of 2.24 is derived from the census; this is the average household size for the Falkirk Council area.</p>
	General	Irrespective of the inclusion of Policy INF06 in the Falkirk LDP, Homes for Scotland objects to the principle of requiring home-builders to subsidise the provision of statutory	As stated above the principle of seeking developer contributions to address deficiencies in primary healthcare capacity arising directly from new house building is sound, so this is not an issue when considering this Supplementary

		healthcare services through the making of payments, via local authorities, to private GP practices.	Guidance for approval. Any developer contributions will be transferred to NHS Forth Valley to address capacity deficiencies identified by NHS Forth Valley, not to individual GP surgeries. While GP practices may often be private businesses they are contracted to provide services on behalf of the NHS.
	Section 4	Homes for Scotland remains concerned over the lack of certainty as to what developers will be asked to contribute towards, when any contribution might be sought, and what the level of contribution is likely to be. Whilst proposed ideas are mooted in the guidance, it is still not clear (ref, for example, paragraph 4.3) what the proposed solution is to addressing the shortfall of capacity in GP surgeries in the areas identified. Homes for Scotland objects to the guidance as it provides insufficient clarity on what developers will be contributing to and the timing and scale of their contributions. It is not therefore clear whether the contributions required will be fairly and reasonably relate in scale and kind to the proposed development.	When a relevant planning application is received NHS Forth Valley will be asked to provide information on the nature of the capacity enhancement planned for which a contribution is to be made, and when such enhancement will be implemented, in order that any planning obligation complies with the tests of Circular 3/2012
	Section 4	Homes for Scotland objects to the assumption that every new home will yield 2.24 'potential additional patients'. There is no evidence provided to support this and it is unclear whether any consideration has been given to movement of patients within practices within the plan area (or its sub areas) – as opposed to	See earlier response

		an assumption that all occupants of the proposed new homes will be net additions to the patient base.	
	General	Viability: insufficient consideration has been given to the likely impact of Policy INF06 and Supplementary Guidance 11 on the proposed developments which the LDP has identified in the Denny and Boroughbridge / Banknock areas (sic)	As mentioned earlier the issue of development viability can be taken into account at the stage when a planning application is being determined, as provided in paragraph 5.15-5.16 of the SG
Manor Forrest Ltd	General	Object to the principle of charging developers for healthcare services via a levy on housing development. Developers are already required to make contributions to strategic infrastructure, environmental infrastructure, physical infrastructure, community infrastructure, affordable housing and education. This additional cost will put the price of housing up still further.	As mentioned above the principle of seeking developer contributions to address deficiencies in primary healthcare capacity arising directly from new house building was tested through the LDP examination and found to be sound, so this is not an issue when considering this Supplementary Guidance for approval. The issue of development viability can be taken into account at the stage when a planning application is being determined, as provided in paragraph 5.15-5.16 of the SG.
Stewart Homes Ltd	General	Object to this new policy. Developers pay for education, strategic infrastructure, environmental sustainable flood management, road improvements....the list goes on. Another levy will only add to the price of houses and make them much more expensive.	See above
Ochilview Developments	General	Cannot believe what Falkirk Council is proposing. Why should house builders be	As mentioned above the principle of seeking developer contributions to address deficiencies in primary healthcare

Ltd		<p>supplementing health board budgets when every worker pays national insurance contributions? Doctors' practices are normally private and run as a business. Surely it is the house builders that need much more support, then there would be more housing available at a cheaper cost.</p>	<p>capacity arising directly from new house building was tested through the LDP examination and found to be sound, so this is not an issue when considering this Supplementary Guidance for approval. While GP practices may often be private businesses they are contracted to provide services on behalf of the NHS. Any developer contributions will be transferred to NHS Forth Valley to address capacity deficiencies identified by NHS Forth Valley, not to individual GP surgeries.</p>
Mrs Gillian Bellingham (member of Larbert, Stenhousemuir and Torwood Community Council)	General	<p>Note from the guidance that Larbert, Stenhousemuir and Torwood is judged to have adequate provision.</p> <p>Believes that the GP Practices in the area have been telling prospective patients moving in to the area for several years that their lists were full and directing them to the Health Board for allocation. Understand that planning is in place for up to 800 more houses in the Bellsdyke Road/Kinnaird area, this giving the potential for around 2000 more patients. It is difficult, therefore, to understand how there is enough free space in the practices to accommodate this volume of influx.</p>	<p>Information supplied by NHS Forth Valley in 2014 shows that 4 out of 5 GP practices in the Larbert/Stenhousemuir area have no spare capacity. There is no provision currently to levy any contributions from sites in Larbert/Stenhousemuir because the Council, through the LDP, is not proposing any housing expansion there over the next 10 years, except at a small site for 15 units on Denny Road (site inserted in the plan by the Examination Reporter). The number of houses remaining to be constructed at Bellsdyke/Hill of Kinnaird is estimated to be around 600 units, not 800. Policy INF06 can only be applied to new proposals seeking consent, but it does apply Council-wide so, should more housing be proposed in the future and overall capacity at GP surgeries becomes severely pressured, then the SG provisions can be updated to include Larbert/Stenhousemuir.</p>

SG15 Low and Zero Carbon Development

Organisation	SPG Para/ Section	Comment	Proposed Response
Historic Scotland	Section 3	Welcomes that historic environment considerations have been embedded into the document. Note that section 3 includes discussion of issues relating to impact on the setting of historic environment assets. Suggests it would be useful to include a link to Historic Scotland's Managing Change Guidance Note on Setting (www.historic-scotland.gov.uk/setting-2.pdf), in addition to the reference to micro-renewables guidance.	<p>Comment accepted.</p> <p>Proposed modification:</p> <p>Delete 1st sentence of line 5 within the 2nd column of table on page 06. Replace with;</p> <p>“The applicant should consider the setting of sensitive built heritage receptors such as Listed Buildings and Scheduled Monuments by assessing how the surroundings contribute to the ways in which it is understood, appreciated and experienced.</p> <p>Insert additional sentences: Development should seek to avoid adverse impacts through careful choice of technology and careful siting. Historic Scotland has produced specific guidance in relation to assessing impacts on setting: www.historic-scotland.gov.uk/setting-2.pdf.</p>