Scottish Planning Policy SPP3: Planning for Housing
Response on the Consultative Draft

Report by Ian L Young, Director, Strategic Services Division

1 Purpose of Report

1.1 This report provides a response to the Scottish Government document ‘Scottish Planning Policy SPP3: Planning for Housing – Consultative Draft’. The document invites views on the document, including a series of questions, to be submitted by 31 March 2008. A copy of the discussion document has been placed in the Members’ library.

2 Report Summary

2.1 This report considers the main issues for Midlothian Council arising from the replacement of the current SPP3 by the proposed consultation draft. A review of the consultation document suggests that the revised guidance introduces minimal change to the principal thrust of current guidance. There are a number of recommended changes to practice, but many of these are already measures followed by Midlothian Council, either independently, or in association with its structure plan partners.

2.2 The Appendix sets out the series of questions posed by the discussion document with a Council response where appropriate. The following report considers the main issues in greater detail, and as such also forms part of the response to the document.

3 Recommendations

Cabinet is recommended to:

a) Approve the contents of the attached report, including the Appendix, as the response to the Scottish Government document ‘Scottish Planning Policy SPP3: Planning for Housing – Consultative Draft’.

Ian L Young
Director

Date 3 March 2008
4 Report Implications

4.1 Resource Implications

The resource implications arising from this report are uncertain. Should the consultation report be finalised in its current form, additional resources could be required to enable Midlothian Council to undertake the additional requirements for Strategic Housing Needs and Market Assessments, urban capacity studies and identification of housing market areas. These additional costs cannot be quantified. Where these measures have been voluntarily implemented in the past, the costs have been met with difficulty from existing budgets.

4.2 Risk Implications

The new policy will require as standard procedure the introduction of additional studies, eg housing needs and market assessments, and if not funded and produced, there could be a risk that any housing requirement analysis will fail to satisfy Scottish Ministers’ scrutiny, with any development plans and local housing strategies based on such analysis not being adopted/ approved, consequently resulting in delays and expense.

4.3 Policy Implications

Strategy

The Government discussion paper and the Council’s response contained in this report address issues which are in accord with the following Council policies/ priorities:

Corporate Strategy – ‘We will strive to ensure that all Midlothian people have a home that meets their needs.’

Corporate Priorities 2008-11 – ‘1a Provide quality, affordable housing including increasing homelessness accommodation’ and with the specific actions of ‘deliver the 5 year housing land supply’; ‘new build house programme – 350 houses to be delivered 2008/09; and upgrade Council houses to Scottish Quality Standard by 2015.’

Consultation

This report is itself a response to a consultation exercise.

Equalities

This report is not proposing new services, policies, strategies, or plans (or significant changes to or reviews of them) and therefore has not been assessed for equalities implications. The consultation document considered in this report includes an Equalities Impact Assessment (EqIA).

Sustainability
1 **Sustainability**

The consultation paper gives consideration to sustainable settlement strategies as a means to address housing need. However the appropriateness of specific locations is a matter that will be fully explored through the development plan process.

2 **SEA**

There is no requirement for SEA. A SEA was carried out on the consultation draft SPP3.

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**Background papers: File 1513/ 2973**
5 Background

5.1 The current SPP3 Planning for Housing was issued in February 2003 to provide policy direction on the supply and location of housing. The consultation draft SPP3 document considers that the current SPP3 may not have been as effective as had been intended, and revising SPP3 now provides the opportunity to address such problems. It especially considers that it will help to overcome the problem of not achieving generous releases of land for housing, bringing forward sufficient land for housing in local plans, and resultant delays in creating houses. It also considers that it will help in meeting the Scottish Government’s new priorities, as expressed in Firm Foundations, of increasing house completions to a level of 35,000 units per annum across Scotland.

5.2 Although draft SPP3 is intended to provide updated guidance relevant to the current development plan system, it has also been prepared with relevance to the new planning system being introduced through the Planning etc (Scotland) Act 2006.

5.3 It would appear that the revised guidance introduces minimal change to the principal thrust of current guidance. It continues to require that adequate land is identified through the development plan process to meet requirements. The aim continues to be to create sustainable communities. It encourages the re-use of brownfield and infill land, extensions of existing communities and where justified, the development of new settlements. It seeks developments of high standard.

5.4 The revised guidance continues to require that housing land audits (HLA) are prepared, to identify land supply with the aim of maintaining sufficient effective land for at least the following 5 years at all times. The annex sets out guidance on HLAs requiring that they identify expected completions for the following 7 years. These requirements are already met by the Lothian Authorities.

5.5 Much of the policy direction, including some of the new requirements, is already being met by the Edinburgh and the Lothians Structure Plan Authorities, including Midlothian Council. For example the revised guidance places more emphasis on the requirement to prepare Strategic Housing Needs and Market Assessments (SHNMA), to carry out urban capacity studies and to identify housing market areas. On these aspects it is considered that the Edinburgh and the Lothians Structure Plan has already respected such requirements, and the revised guidance will cause little concern. It also requires the creation of strong linkages with local housing strategy (LHS), and this is an area that could be strengthened at strategic level for Edinburgh and the Lothians.

5.6 The draft SPP3 poses 12 questions, inviting comments specifically to these, but also inviting general comments. It is notable that of these questions, only two relate to the main thrust of the policy statement, confirming the comment in para 5.3 above that there is only minimal change to the main thrust of the guidance.

5.7 Draft SPP3 includes three Annexes: planning guidance on Houses in Multiple Occupancy (HMOs); a summary of the guidance on Strategic Housing Needs and Market Assessments (SHNMA); and guidance on Housing Land Audits (HLA).
The Scottish Government proposes to withdraw PAN38 – Housing Land, which currently provides advice on HLAs, urban capacity studies and the methodology for identifying housing land requirements. This proposed approach would appear to diverge from that advocated by Scottish Government, which is to limit the content of any SPP to providing a statement of government policy, with related elements of advice restricted to a Planning Advice Note (PAN), as is currently the situation. Those elements of the draft SPP3 covering SHNMA and HLA are in fact guidance, and not statements of policy, and may be better retained in a revised PAN.

6 Identification of Housing Land Requirements

6.1 One of the purposes of updating SPP3 is to increase delivery of housing to meet the Scottish Government ambition of achieving 35,000 house completions per year, as specified in Firm Foundations discussion document. This Council has already responded to the discussion document, questioning the basis of this figure, and the need for this level of building in perpetuity. No justification has been given for this level of build. It is suggested that any reference to an annual house completion rate should be removed from the SPP3. Scottish Government targets on this front could be the subject of change, and should not be constrained by a commitment made within the text of SPP3.

6.2 The draft SPP3 has been introduced as a means to overcome the problems of slow delivery of house completions, suggesting this is a function of insufficient housing allocations in development plans. This is considered to be a simplistic statement, given that there are locations where there are significant allocations of land provided through local plans, but housebuilders are not delivering houses, for a number of reasons. Some of these reasons, including infrastructure constraints and land ownership problems, have already been explained in responses to Firm Foundations and to the Housing Task Force.

6.3 The document suggests that there should be a better link between local housing strategies and development plans, and this could provide benefits. However these processes have different time periods and review timetables and there will be problem of synchronising these two separate systems. Historically these processes have concentrated on different aspects of housing requirements, with the LHS concentrating on tackling homelessness and the provision and quality of social housing. The LHS has also focussed on the individual local authority level, whilst development planning has had the advantage of wider strategic-level guidance through structure plans. The draft SPP3 recognises this issue, by seeking answers to Q4 on the difficulties in synchronising the two systems, however it does not suggest measures to provide for strategic level Housing Strategies, on a par with strategic development plans (SDPs), and this will require to be addressed.

7 Strategic Housing Needs and Market Assessments (SHNMA)

7.1 The proposed requirement to carry out some form of SHNMA would seem to be an essential component of development plan preparation. It is noted that draft SPP3 recognises that there are established practices which work well, and that most local authorities would be implementing a co-ordinated approach to identifying housing requirements. However it is suggested that adopting a similar approach across all
authorities should help minimise the conflict between housebuilders and planning authorities regarding the methodology of establishing levels of need.

7.2 It is difficult to make comment on the SHNMA methodology, until this is available in full. A summary version only is available in Annex A. It is understood that housing needs and market assessments have been used principally to identify the scale of ‘affordable’ need in housing market areas (HMAs). This was the purpose of the 2005 Lothian Housing Needs and Market Study. Its conclusions were incorporated into the reassessment of housing need when considering the need to prepare an alteration to the Edinburgh and the Lothians Structure Plan, and also provided the basis of Midlothian Council’s social house building programme. However it is unclear if the proposed methodology has been used/ trialled as a means to provide the basis of housing land requirements for all tenures, as well as for identifying affordable housing needs. It is therefore impossible to provide views on the SHNMA methodology until full details are available.

8 Housing Land Timescales

8.1 Draft SPP3 requires the allocation of housing land for 11 years and an indication for the period beyond, upto year 20. The draft SPP3 suggests it will be possible to set the 11 year requirement as a 2 phase requirement (6 + 5 years). Enabling the introduction of phasing would be welcome, as this would overcome concerns about a lack of control over the proper release of land in the best interests of good settlement planning. This statement should be emphasised/ clarified. It should be noted that the requirement for the post-11 year period is simply an indication of location and scale, rather than detailed allocation, and this seems reasonable. However it should be borne in mind that this will require to be the subject of strategic environmental assessment (SEA), even if not site-specific, and lack of specificity may as a result encounter difficulties in the SEA process.

8.2 It should be noted that the 20 year requirement is for the period beyond the predicted year of adoption or approval (and the SPP3 predicts this to be 2 years). That being the case the first development plans will be required to identify detailed land requirements for the period at least upto 2022, with an indication of scale and location for the period to 2031. Given the comment in SPP3 about the uncertainties of forecasting housing requirements, it should be recognised that extending forecasting to such dates in the future will be difficult, and their conclusions questionable.

8.3 At draft SPP3 paragraph 47 it is suggested that such long term planning will assist investment decisions in infrastructure. However one of the most significant infrastructure constraints to date in Midlothian relates to water/ drainage capacity. Scottish Water has a current investment programme (Q&SIII) for the period to 2015, which falls far short of the proposed long term development plan timescales. It is unclear whether planning for the 20 year timescale will in fact assist infrastructure providers, if their investment decisions are not aligned to the timescales of the development plan.
9 Delivery of Housing

9.1 Draft SPP3 acknowledges that the delivery of housing does not rely solely on the allocation of land in development plans, but most of the other factors quoted as influencing delivery also relate to the planning process. The document does recognise that the capacity of the construction industry and the housing market have an impact, but does not make any reference to lack of infrastructure capacity. This has been a particular issue for Midlothian, and may be again in the future for particular locations. It is important to put the role of the planning system in delivering housing into context, and acknowledge that there are other factors which can be a significant impediment to housing delivery. It should be recognised that making changes to the development plan process will not necessarily overcome all the problems/delays.

9.2 Draft SPP3 states (para 78) that ‘the need for affordable housing should, where possible, be met within the housing market area where it has arisen’. This is already an issue raised by this Council in its response to Firm Foundations, where a concern was expressed that neighbouring authorities may propose to divert their affordable need to Midlothian. Although a new SHNMA will be required for the Edinburgh city region as a single housing market area, it is suggested that the affordable housing ‘market’ areas should continue to be more closely aligned to local authority boundaries, with identified affordable need being met within each area.

9.3 The consultation document states (para 81) that planning authorities should consider allocating sites specifically for affordable housing to meet requirements identified by the SHMNA and LHS. It is unclear how this can be achieved through current planning legislation. It may be possible to promote such restrictions on use where land is in public ownership. If Scottish Government intends that local authorities make affordable housing allocations, there will need to be additional planning powers to do so, for example through the introduction of a specific use class.

10 Planning Agreements

10.1 Reference is made to section 75 of the 1997 Act (para 90, draft SPP3), but no reference to the Planning etc (Scotland) Act 2006. It is suggested that reference should be made to the effect of section 23 of this latter Act and to the term Planning Obligations, given the intention that revised SPP3 will provide guidance relevant to the new legislation.

11 Other Matters

11.1 Para 84 of draft SPP3 makes reference to the categorisation of rural areas into intermediate and remote as set out in SPP15. It should be noted that SPP15 contains no such categorisation, and in fact this is considered to be a failing of SPP15. Such helpful categorisation was contained in the now superseded NPPG15. The lack of categorisation in SPP15 creates difficulties in interpreting Scottish Government’s view on the role of housing in rural areas. SPP3 should clarify the distinction between rural areas and compensate for the lack of detail in SPP15.
11.2 Para 62 supports infill development, but warns that ‘the individual and cumulative effects of infill must be sustainable in relation to the social and economic infrastructure of a place, and must not lead to over-development.’ This is an important warning, and one that could be relevant to the Edinburgh city region, where many industrial areas in Edinburgh are being replaced by housing, whilst the displaced businesses are relocating out of the city, eg to Midlothian. This may not be sustainable in the long term, and may need to be acknowledged as a problem and addressed, especially where it would result in pressure on limited land resources, town cramming and unacceptable traffic problems in landward districts.

11.3 Para 59 makes reference to opportunities for new house building on land which has been previously developed in urban and rural areas. It is important that there is some qualification to this in respect of rural brownfield, which may arise through the closure of rural industries, eg timber yards, quarries, opencast mining. Where there is brownfield land within open rural situations (as opposed to within rural communities), there must not be unconditional support through SPP3. Such locations may be unsustainable and inappropriate in landscape terms as housing locations, and this should not be overridden by SPP3 support. Some areas are extensive and can be naturally regenerated as part of the landscape. There should not be a perception that any redundant rural use can have brownfield housing potential contrary to proper planning of rural development opportunities.

11.4 The draft SPP3 package is unwieldy, given the inclusion of the annexes and the Environmental Report. Comments have already been provided on the appropriateness of including the annex material within the statement of policy (paragraph 5.7 above). It is also questioned as to the appropriateness of including the Environmental Report within the main consultation document. It would be preferable for such to be issued as a stand-alone document, independent of the main consultation document, to avoid an overly cumbersome SPP.
Appendix

**Q1** Do you think that planning guidance on HMOs should be provided as an annex to SPP3 which replaces the existing Circular 4/2004?

Response
No comment

**Q2** Do you agree that this revised structure, including the annexes, improves upon existing SPP3? In what ways do you think the revised structure provides more effective guidance?

Response:
It is noted that draft SPP3 includes three Annexes – planning guidance on HMOs; a summary of the guidance on SHNMA; and guidance on HLAs. It is also noted that it is intended to withdraw PAN38 – Housing Land. It would appear that this would result in draft SPP3 not adhering to Scottish Government’s own rules as to what should be included in SPPs. The Strategic Housing Needs and Market Assessment and Housing Land Audit guidance, are exactly that – guidance – not statements of policy. As such the detailed guidance would be better contained in an updated/ reviewed PAN38. In other words, SPP3 should be limited to only those elements that form policy. As such the section on HMOs is referred to as guidance, but may also contain statement of policy. Given it is intended to replace a Circular (statement of policy) there may be scope to include this in either SPP3 or in PAN38.

It should be noted that the advice and guidance on Housing Market Areas contained in draft SPP3 is minimal, but directs readers to the location of fuller advice. This seems preferable to an overly prescriptive SPP.

**Q3** Do you agree it is desirable to achieve a more robust and consistent approach to the assessment of housing need and demand? Does the approach set out in chapter two provide an appropriate mechanism for this?

Response:
It is considered that the requirement to use a consistent methodology for identifying housing requirements/ levels of need, irrespective of HMA/ development plan area should help minimise the conflict between housebuilders and planning/ housing authorities on the principles of the methodology, and as such appears appropriate.

However it is difficult to make comment on the SHNMA methodology, until this is available in full. To date it is understood that Housing Need and Market Assessments have been used principally to identify the scale of ‘affordable’ need in Housing Market Areas. This was the purpose of the Lothian Housing Need and Market Study. Its conclusions were incorporated into the reassessment of housing need for the intended Review of the Edinburgh and the Lothians Structure Plan, and also provided the basis of Midlothian Council’s social house building programme. However it is unclear if the proposed methodology has been used/ trialled as a means to provide the basis of housing land requirements for all tenures, as well as for identifying affordable housing needs.
Q4 How should the transition between the existing housing delivery system and that proposed be handled? How best can the cycles of new development plans due from the end of 2008 and the LHS due in summer 2009 be synchronised?

Response:
Midlothian Council’s response to Firm Foundations identified a need to link the proposed working arrangements for Strategic Development Plan preparation to a similar regional co-operation of Local Housing Strategies (LHS) as a means to set realistic regional housing targets. It was pointed out that this is already a function of structure plans, and the Lothian Authorities have co-operated in identifying housing land required to meet needs to 2015 and beyond. There is no such equivalent for the setting of affordable housing targets, nor the disaggregation of provision within regions.

There is likely to be a problem in synchronising LHS with the new development plans. There is a requirement to produce a new LHS in 2009, across all local authorities (LAs). There is no requirement to co-operate at Housing Market Area level, but any collaboration across LAs is unlikely to produce any regional figures before this date. Given the timescale for preparation of the new SDP/ LDPs, with the approval of the SDP unlikely before 2012, and LDP potentially a year thereafter, there will be difficulty in synchronising the identification of need at development plan level with LHS/ ‘regional’ housing strategy level.

The requirement to update LHS is ‘fixed’ to a specified date, whereas the requirement to prepare/update development plans is more flexible, with a ‘latest’ date only provided. This could result in a range of production dates for development plans, with little possibility of synchronising with LHS dates.

Q5 Do you agree that local authorities should set policies to control the proportion of HMO accommodation in a given unit, where they consider this is necessary? How should maximum proportions be decided?

Response:
No comment

Q6 How do you think the planning system and the HMO licensing system can work together more effectively?

Response:
No comment

Q7 Does “the period under consideration” require a definition?

Response:
A definition is unnecessary.

Q8 Is this a useful way to highlight the range of complementary policy and guidance that should be referred to throughout the process set out in SPP3? If not, what approach would be preferable?

Response:
There would seem to be some merit in setting out the full range of relevant policy and guidance, for the consideration of housing matters in the preparation of development plans. However, the existing approach is preferable whereby relevant documents/references are highlighted in the margins of the document.

**Q9 Are there particular costs or benefits not addressed in the partial Regulatory Impact Assessment (RIA)? What are they?**

Response: No comment

**Q10 Will particular groups not identified by the partial RIA be affected by SPP3?**

Response: No comment

**Q11 How might SPP3 impact positively or negatively on equalities groups?**

Response: No comment

**Q12 Will any groups not identified already in the partial EqIA be affected by SPP3?**

Response: No comment.