

Environmental Assessment (Scotland) Act 2005

Strategic Environmental Assessment (SEA) Screening Determination

**Planning Guidance (PG) –
Soil Management & After Use of Soils on Development Sites**

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1. Introduction

This statement sets out West Lothian Council's determination under Regulation 10(1) of the Environmental Assessment (Scotland) Act 2005 on whether or not a Strategic Environmental Assessment (SEA) is required for Planning Guidance (PG) - Soil Management & After Use of Soils on Development Sites'.

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

- ◆ Historic Environment Scotland (HES);
- ◆ Scottish Environmental Protection Agency (SEPA), and
- ◆ NatureScot

As well as consulting the above bodies, responsible authorities are required to take into account the criteria set out in Schedule 2 of the 2005 Act when determining whether or not the plan is likely to have significant effects. The details of this process are contained within the earlier Screening Report on the Planning Guidance on Soil Management & After Use of Soils on Development Sites.

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

2. Record of SEA Determination and Publicity Requirements

Title of Plan, Programme or Strategy:	Planning Guidance (PG) – Soil Management & After Use of Soils on Development Sites.
Responsible Authority:	West Lothian Council

Record of SEA Determination:

In accordance with section 9(1) of the 2005 Act, West Lothian Council submitted to the Consultation Authorities a screening report summarising its views as to whether West Lothian Local Development Plan Planning Guidance on Soil Management & After Use of Soils on Development Sites will have significant environmental effects.

In formally determining under Section 8(1) of the Act whether a SEA is required, the Council has taken into account the views of the three Consultation Authorities; Scottish Environment Protection Agency, NatureScot and Historic Environment Scotland which were issued through the SEA Gateway on 17/03/2021.

West Lothian Council and the Consultation Authorities are in agreement that the West Lothian Local Development Plan Planning Guidance on Soil Management & After Use of Soils on Development Sites is not likely to have significant environmental effects and **the Council has therefore determined that a SEA will not be required** for the plan under Regulation 13(1) of the 2005 Act.

CONSULTATION AUTHORITY	LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS
Historic Environment Scotland	None
Scottish Environment Protection Agency	None; see* note below
Nature Scot	None
OVERALL VIEW ON LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS	None

(* As informed by the SEA Gateway on 17 March 2021, SEPA is unable to comment on SEA consultations at this time and the council has been directed by the SEA Gateway to the SEA topic guidance notes for soil, water, material assets, climatic factors and human health provided on SEPA website at Strategic Environmental Assessment The council has had regard to these and has concluded that in respect of SEPA's main areas of interest {air, water, soil, human health, material assets (of which it has a specific interest in waste) and climatic factors} the Planning Guidance is unlikely to have significant environmental effects.)

Formal Determination	Statement of Reason
24 March 2021	<p>West Lothian Council's reasoning for determining that there are no overall likelihood of significant environmental effects is as follows:</p> <p>West Lothian Council has prepared a local development plan to replace the West Lothian Local Plan 2009 (WLLP 2009) in accordance with the requirements of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning (Scotland) etc. Act 2006.</p>

	<p>The new West Lothian Local Development Plan (LDP) was adopted on 4 September 2018 and is consistent with the Strategic Development Plan for Edinburgh and South East Scotland (SDP).</p> <p>The LDP focuses on providing for, and managing, future land use change across the council area in line with SESplan SDP requirements. The LDP comprises a development strategy for the period to 2024 and a detailed policy framework to guide future land use in a way which best reflects the SDP vision, strategic aims and objectives.</p> <p>The West Lothian Local Development Plan - Planning Guidance on Soil Management & After Use of Soils on Development Sites, sets out detailed criteria to assist the preparation of planning applications by land owners, developers and agents and their assessment by West Lothian Council related to a wide range of developments across the plan area.</p> <p>There is no current Supplementary Planning Guidance (SPG) related to the soils in West Lothian. As a consequence, there is recognition of the need to ensure that the council's planning guidance arising from the local development plan adopted in 2018 is up to date and reflective of the most current LDP policies and best practice.</p> <p>The West Lothian Local Development Plan - Planning Guidance on Soil Management & After Use of Soils on Development Sites is simply to provide further information and detail in respect of policies ENV 5 & 6 of the adopted West Lothian Local Development Plan which was subject of a full Strategic Environmental Assessment (SEA). The SEA was reviewed in the Post Adoption Strategic Environmental Assessment.</p>
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Publicity Requirements for the Determination:

In accordance with section 10(1) of the Environmental Assessment (Scotland) Act 2005, within 28 days of the determination having been made, the Council will send a copy of the formal determination and related statement of reasons (prepared in accordance with section 8(2)(b) to the Scottish Government SEA Gateway and the three Consultation Authorities.

In accordance with section 10(2) of the 2005 Act, within 14 days of the determination having been made, a copy of the determination, along with the Screening Report, shall be provided for inspection by the public. However, the current Coronavirus emergency prevents physical copies being made for inspection at West Lothian Council's principal office at the West Lothian Civic Centre, Howden South Road, Livingston, EH54 6FF; but they can instead be requested by e-mail from wlldp@westlothian.gov.uk.

The determination shall also be published in the West Lothian Courier and Linlithgow Journal & Gazette newspapers to notify the public and will be available to view at www.westlothian.gov.uk from 1st April 2021. A copy of the statutory notice is provided as Appendix 2.

Signature:	Craig McCorriston, Head of Planning, Economic Development & Regeneration
Date:	24 March 2021

3. SEA Screening Report

Cover Note

Part 1

To:

SEA.Gateway@gov.scot

or

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

Part 2

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

Planning Guidance on Soil Management & After Use of Soils on Development Sites

The Responsible Authority is:

West Lothian Council

Complete Part 3 or 4 or 5

Part 3

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

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

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

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

Part 4

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

Part 5

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

.....
NotApplicable.....
.....

Part 6

Contact Name: Chris Alcorn.

Job Title: Principal Planner.

Contact Address: c/o Civic Centre, Howden South, Livingston, EH54 6FF.

Contact Phone: 01506 282428 (although currently 'Working From Home').

Contact email: chris.alcorn@westlothian.gov.uk

Part 7

Signature: Chris M. Alcorn

Date: 24 March 2021

Key Facts

West Lothian Council has undertaken screening of Planning Guidance on the Management & After Use of Soils on Development Sites with regard to the requirements of section 9 of the Environment Assessment (Scotland) Act 2005.

The Screening Report has been submitted to the Scottish Government SEA Gateway, setting out the views of West Lothian Council on the likelihood of the significant environmental effects of Planning Guidance on the Management & After Use of Soils on Development Sites with regard to the requirements of section 9 of the Environment Assessment (Scotland) Act 2005 and the potential for requiring a SEA.

Responsible Authority:	West Lothian Council
Title of PPS:	Planning Guidance on Soil Management & After Use of Soils on Development Sites

<p>Purpose of PPS:</p>	<p>The purpose of this Planning Guidance (PG) is to support Local Development Plan Policies ENV 5 'Soil Sustainability Plans' and ENV 6: 'Peatlands & carbon rich soils' in the adopted West Lothian Local Development Plan (2018).</p> <p>The PG will expand on the principles of these policies and will provide detailed guidance to help achieve the outcomes expected from related development proposals across West Lothian.</p> <p>While the proposed Planning Guidance provides some location specific guidance, it supports consistent interpretation and application of policies through the development management process.</p> <p>The guidance identifies good practice in-line with the related policies and other similar guidance provided by SEPA & Nature Scot.</p>
<p>What promoted the PPS: (e.g. a legislative, regulatory or administrative provision)</p>	<p>West Lothian Council adopted the West Lothian Local Development Plan on 4 September 2018 after Scottish Ministers confirmed the council could do so. It now forms part of the Development Plan for West Lothian along with the Strategic Development Plan (SDP) for Edinburgh and South-east Scotland.</p> <p>The Council has a programme to prepare a suite of new guidance to support the recently adopted West Lothian Local Development Plan,</p> <p>Specifically, Planning Guidance on Soil Management & After Use of Soils on Development Sites has been written with the intention of becoming non-statutory planning guidance (PG) to support development plan policies.</p>
<p>PPS Subject: (e.g. transport)</p>	<p>The policies are integral to the strategic spatial land use strategy which applies across West Lothian. In terms of this PG, they are particularly associated with protecting and enhancing the natural environment and contribute towards delivery of the spatial strategy set out in the LDP.</p>
<p>Period covered by the PPS:</p>	<p>Anticipated date of adoption is April 2021 onwards.</p>

Frequency of updates:	Under the terms of the Planning etc (Scotland) Act 2006 Supplementary & Planning Guidance will ordinarily be reviewed and updated every 5 years, in tandem with the replacement of the Local Development Plan. However, the Planning (Scotland) Act 2019 has removed requirements to prepare supplementary and planning guidance in addition to introducing a requirement to review and update development plans every ten years.
Area Covered by the PPS:	This PG covers the West Lothian Local Development Plan area. It applies specifically to proposals related to greenfield development.
Summary of nature/content of PPS:	<p>A Local Development Plan (LDP) is prepared by the local planning authority, in this case West Lothian Council. It sets out a local interpretation of the requirements of national and strategic policy. In particular it must conform to the approved Strategic Development Plan (SDP) which has been prepared by the strategic planning authority (SESplan) and its purpose is to implement requirements on a more detailed site-specific basis than exists within the SDP.</p> <p>The LDP comprises a written statement detailing a spatial strategy, including policies and proposals together with a Proposals Map. LDP's are intended to provide the vision and strategy for how communities will grow and develop in the future and also to provide certainty for communities and prospective investors about where development should take place and where it should not. LDP's also identify the supporting infrastructure required for growth and set out detailed policies and proposals which are the basis for decision making on future planning applications.</p> <p>Policies ENV 5 & 6 set out those matters which developers and their agents are required to consider and take into account in preparing proposals for development on greenfield sites in West Lothian. The PG defines terms used in these policies and explains how these will be implemented. It provides assistance in the Development Management process.</p>
Are there any plan objectives?	No
Copy of PPS attached	Yes
Date:	24/03/2021

Likely Significance of Effects on the Environment

The Council has considered the likely significance of effects on the environment of the Planning Guidance on Soil Management & After Use of Soils on Development Sites with regard to the requirements of section 9 of the Environment Assessment (Scotland) Act 2005. The screening was undertaken with references to the criteria in Schedule 2 of the 2005 Act and is set out in Table 1 (below).

Table 1: Likely Significance of Effects on the Environment

Criteria for determining the likely significance of effects on the environment <i>[The paragraph numbers in the table 1(a), 1(b), 2(a), 2(b) etc. refer to paragraphs in Schedule 2 of the Environmental Assessment (Scotland) Act 2005.]</i>	Likely to have significant environmental effects? (Yes / No)	Summary of significant environmental effects (negative and positive)
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The characteristics of plans and programme		
1(a): The degree to which the PPS sets a framework for the projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources.	No	The PG provides information on a wide range of natural environment elements related to development in or around greenfield sites in West Lothian.
1(b): The degree to which the PPS influences other PPS including those in the hierarchy.	No	The Planning Guidance on Soil Management & After Use of Soils on Development Sites has not been prepared before and there is no current 'Supplementary Planning Guidance' (SPG) specifically related to the soils in West Lothian. As a consequence, there is recognition of the need to ensure that the council's planning guidance arising from the local development plan adopted in 2018 and the soils policies ENV 5 & 6, is up to date and reflective of the most current LDP policies and best practice. The PG provides background guidance to policies within the adopted Local Development Plan and does not seek to directly influence other programmes and strategies.

		The PG at the same time is consistent with the wider objectives of the overarching West Lothian Local Development Plan which has itself already undergone SEA.
1(c): The relevance of the PPS for the integration of environmental considerations in particular with a view to promoting sustainable development.	No	The Planning Guidance on Soil Management & After Use of Soils on Development Sites promotes good practise for developers and agents on greenfield sites within West Lothian.
1(d): Environmental problems relevant to the PPS	No	The West Lothian Local Development Plan has regard to the multitude of environmental issues which have the potential to affect natural heritage areas of West Lothian. No negative environmental consequences are foreseen as being directly attributable to the PG.
1(e): The relevance of the PPS for the implementation of Community legislation on the environment (for example PPS linked to waste management or water protection)	No	None identified. The PG does not introduce any new policy considerations and would not be directly relevant to this issue. If applicable, this would be considered in the assessment of individual planning applications.

The characteristics of the effects and the area likely to be affected		
2(a): The probability, duration frequency and reversibility of the effects	No	There are no significant environmental effects that can be attributed to the PG. Any consequences of development authorised by other policies of the West Lothian Local Development Plan can be avoided /mitigated / minimised by application of other environmental protection policies within the Local Development Plan and adherence to the PG.
2(b): The cumulative nature of the effects	No	None identified as required across West Lothian. A key purpose of the PG is however to promote and secure developer adherence to sound natural environment planning procedures on sites across West Lothian, support sustainable development and encourage best practice and thereby reduce and minimise any significant adverse effects on the natural environment in cumulative

		terms. Adherence to the PG should, if anything, have a positive effect on the environment of West Lothian.
2(c): Trans-boundary nature of the effects (i.e. environmental effects on other EU Members States	No	<p>No Trans boundary effects have been identified or are anticipated.</p> <p>The PG is in itself unlikely to have significant environmental impact beyond West Lothian, but that is not to diminish the positive value of the guidance in a local context.</p>
2(d): The risks to human health or the environment (for example due to accidents)	No	The PG will have a benign effect and will contribute to more sustainable development and which can only be beneficial to human health and wellbeing. Proposals will in any event be assessed in detail as and when planning applications are submitted through the Development Management process.
2(e): The magnitude and spatial extent of the effects (geographical area and size of population likely to be affected)	No	There are no significant effects identified. The PG will support other relevant policies in the LDP which will be relied upon to help determine the acceptability of new development in West Lothian. The PG only applies to development that takes place within the administrative area of West Lothian and its effect is invariably constrained.
2(f): The value and vulnerability of the area likely to be affected due to: <ul style="list-style-type: none"> (i) Special natural characteristics or cultural heritage (ii) Exceeded environmental quality standards or limit values; <u>or</u> <ul style="list-style-type: none"> (iii) Intensive land use 	No	<p>The PG seeks to ensure the consideration of all natural environment issues across West Lothian related to soils and their protection and use. Overall, the strategy of the Local Development Plan looks to protect the natural environment from unnecessary and inappropriate development.</p> <p>The PG will have only positive effects on natural heritage and in a localised area.</p> <p>The overarching SEA for the LDP has previously considered any potential significant environmental effects and provided mitigation measures where necessary.</p> <p>It is considered that adherence to the requirements of the PG will be of negligible consequence and will not in any event adversely affect the value and vulnerability of the criterion.</p>

<p>2(g) The effects on areas or landscapes which have a recognised national, Community or international protection status.</p>	<p>No</p>	<p>Any development will need to comply with the development plan which includes a range of policies to ensure the cumulative impact of different (or the same) types of development do not adversely affect designated landscapes and the principal landscape character/type of the area. There will be no implications for this PPS. It will support soil sustainability and protection of peatlands & carbon rich soils.</p> <p>The overarching SEA for the LDP has previously considered potential effects. It is considered that adherence to the requirements of the PG will be of negligible consequence and will not in any event adversely affect the value and vulnerability of the criterion.</p>
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Summary of Environmental Effects

The Council has considered the likely significance of effects on the environment of the Planning Guidance on Soil Management & After Use of Soils on Development Sites and these are set out below.

Table 2: Summary of Environmental Effects

The West Lothian Local Development Plan has itself already undergone an extensive SEA examining its policies, proposals and land use allocations. They demonstrate West Lothian Council’s commitment to sustainability and sustainable development and the addition of Planning Guidance on Soil Management & After Use of Soils on Development Sites is considered to strengthen and re-inforce this position.

The Planning Guidance forms part of the framework required to support delivery of the development strategy set out in the West Lothian Local Development Plan and assist in the determination of planning applications.

The council considers it unlikely that the supporting Planning Guidance on Soil Management & After Use of Soils on Development Sites will, in itself, have no significant environmental effects as it will provide only information for developers and their agents and the public and other stakeholders and serve as a management tool in relation to development proposals within West Lothian.

Overall, it is considered that the Planning Guidance on Soil Management & After Use of Soils on Development Sites is a qualifying plan or programme that will not have significant environmental effects and that, as part of a wider policy framework, significant environmental effects arising from development in the natural environment, permitted under the terms of the adopted Local Development Plan planning policies and associated Planning Guidance, will be avoided.

It is for this reason that West Lothian Council believes that Planning Guidance on Soil Management & After Use of Soils on Development Sites **does not** require a Strategic Environmental Assessment.

However, should a particular instance arise where adherence to the PG was considered to be potentially detrimental to the environment, the Development Management process would be expected to have regard to such matters and to apply appropriate and proportionate mitigation measures through planning conditions on any planning permissions released by the council.

4. Responses from Consultation Authorities

CONSULTATION AUTHORITY	LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS
Historic Environment Scotland	None
Nature Scot	None
Scottish Environment Protection Agency (SEPA)	None (NB: see note* Page 3)
OVERALL VIEW ON LIKELIHOOD OF SIGNIFICANT ENVIRONMENTAL EFFECTS	None

- SEA Gateway
- Historic Environment Scotland
- Nature Scot
- Scottish Environment Protection Agency (SEPA) (NB: see note* page 3)

5. Appendices

Appendix 1 – Planning Guidance (PG) - Soil Management & After Use of Soils on Development Sites.

Appendix 2 - Statutory Notice.

T: 0131-244 5036
E: SEA.Gateway@gov.scot

West Lothian Council

01629 Screening - West Lothian Council - Planning Guidance for Soil Management & After Use of Soils on Development Sites

Dear West Lothian Council,

With reference to the Screening document you submitted on 24th February 2021.

The Consultation Authorities have now considered your screening request as per **Section 9(3)** of the **Environmental Assessment (Scotland) Act 2005**. I have attached the individual letters from the Consultation Authorities, outlining their views and opinions.

Please note, these are the views and opinions of the Consultation Authorities on the likelihood of significant environmental effects arising from the plan or programme and not a judgement on whether an SEA is required. It is therefore for the Responsible Authority to determine whether an SEA is required in the circumstances. Where possible the Consultation Authorities may have offered supplementary information and/or advice for you to consider, which you should find helpful.

As the Consultation Authorities have now notified you of their views, you should now refer to the 2005 Act to consider your next step. You should of course take into account the advice offered by the Consultation Authorities.

You should note, as per Section 10 of the 2005 Act, that within 28 days of your determination about whether an SEA is required or not, a copy of the determination and any related statement of reasons must be passed to the Consultation Authorities. This may be done via the SEA Gateway.

If you have any queries or would like me to clarify any points, please call me on 0131 244 5036.

Kind regards,

Melissa Shields
SEA Gateway Administrator



HISTORIC
ENVIRONMENT
SCOTLAND

ÀRAINNEACHD
EACHDRAIDHEIL
ALBA

By email to: sea.gateway@gov.scot

Chris Alcorn
Development Planning & Environment Team
West Lothian Council
West Lothian Civic Centre
Howden South Road
Livingston
EH54 6FF

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Enquiry Line: 0131-668-8716
Switchboard: 0131 668 8600
HMConsultations@hes.scot

Our case ID: 300020246
Your ref: 01629 Screening
08 March 2021

Dear Chris Alcorn

[Environmental Assessment \(Scotland\) Act 2005](#)
[01629 Screening - West Lothian Council - Planning Guidance for Soil Management & After Use of Soils on Development Sites](#)

Thank you for your consultation which we received on 24 February 2021 about the above screening report. We have reviewed this report in our role as a Consultation Authority under the above Act, in accordance with the requirements of Section 9(3). In doing so we have used the criteria set out in Schedule 2 for determining the likely significance of the effects on the environment.

Historic Environment Scotland's view

In light of the information and reasoning set out within the screening report, we **agree** with your view that there are **unlikely to be significant environmental effects for the historic environment**.

Historic Environment Scotland's comments

We understand that the Planning Guidance for Soil Management & After Use of Soils on Development Sites (the Guidance) will support parent policies of the adopted local development plan which has been subject to SEA. The Guidance will expand on the principles set out in the parent policies and provide detailed guidance to help achieve the outcomes expected from planning applications related to development proposals on greenfield sites in locations across West Lothian.

You consider that the Guidance will not have significant environmental effects. On the basis of the information provided, we agree that significant effects on the historic environment are not likely.

Next steps

The Environmental Assessment (Scotland) Act 2005 requires you as the Responsible Authority to determine whether an environmental assessment is required. You must then



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notify the Consultation Authorities within 28 days of making this determination. This may be done via the SEA Gateway (sea.gateway@gov.scot).

Yours faithfully

Historic Environment Scotland

Historic Environment Scotland – Longmore House, Salisbury Place, Edinburgh, EH9 1SH

Scottish Charity No. **SC045925**

VAT No. **GB 221 8680 15**

Chris Alcorn
Principal Planning Officer
West Lothian Council

Sent via: sea.gateway@gov.scot

17 March 2021

Our ref: CEA162239

Dear Chris

**ENVIRONMENTAL ASSESSMENT (SCOTLAND) ACT 2005: PLANNING GUIDANCE ON THE
MANAGEMENT & AFTER USE OF SOILS ON DEVELOPMENT SITES – SCREENING DETERMINATION**

I refer to your screening consultation submitted on 08 January 2021 via the Scottish Government SEA Gateway in respect of the above plan. In accordance with Section 9(3) of the Environmental Assessment (Scotland) Act 2005, we have considered your screening report using the criteria set out in Schedule 2 for determining the likely significance of effects on the environment.

We understand that the above guidance is to provide further information in support of Local Development Plan (LDP) Policies ENV5 and ENV6. As the guidance does not make provision for further change or development beyond that assessed in SEA of the LDP, we agree that it is not likely to have significant environmental effects.

Please note that this consultation response provides a view solely on the potential for the plan or programme to have significant environmental effects. We cannot comment on whether or not the plan or programme meets other criteria determining the need for SEA as set out in the Act. Should you wish to discuss this screening determination, please do not hesitate to contact me on 0131 316 2644 or via SNH's SEA Gateway at sea.gateway@nature.scot.

Yours sincerely,

Vivienne Gray
Planning Advisor
Supporting Good Development