
West Lothian Main Issues Report Non-Effectiveness of Westfield

Planning History of Westfield

The Westfield preferred allocation is carried forward from the current Local Plan. The site is in three parcels – North Logiebrae, South Logiebrae and the former Paper Mill. North Logiebrae was allocated for housing development in the Bathgate Area Local Plan 1998. The consolidated West Lothian Local Plan 2009 allocated a much larger development area incorporating all three parcels.

There has been a valid planning permission on part of the site since 2002. Planning permission was granted for 218 homes on North Logiebrae in 2002 (Council Ref: 1041/00). That permission was then extended in 2007 to 2009. A further planning permission (Council Ref: 1013/FUL/07) then superseded the earlier permission.

Four planning applications were made on the site in 2004.

The first two applications did not include the land at South Logiebrae. Both were unacceptable in design terms and were not progressed.

The subsequent two applications included the land at South Logiebrae and put forward an amended layout and design that was acceptable. Of these two, one application (Council Ref: 1414/FUL/04) was reported to committee for approval in May 2005.

Members were minded to grant permission subject to a legal agreement to secure developer contributions. The agreement was almost finalised, but in July 2007 the applicant indicated that he was no longer agreeable to the developer contributions and would not sign the section 75 agreement. All 4 outstanding applications were then refused in August 2007.

The application (Council Ref: 1414/FUL/04) was appealed and subsequently the appeal was withdrawn.

Current Planning Permission

The most recent planning application (Council Ref: 1013/FUL/07) proposed 481 houses and 69 flats was submitted in October 2007. This application was approved in August 2010 and subject to a Section 75 Legal Agreement. Planning permission 1013/FUL/07 remains valid until August 2015.

The planning permission is subject to 44 planning conditions and in particular there are a number of pre-commencement conditions to be purified.

A large part of the site is contaminated through previous use and requires remediation. Condition 2 and 3 require that any source of contamination is investigated. Prior to any development on the site comprising the former Paper Mill and all surrounding land must be free from contamination.

Further, any contamination of land to the east of Logie Water must be treated prior to the commencement of any development on land east of Logie Water.

Condition 15 requires the approval of a plan, method statement and reconstruction programme for the river corridor (Logie Water) within the application site, prior to the commencement of any development.

Conditions 17 and 18 require the approval of landscape specification and a woodland management plan prior to commencement of development.

Condition 42 also stipulates that 218 homes can be occupied prior to the provision of additional capacity at Westfield Waste Water Treatment Works.

The Heads of Terms stipulate significant developer contribution requirements over and above the abnormal site costs. The Heads of Terms require the following payments to be made:

Contribution	Amount Payable	Timing
Non-denominational secondary school	£477,519	50% payable prior to occupation of 219 th unit. Remainder prior to occupation of 400 th unit.
Denominational secondary school	£534,756	50% payable prior to occupation of 219 th unit. Remainder prior to occupation of 400 th unit.
Non-denominational primary school	Full cost, determined following design and tendering process set out in the agreement, of providing, in stages, an 8 class organisation, plus 30/30 nursery, with community facilities at Westfield Primary School. Previous estimate £2,200,000.	4 class organisation plus 30/30 nursery prior to occupation of 101 st unit; 6 class organisation plus 30/30 nursery prior to occupation of 219 th unit; 8 class organisation and 30/30 nursery prior to occupation of 319 th unit – subject to review prior to occupation of 250 th unit to confirm extent of accommodation required in final phase.
Denominational primary school	£813,400	50% payable prior to occupation of 219 th unit. Remainder prior to occupation of 400 th unit.
School commissioning costs	£150,000	50% payable prior to occupation of 219 th unit. Remainder prior to occupation of 400 th unit.
Affordable housing	£1,000,000	50% payable prior to occupation of 219 th unit. Remainder prior to occupation of 400 th unit.
Cemeteries	£11,620	50% payable prior to occupation of 219 th unit. Remainder prior to occupation of 400 th unit.
Public transport	£125,000	50% payable prior to occupation of 219 th unit. Remainder prior to occupation of 400 th unit.
Professional Services	Full costs of Council incurred in design and construction of Westfield Primary School extension. Previous Estimate £10,000.	Unknown
Land for Community Centre	Not known if needs to be serviced.	Construction of community centre required in advance of development on South Logiebrae.

The budgeted cost of these planning obligations are at least a minimum of £5,322,295 which is payable prior to occupation of 400th unit. This is equivalent to £9,677 per home which is a significant cost for a site in this location to bear. In addition this is a minimum cost given that the Council will apply an indexation to this sum on an annual basis from 2010.

The total payable prior to occupation of 219th home is a minimum of £3,216,147.50 not including any costs incurred in providing additional capacity at Westfield Waste Water Treatment Works.

The budget costs of at least £5.3M are in addition to the costs to remediate the site, reconstruct the watercourse and any payments to upgrade to the Westfield Waste Water Treatment Works.

Despite there being a valid planning permission on the site from 2002-2014, which includes a period when financing for these types of projects was readily available, there is still no house completions at Westfield.

This is indicative of significant problems relating to the development viability of the site which inhibits the site's effectiveness. These concerns are confirmed by Housing Land Audit 2013 which confirms that the site is constrained and there are no completions programmed by 2019.

At the 'Call for Sites' stage of the emerging West Lothian Local Development Plan there is just one expression of interest for development at Westfield. This representation (Council Ref: EOI-005) is for the allocation of 10 hectares at South Logiebrae for self-build housing.

The Council has stated that *...the landowner has recently initiated his intention to either commence the approved development in the timeframe or submit a revised proposal* (report on planning application ref: 0518/P/13 dated 13 November 2013). The owner of the site, Baywater (Isle of Man) Ltd as stated on the planning application, was dissolved in October 2010. The site is believed to be controlled by one of the subsidiaries of the Royal Bank of Scotland.

The site was approved prior to the publication of Planning Advice Note (PAN) 2/2010 *Affordable Housing and Housing Land Audits*. Paragraph 58 of PAN 2/2010 states:

...The effectiveness of individual sites should be determined by planning authorities in the light of consistent interpretation of the following criteria and through discussions with housing providers. The aim is to achieve a realistic picture of the available effective land supply which can contribute to the housing requirement so that the level of additional housing, and therefore land needed to meet the overall requirement, can be established. To assess a site or a portion of a site as being effective, it must be demonstrated that within the five-year period beyond the date of the audit the site can be developed for housing (i.e. residential units can be completed and available for occupation), and will be free of constraints...

The site at Westfield has not been subject to the tests set out in paragraph 55 of PAN 2/2010.

PAN 2/2010 – The Test of Site Effectiveness

The tests can be applied to Westfield as follows:

Test	Westfield	Comment
Ownership: <i>the site is in the ownership or control of a party which can be expected to develop it or to release it for development. Where a site is in the ownership of a local authority or other public body, it should be included only where it is part of a programme of land disposal;</i>	<p>Site owner is in administration and under the control of Royal Bank of Scotland.</p> <p>Accordingly the site is not in the direct control of a party which can be expected to develop the site.</p> <p>The release of the site for future development is uncertain. The lack of house builder interest in developing at Westfield and this site is confirmed in Rettie Market Assessment [WL14].</p>	High risk of failure especially given the sites history of any lack of progress.
Physical: <i>the site, or relevant part of it, is free from constraints related to slope, aspect, flood risk, ground stability or vehicular access which would preclude its development. Where there is a solid commitment to removing the constraints in time to allow development in the period under consideration, or the market is strong enough to fund the remedial work required, the site should be included in the effective land supply;</i>	<p>The site is a major brownfield redevelopment and accordingly will be characterised by high abnormal costs.</p> <p>The planning conditions require the reconstruction of the Logie Water and this mitigation will add to the already significant site abnormal costs.</p>	<p>Although costs of remediation and other works are not known they will be of a substantive scale.</p> <p>It is probable that these costs adversely impact on the viability of the development proposal.</p>
Contamination: <i>previous use has not resulted in contamination of the site or, if it has, commitments have been made which would allow it to be developed</i>	Condition imposed on 1013/FUL/07 requiring decontamination and remediation of part of site. Exact scope unknown. No commitment to resolve.	Although costs of remediation are not known they will be of a substantive scale.

<i>to provide marketable housing;</i>		It is probable that these costs adversely impact on the viability of the development proposal.
Deficit funding: <i>any public funding required to make residential development economically viable is committed by the public bodies concerned;</i>	According to the Council's approved SHIP programme, Westfield is not an Area Priority for Investment. On this basis the developer is required to fund a substantial commuted payment of £1M instead of the provision of serviced land.	The lack of any priority status to deliver affordable homes on site adds the additional burden of a substantive commuted payment of £1M.
Marketability: <i>the site, or a relevant part of it, can be developed in the period under consideration;</i>	Site partly allocated since 1998, and planning permission since 2002. No house builder interest confirmed in Rettie Market Assessment [WL14].	Fails
Infrastructure: <i>the site is either free of infrastructure constraints, or any required infrastructure can be provided realistically by the developer or another party to allow development;</i>	It is known that the site's development requires to address significant shortfall in education infrastructure. This includes the following: Payment to non-denominational secondary school Payment to denominational secondary school Payment to denominational primary school Major extension to Westfield primary school These are significant infrastructure costs of over £4M. These costs need to be considered as minimum due to the application of indexation.	The cost to remedy the infrastructure deficit regarding education is substantial based on the current estimate of over £4M. It is probable that these costs adversely impact on the viability of the development proposal.
Land use: <i>housing is the sole preferred use of the land in planning terms, or if housing is one of a range of possible uses other factors such as ownership and marketability point to housing being a realistic option.</i>	Housing is the preferred land use. Site allocated since 1998 but there has been no house builder interest in developing at Westfield.	Fails

Conclusion

The Westfield site has been allocated, at least in part, since 1998. A valid planning permission has been in place since 2002. However, there has been and there still is no house builder interest in developing the site.

Significant costs must be committed prior to any sales from house completions, in order to satisfy conditions on the planning permission and the terms of the Section 75 Agreement.

The costs associated with fulfilling both planning conditions and the planning obligations in the Heads of Terms highlight the significant adverse impact on the development viability of this site. When these abnormal costs are taken into account with a lack of house builder interest, it confirms the reasons why this site at Westfield has not been developed. More importantly when investment was readily available there was still no interest in the site from the house building sector.

The assessment carried out above confirms that the site is not effective in accordance with the tests set out in PAN 2/2010.

The non-effectiveness of the site is confirmed in Housing Land Audit 2013 where Westfield is listed as being constrained. This compares to the Council's optimism in draft Housing Land Audit 2013 where it was assumed effective with completions in 2016/17 – requiring a start on site before 2015/16 to take account of construction lead in programmes.

No house builder has expressed an interest in developing the site as part of the preparation of the new Local Development Plan. On this basis, there are no prospects for the future development of the site and the allocation of the site should be withdrawn.