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**APPLICATION FOR PLANNING PERMISSION 15/00968/MSC FOR THE ERECTION OF 131 DWELLINGHOUSES AND FORMATION OF ACCESS AND ASSOCIATED WORKS (APPROVAL OF MATTERS SPECIFIED IN CONDITIONS 2, 3, 6, 8, 10, 11 & 12 OF PLANNING PERMISSION 09/00056/OUT) AT COCKPEN FARM, BONNYRIGG**

Report by Head of Communities and Economy

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## **1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1** The application is for the discharge of conditions (approval of matters specified in conditions 2, 3, 6, 8, 10, 11 and 12 of planning permission 09/00056/OUT) attached to a grant of planning permission relating to the erection of 131 dwellinghouses and formation of access and associated works on land at Cockpen Farm, Bonnyrigg. There have been 27 letters of representation and consultation responses from the Scottish Environment Protection Agency (SEPA), Scottish Natural Heritage (SNH), Historic Environment Scotland (HES), the Council's Archaeological Advisor, Newtongrange Community Council and the Council's Policy and Road Safety Manager. The relevant development plan policies are RP5, RP7, RP8, RP9, RP13, RP14, RP20, RP24, RP27, RP28, COMD1, NRG3, DP2 and DP3 of the Midlothian Local Plan 2008. The recommendation is to grant planning permission subject to conditions.

## **2 LOCATION AND SITE DESCRIPTION**

- 2.1** The application site is 18.4 hectares of land at Cockpen Farm to the west of Newtongrange and to the south of Cockpen crossroads. The site has a centrally located group of predominantly stone built, traditional farm buildings, each listed separately as being of special architectural or historic interest (Category C(S)). These comprise a farmhouse, a barn, a workers cottage, a byre, a threshing barn, a cattle shed and a granary. These listed buildings are the subject of a separate undetermined planning application (ref. 15/00969/MSC) and listed building consent application (ref. 15/00970/LBC) for their conversion to 8 dwellinghouses. In addition, the application site includes large areas of the woodland along its western edge and southern extremity known as Catholes Wood. These areas of woodland are on a steep sided slope leading down to the River South Esk and one of its tributaries the Cockpen Dean Burn.

- 2.2 The B704 abuts the south west boundary of the site. The existing Butlerfield housing development lies to the east.
- 2.3 A large part of the site, outside the wooded areas, has relatively gentle gradients. However, sections of the north east corner of the site have steep sided slopes. A few mature single trees are situated in the open fields. The category C(S) listed folly (tower) located in the northern section of the site is thought to be what remains of an old dovecot. Two water tanks also exist in the north field.
- 2.4 The western part and the southern extremity of the application site are located within the Dalhousie Castle Designed Landscape as identified in the Inventory of Designed Landscapes.

### **3 PROPOSAL**

- 3.1 The application is to discharge conditions associated with the erection of 131 dwellinghouses and formation of access and associated works (approval of matters specified in conditions 2, 3, 6, 8, 10, 11 and 12 of planning permission 09/00056/OUT).
- 3.2 The proposed housing mix comprises:
- 8 terraced houses;
  - 6 semi-detached houses; and,
  - 117 detached houses.
- 3.3 The proposed development comprises 10 three bedroom units, 51 four bedroom units and 70 five bedroom houses. All of the houses are two-storey with conventional eaves height. No affordable houses are proposed on the site layout. A commuted sum for affordable housing was secured through a S75 Agreement associated with the original grant of planning permission 09/00056/OUT.
- 3.4 The proposed materials within the Area of Improved Quality (AIQ) around the steading buildings (19 units) include: painted wet dash render; natural red clay plain tiles with clipped eaves, buff coloured reconstituted stone for base courses, cills, lintels, and UPVC framed windows. The proposed materials within the Area of Improved Quality (AIQ) at the entrance (7 units) include: a common red brick, natural grey slate, buff coloured reconstituted stone for base courses, cills, lintels, and UPVC framed windows.
- 3.5 Out with the AIQ the applicant proposes a character area for the plots on the northern part of the site comprising 18 plots. Here the materials proposed are: Tuscan beige dash render; red coloured profiled concrete pan tile; buff coloured reconstituted stone for base courses, cills, lintels; and UPVC framed windows. On the other plots out with the AIQ, materials include: grey coloured concrete roof tile with a mock

bond; a combination of white stone chip on white backing dry dash render and tuscan beige stone chip on magnolia backing; buff coloured reconstituted stone base courses, cills and lintels; and, white UPVC framed windows. In addition, out with the AIQ the following materials are used: UPVC fascias, soffits and bargeboards, glass reinforced plastic door canopies; black UPVC guttering.

- 3.6 Residential vehicular access is from the existing spine road serving the existing Butlerfield housing development, with the spine road accessed from a roundabout off the A7.
- 3.7 Construction vehicle access is to be off the road serving Butlerfield Industrial Estate, which is accessed off the B704.
- 3.8 Internal roads within the proposed development are to be surfaced in a mixture of tarmac and dark grey coloured block pavements. Driveways are to be surfaced in brindle coloured block pavements
- 3.9 A SUDS dry basin is proposed on the north eastern extremity of the site.
- 3.10 The applicant has submitted in support of the application a design statement, construction phasing and traffic management plan, a tree survey and woodland management plan, an ecology report and a drainage statement.

#### **4 BACKGROUND**

- 4.1 In November 2012 Outline planning permission 09/00056/OUT was granted for: (a) the principle of the erection on the site of 131 dwellings; and, (b) the formation of vehicular access to the site from Butlerfield to the north via the existing spine road through the Butlerfield housing development. Outline planning permission 09/00056/OUT was granted subject to the following conditions:

- 1. The development hereby permitted shall be begun within seven years from the date of this permission, or within two years from the date of approval by the planning authority of the last application for matters specified in conditions to be approved. Application for approval of matters specified in conditions shall be made to the planning authority within five years from the date of this permission. Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing.

**Reason:** *To accord with Section 59 and 27A of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning*

*etc (Scotland) Act 2006). The statutory three years has been extended because of the economic climate.*

2. Details of the phasing of the development shall be submitted to the planning authority for approval, and no work shall begin until the phasing scheme has been approved in writing. Following approval, the development shall be implemented in accordance with the approved scheme. The phasing scheme shall identify the area of improved quality (added emphasis on quality design for approximately 20% of the residential units) and areas of formal open space.

***Reason:*** *To ensure the development is phased to mitigate the impact of construction on future users of the buildings, existing local residents and those visiting the development site.*

3. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works for the corresponding phase of development has been submitted to and approved in writing by the planning authority. Details of the scheme for each individual phase of development shall include:

- i existing and finished ground levels and floor levels for all buildings and roads in relation to a fixed datum and garden gradients not exceeding 1 in 8;
- ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii proposed new planting in communal areas and open space, including trees, shrubs, hedging and grassed areas;
- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses on adjoining plots are occupied;
- vii drainage details and sustainable urban drainage systems to manage water runoff;
- viii proposed car park configuration and surfacing;
- ix proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
- x proposed play areas and equipment;
- xi proposed cycle parking facilities;
- xii proposed area of improved quality: and,

- xiii a woodland management plan for the woodland to the west of the site, out with the housing land allocation identified as h37 (previously Site T) by the Midlothian Local Plan.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

***Reason:*** To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP20 and DP2 of the Midlothian Local Plan and national planning guidance and advice.

4. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential units and other structures for the corresponding phase of development has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. These materials will also include those proposed in the area of improved quality. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

***Reason:*** To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies RP20 and DP2 of the Midlothian Local Plan and national planning guidance and advice.

5. Development shall not begin on the conversion of Cockpen Farm until an application for approval of matters specified in conditions for the conversion of existing farmhouse and steading buildings (Cockpen Farm) has been submitted to and approved in writing by the planning authority. The application shall include details of any alterations required to convert the buildings and samples of materials to be used on the external surfaces of the conversion works. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies RP20 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

6. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for site access, roads, footpaths, cycle ways and transportation movements for the corresponding phase of development has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
- i existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
  - ii proposed vehicular (via the Butlerfield Spine Road), cycle and pedestrian access;
  - iii proposed roads (including turning facilities), footpaths and cycle ways;
  - iv proposed visibility splays, traffic calming measures, lighting and signage;
  - v proposed construction traffic access and haulage routes;
  - vi a green transport plan designed to minimise the use of private transport and to promote walking, cycling, safe routes to school and the use of public transport;
  - vii proposed car parking arrangements;
  - viii an internal road layout which facilitates buses entering and leaving the site in a forward facing direction; and,
  - ix a programme for completion for the construction of access, roads, footpaths and cycle paths.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

7. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:, ,
- i. the nature, extent and types of contamination and/or previous mineral workings on the site;
  - ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for

- the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
- iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and,
  - iv. the condition of the site on completion of the specified decontamination measures. Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

**Reason:** *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

- 8. Development shall not begin until details, including a timetable of implementation, of 'Percent for Art' have been submitted to and approved in writing by the planning authority. The 'Percent for Art' shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the use of art to reflect its setting in accordance with policies IMP1 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

- 9. Development shall not begin until a scheme of archaeological investigation has been undertaken in accordance with details submitted to and approved in writing by the planning authority. The investigation shall include an archive assessment and an evaluation of 10% of the total site.

**Reason:** *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policy RP28 of the Adopted Midlothian Local Plan.*

- 10. Development shall not begin until a programme for the implementation of all of the otter, barn owl and bat mitigation recommended in the "Cockpen Farm Otter, Barn Owl and Bat Survey" report and all of the recommendations made within the "Badger Bait Marking Survey", the "Ecological Constraints Report" and the "Ecological Constraints Report Addendum" report docketed to this planning permission is submitted and approved in writing by the planning authority. The mitigation measures approved shall be carried out in accordance with an agreed timetable of implementation.

**Reason:** *In the interests of safeguarding otter, barn owl, badger and bats in accordance with Policy RP13 of the Adopted Midlothian Local Plan.*

11. Development shall not begin until an update report/investigation on badger, bat, barn owl and otter activity/presence is undertaken by a qualified ecologist and any mitigation measures identified implemented in accordance with details to be submitted and approved in writing by the planning authority. The update investigation shall be carried out within the 6 months prior to development commencing. ,

**Reason:** *In the interests of safeguarding otter, barn owl, badger and bats in accordance with Policy RP13 of the Adopted Midlothian Local Plan and to ensure that an up to date understanding of these species on the site is available prior to development commencing.*

12. The development hereby permitted shall be served by zero and/or low carbon equipment to achieve a reduction of 15% carbon dioxide emission below the 2007 building regulations carbon dioxide emissions standard, in accordance with Policy NRG3 of the adopted Midlothian Local Plan, unless otherwise agreed in writing by the Planning Authority following submission of appropriate SAP/SBEM calculations and a written justification of any alternative approach taken. The low and zero carbon equipment and/or other measures approved in terms of this condition shall be implemented at the site in full and an appropriate person approved by the Scottish Government's Building Standards Division regarding Design (Energy) shall certify that the zero and/or low carbon equipment and/ other measures approved in terms of this condition have been installed, prior to the host house being occupied.

**Reason:** *To ensure this development complies with the on-site carbon emission reduction targets and BREEAM requirements of Policy NRG3 in the Adopted Midlothian Local Plan.*

13. The details of the development delineated on drawing ref.MP 01 Revision C (illustrative layout plan) submitted with the application, are not approved.

**Reason:** *The application is for planning permission in principle only and the details shown on the layout plan are for illustrative purposes only and do not form part of the planning application.*

14. Vehicular access to the site shall only be from 'Butlerfield' to the east, via the existing distributor road.



Reason: To safeguard the Cockpen Dean Burn woodland and its wildlife from any damaging effects of vehicle access to the site off the B704 Cockpen Road, in the interests of highway safety and to ensure a satisfactory relationship of the site with the existing build development in Newtongrange.

15. The existing farm house and steading buildings (Cockpen Farm) shall be retained for conversion unless otherwise agreed in writing by the planning authority.,

**Reason:** *To ensure the quality of the development is enhanced by the retention of existing buildings of merit to reflect its setting in accordance with policies RP20 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

16. Prior to any dwelling being occupied the over-head power lines on the site shall be diverted or put underground in accordance with details to be approved in advance by the Planning Authority and no overhead wires, cables or telecommunication masts shall be introduced onto the site without the prior written approval of the planning authority.

**Reason:** *To ensure that the appearance of the development is not spoiled by over-head power lines, wires and telecommunication masts in accordance with Policy UTIL2 of the Midlothian Local Plan.*

- 4.2 There is presently before the planning authority a separate undetermined application for matters specified in condition 5 of planning application 15/00969/MS for the conversion and alteration of Cockpen Farm Steading to 8 houses. If that application is approved the requirements of condition 5 of outline planning permission 09/00056/OUT will have been met and that condition will be discharged. There is also an associated listed building consent application 15/00970/LBC for the proposed external alterations to the buildings.

- 4.3 The application has been called to Committee for consideration by Councillor Bryan Pottinger.

## **5 CONSULTATIONS**

- 5.1 The **Scottish Environment Protection Agency (SEPA)** initially objected to the application on the grounds of lack of information relating to watercourse engineering as well as surface water drainage. On receipt of additional information from the applicant demonstrating that there is no watercourse present at this location, they subsequently withdrew their objection.

- 5.2 **Scottish Natural Heritage (SNH)** advised that: (i) a new badger survey be carried out; (ii) a badger protection plan is secured, including a 30m exclusion buffer around each badger sett to avoid disturbance; (iii) the applicant discuss the need for a species license with SNH's licensing department; and, (iv) the Council secure the requirement for a further badger survey at the pre-construction stage.
- 5.3 **Historic Environment Scotland (HES)** were consulted on the application owing to the fact that the site may affect the setting of the neighbouring Category A listed Dalhousie Castle and Dalhousie Castle Garden and Designed Landscape. HES confirm that they do not object to this application and they have no comments to make on the proposed development.
- 5.4 The **Council's Archaeological Advisor** confirms that the Written Scheme of Investigation submitted with the planning application is acceptable subject to its successful implementation.
- 5.5 **Newtongrange Community Council** raise no objection to the proposed development.
- 5.6 The **Council's Policy and Road Safety Manager** confirms the details submitted are acceptable and the proposed alternative construction vehicle access arrangements would be appropriate during the construction of the project.

## 6 REPRESENTATIONS

- 6.1 Twenty six representations have been received in relation to the application all objecting to the proposed development. The concerns raised are as follows:
- Notifiable neighbours have not been notified of the application;
  - The development would cause harm to wildlife and wildlife habitat;
  - Road and pedestrian safety concerns with access being taken through Butlerfield and the Orchard Grange housing estate and the existing spine road through Butlerfield is not of a standard to cope with the traffic generated by the development using it;
  - Harm to the character of the area;
  - Strain on existing local amenities which would not be able to cope with additional demand;
  - Concern about there being a possible future access to the site from the B704 and the resulting road safety implications of this;
  - Concern about the road safety implications of the construction access being through the existing Butlerfield spine road;
  - Concern that the A7 and other roads are not of a sufficient capacity to cope with the increase in traffic resulting from the development;
  - Existing local schools and doctors surgeries do not have the capacity to meet the demand resulting from the development;

- Loss of greenbelt;
- It has not been substantiated that there is a need or demand for the proposed development;
- Loss of view and outlook;
- A brownfield site should be developed instead of this green field site;
- Would result in the coalescence of Newtongrange and Bonnyrigg;
- Impact of development on market value of neighbouring properties;
- Concern about there being a delay in site works commencing as a result of the current economic climate and the implications of this for the maintenance of the site in the interim;
- Concern about a gas main/pipe being damaged during works to form the construction access and by the movement of construction vehicles.
- Concern about proximity of the site to the existing residential developments at Hopefield Meadows between Cockpen and Rosewell;
- Harm to setting of nearby Dalhousie Castle designed landscape;
- Loss of farmland;
- Insufficient bus service to serve the proposed development;
- Harmful to character of Newtongrange;
- Harmful impact on the surrounding area owing to dirt and waste generated by the development;
- The ground conditions may be such that the site is not suitable for development;
- Noise pollution and disruption during periods of construction;
- Over development of the site;
- Road safety implications of having an access from an extension to Butlerfield spine road;
- Inadequate open space provision within the site, including for children's play;
- There exists covenants upon the Butlerfield spine road which would prohibit it being extended to form an access into the site;
- Inadequate public transport system to serve the proposed development.
- Loss of trees and woodland;
- Loss of green space;
- Loss of light and privacy from high buildings erected on the site;
- Insufficient capacity at local schools to accommodate the demand for pupil spaces resulting from the development;
- Concern about the implications on community identity and cohesion as a result of any review of school catchment areas resulting from the proposed development;
- Loss of the field comprising the site would harm the open farmland setting of Dalhousie Castle and Old Cockpen Church;
- concern with there being an inadequate car park at Newtongrange Railway Station and the resulting problem of people utilising the

railway station parking on roads within the neighbouring Orchard Grange Estate causing parking congestion;

- Concern about detrimental impact on water course of the River South Esk;
- Concerns about the management of surface water run-off and site drainage and the impact on the surrounding area;
- Concern about the distances of new houses on the site to existing neighbouring houses;
- The development is cramped;
- Concerns about asbestos and pollution resulting from the demolition of the roofs of the farm buildings;
- Insufficient details of site drainage has been submitted with the application;
- Insufficient footpath links from the site to the existing neighbouring housing development of Orchard Grove;
- Loss of light to neighbouring houses;
- A noise impact assessment has not been submitted with the application;
- There should be no vehicular access off the B704 and no through road from the B704 through the site to the Orchard Grange Estate.
- Absence of a safe route to/from the site and Bonnyrigg school for pedestrians and cyclists;
- There are more appropriate sites within Midlothian for a development of the scale proposed;
- The application does not include proposals to upgrade the existing spine road through the Orchard Grange Estate;
- Concern about the site having ground stability issues and thus will require substantial remediation/stabilisation;
- Concern about where material imported to remediate ground conditions and where infill material for levelling will come from and the risk of the imported material polluting the water course;
- Concern about where excess soil on site will be deposited how this will affect the finishing levels of the site;
- Overdevelopment of the site;
- The archaeological significance of the existing upstanding buildings on the site has not been considered and potential below ground archaeology requires consideration;
- Access to the site should be via a roundabout off the B704 instead of via the Butlerfield spine road/the Orchard Grange Estate; and
- Concern about flooding of residents within the vicinity of the South Esk.

## **7 PLANNING POLICY**

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) (SESplan) and the Midlothian Local Plan (MLP), adopted in December 2008.

## Midlothian Local Plan 2008

- 7.2 Policy **RP5: Woodland Trees and Hedges** does not permit development that would lead to the direct or indirect loss of woodland which has a particular value in terms of amenity, nature conservation, recreation, landscape character or shelter;
- 7.3 Policy **RP7: Landscape Character** which advises that development will not be permitted where it may adversely affect the quality of the local landscape. Provision should be made to maintain local diversity and distinctiveness of landscape character and enhance landscape characteristics where improvement is required;
- 7.4 Midlothian Local Plan Policy **RP8: Water Environment** aims to prevent damage to water environment, including groundwater and requires compliance with SEPA's guidance on SUDs;
- 7.5 Policy **RP9: Protection of River Valleys** requires development within the river valley protection areas of the Rivers North Esk, South Esk and Tyne to have a specific locational need for the development, and where this is established, development must demonstrate that it will not have an adverse impact either on the landscape and conservation value of the valleys or impede potential public access opportunities;
- 7.6 Policy **RP13: Species Protection** requires that any development that would affect a species protected by law will require an appropriate level of environmental and biodiversity assessment. Where development is permitted, proposals will require: a) measures for mitigation; and b) measures for enhancement or sustainable habitat replacement, where appropriate;
- 7.7 Policy **RP14: Habitat Protection Outwith Formally Designated Areas** requires that where a development affects sites which contain habitat of some significance, effects on the habitat as well as mitigation measures will be taken into account;
- 7.8 Policy **RP20: Development within the Built-up Area** states that development will not be permitted within the built-up area where it is likely to detract materially from the existing character or amenity of the area;
- 7.9 Policy **RP24: Listed Buildings** states that development will not be permitted where it would adversely affect the setting of a Listed Building;
- 7.10 The western edge and the southern extremity of the site is within Dalhousie Castle Designed landscape and is subject to **Policy RP25: Nationally Important Gardens and Designed Landscapes**, which presumes against development which may adversely affect the special characteristics of the designed landscape.

- 7.11 Policy **RP27: Other Important Archaeological or Historic Sites** states development will not be permitted if it adversely affects an identified important archaeological or historic site or its setting, unless there is appropriate mitigation and there is an overriding public interest;
- 7.12 Policy **RP28: Site Assessment, Evaluation and Recording** states that where any development proposal could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the impact of the proposal on the archaeological resource;
- 7.13 Policy **COMD1: Committed Development** continues the commitment to sites allocated for housing in the 2003 Local Plan, with an affordable housing requirement for the sites as set by Policy HOUS5 (Affordable and Special Needs Housing). The affordable housing requirement set in the 2003 Local Plan is in the range of 5% - 10% of the total number of units on site for developments comprising 50 or more units;
- 7.14 Policy **NRG3: Energy for Buildings (dwellings)** The Council will require predicted CO2 emissions associated with the life cycle of all new buildings and conversions to be minimised as far as is practicable. Proposals must compensate for any failure to optimise useful gains from passive solar energy by demonstrating achievement of a reduced level of CO2 emissions. Proposals with a total cumulative floorspace of 500 m2, and windfall development of any size, should incorporate on-site zero and low carbon equipment contributing at least an extra 15% reduction in CO2 in terms of the 2007 building regulations carbon dioxide emissions standard;
- 7.15 Policy **DP2: Development Guidelines** sets out Development Guidelines for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings;
- 7.16 Policy **DP3: Protection of the Water Environment** sets out development guidelines regarding flooding, treatment of water courses, drainage and Sustainable Urban Drainage Systems (SUDS);

Proposed Midlothian Local Development Plan (MLDP)

- 7.17 The proposed Midlothian Local Development Plan does not form part of the development plan for the Council's area, however it is a material consideration in relation to a planning application which carries more weight the closer it gets to being adopted, which is anticipated to be Spring 2017. The site is identified as housing site h37 (Cockpen Farm) in the Proposed Plan with an anticipated capacity of 137 units.

## National Policy

- 7.18 The **Scottish Planning Policy (SPP)** in respect of housing is also a material consideration. All proposals should respect the scale, form and density of their surroundings and enhance the character and amenity of the locality.
- 7.19 **Designing Places, A Policy Statement for Scotland** sets out the six key qualities which are at the heart of good design namely identity, safe and pleasant environment, ease of movement, a sense of welcome, adaptability and good use of resources;
- 7.20 **The Scottish Government's Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

## **7 PLANNING ISSUES**

- 8.1 The main planning issue to be considered in determining this application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise. The representation responses and the consultation responses received are material considerations.

### The Principle of Development

- 8.2 The principle of residential development on the site is established by its allocation within the 2003 Midlothian Local Plan (MLP). This allocation was then continued in the adopted 2008 MLP and in the Proposed Midlothian Local Development Plan (MLDP). Furthermore planning application 09/00056/OUT for residential development was granted in 2012. This application is regarding the discharging of the conditions associated with the application.

### Traffic and Transportation Issues - Discharge of conditions 3(i), 3viii, 3ix, 3xi, 6i, 6ii, 6iii, 6iv, 6v, 6vii and 6viii

- 8.3 The application proposes that residential access be taken from the existing distributor road serving the Butlerfield housing development to the east. This satisfies the relevant provisions of the original Midlothian Local Plan 2003 and the requirements of the development brief. A traffic assessment submitted with the previous outline planning application concludes that the existing road network, including Butlerfield spine road, is of a standard which can accommodate the increase in use of it resulting from the development. No off site transportation infrastructure works are required to facilitate the development.
- 8.4 The existing access serving Cockpen Farm is not suitable for access for construction vehicles and the use of it would pose road safety hazards. Instead, construction access is to be via the existing access

road that serves Butlerfield Industrial Estate. The junction of the access road within Butlerfield Industrial Estate and the internal estate road is to be widened to facilitate HGV vehicle movements. The access is to be controlled with the following combination of measures: (i) a security barrier that is opened on entry/exit using a fob/swipe entry system and with telemetry to the site office; (ii) a lockable Heras type security barrier that would be locked outwith normal site working hours; (iii) road signage erected in the vicinity of the temporary access informing drivers of construction vehicles not to exit the site via the A7/Victoria Road roundabout; but instead, to exit through Butlerfield Industrial Estate; iv) road signage erected in the vicinity of the A7/Victoria Road roundabout informing the drivers of construction vehicles not to access the site via the distributor road serving Butlerfield Spine Road. The proposed access arrangements will be put in place prior to site works commencing. If the construction access was off the A7/Victoria Road roundabout construction vehicles would have to pass along the road in front of 17 houses. However, owing to the construction vehicle route being via Butlerfield Industrial Estate the number of houses that construction vehicles using it would pass in front of is reduced to 6. Those 6 houses are separated from the construction access road by a relatively wide grassed verge. Subject to the proposed construction access arrangements being put in place prior to construction works commencing, the level of disruption to existing neighbouring dwellings during periods of construction is considered not to be significantly detrimental to their residential amenity.

- 8.5 The internal roads and footways, parking, traffic calming and pedestrian and cycle routes within the residential site comply with Midlothian Council "Standards for Development Roads". Sufficient car parking is provided in compliance with Midlothian Council's "Standards for Development Roads". The proposed development does not in itself justify improvements to be made to existing public transport services in the area, including the frequency of bus services. There is no requirement in transportation terms for the local bus service to be extended into the site, with frequent services being provided at Newtongrange and along the A7.
- 8.6 With regards to pedestrian and cycle routes the development brief states that: "New development should be planned to maximise existing routes and identify new paths. A 3 metre wide cycleway/footpath is to be formed from the site to the existing remote footpath along the western edge of the Butlerfield housing development. That cycleway/footway will provide a route through Butlerfield to local facilities in Newtongrange, the railway station and primary school. Adequate footpaths and cycleways are provided on the site that connect to the existing network.
- 8.7 In addition, the following are acceptable in transportation and pedestrian safety terms:



- The proposed footpath and cycle paths within and to/from the site;
- The layout of the proposed internal road;
- The proposed road lighting;
- The proposed programme for completion of construction of the access, road, footway and cycle path.

#### Design and Layout - Discharge of conditions 3iv, 3xi & 3xii

- 8.8 The design statement submitted in support of the application sufficiently details the applicant's approach to the site with regards to the issue of design, landscape and open space.
- 8.9 The proposed finished floor levels of the proposed houses and garages reflect the levels of the site and do not impact on existing residents and are therefore acceptable in planning terms. The siting, design and external finishing material of the buildings are in keeping with the character and amenity of the area and are therefore acceptable. The density of the development is appropriate to the location of the site on the edge of a settlement. The proposed development does not amount to an overdevelopment of the site.
- 8.10 The following proposals are in keeping with the character and amenity of the area and/or do not detract from the amenity of the area and are therefore acceptable in planning terms:
- The design and location of the proposed boundary walls and fences;
  - The programme for the completion and maintenance of the proposed hard and soft landscaping;
  - The proposed roads and footpaths configuration.
- 8.11 The proposed open space in the development is acceptable in terms of its location, size and layout. Adequate space for informal children's play is proposed in the development.
- 8.12 The arrangement of buildings, disposition of open space and scale and massing of the proposed development is acceptable. Front elevations of properties overlook the open spaces thus providing passive surveillance. New dwellings erected adjacent to the farm buildings are orientated to face onto them. The development has been designed to include streets and cul-de-sacs, some of which are laid out with shared surfaces of block paving.
- 8.13 With a few exceptions the distances between properties are in compliance with Policy DP2. The exceptions are not significantly below that set down in Policy DP2 and would not result in significant harm to the amenity of the future occupants of the houses. Forty seven houses on the site have rear gardens smaller than is needed to accord with Policy DP2. Some of these houses are terraced and all of them fall only marginally below the minimum size. The small size of the gardens

in these plots has to be balanced with the much larger gardens provided elsewhere on the site, a factor adding to the divergence of character between different parts of the site required to create an interesting place. Accordingly, reducing the number of houses in order to increase the unit size of gardens on these plots would not be justified. In terms of its scale and density the proposed development is appropriate for this edge of settlement site.

- 8.14 The future occupants of the houses will have adequate residential amenity. In terms of their sizes, heights and positions on the site the proposed buildings would not give rise to significant overlooking or overshadowing/loss of daylight or sunlight of any neighbouring properties or unduly impose themselves on them or appear obtrusive within the street scene.
- 8.15 The proposed development will not harm the character and amenity of the area including the setting of the neighbouring Category A listed Dalhousie Castle and Dalhousie Castle Garden and Designed Landscape.
- 8.16 It is not considered that the proposed development would result in the physical or visual coalescence of Newtongrange and Bonnyrigg.

Area of Improved Quality – Discharge of condition 3xii

- 8.17 MLP Policy DP2 requires that there be an added emphasis on the quality in design of a minimum of 20% of the dwellings on the site. This applies to individual buildings and the use of materials both in finishes and also in walls and ground surfaces. The Council expects such treatment be focused on prominent landmark groups or key individual buildings. The applicant proposes that such treatment be applied to plots at the entrance to the site and the plots around the listed steading building which include plots 1-5, 33 and 38, 58-85, 75 & 76 and 115-122. The style and appearance of the buildings on these plots are relatively traditional, which is in keeping with the established character and amenity of the area. Through negotiations with the applicant's agent the fenestration, materials and distribution of materials of the proposed building on these plots has been refined so that they are of an improved quality to the rest of the scheme. Elsewhere within the development, out with the aforesaid plots within the area of improved quality, the relatively traditional architectural style of the proposed houses is in keeping with or sympathetic to existing neighbouring buildings.
- 8.18 A simple palette of external finishing materials is proposed outwith the AIQ. Materials have been used to form definitive groupings, which includes a character zone in the northern part of the site. Samples of the external finishing materials have been submitted with the application and the majority of them are acceptable in planning terms. However, samples of some of the agreed materials have not been submitted for the prior approval of the Planning Authority and/or the

sample submitted is not acceptable. Therefore condition 4 of outline planning permission 09/00056/OUT, which requires the prior submission and written approval of all of the finishing material to be used in the development, cannot be discharged as part of this application. A separate matter specified in conditions application is required for the discharge of condition 4.

#### Open Space and Play Area - Discharge of conditions 3iii & 3x

- 8.19 The development incorporates a central landscaped open space which provides a key useable focal point in the development. The size of the open space meets the minimum size required by Policy DP2.
- 8.20 Four individual pieces of play equipment are proposed within the children's play area. In addition, a bench and steel litter bin is provided. In terms of their number, position, design and appearance the equipment is acceptable in planning terms.

#### Per Cent for Art - Discharge of condition 8

- 8.21 The proposed percent for art comprises artist blacksmith decorative metal railings around the equipped children's play area within the principal area of open space. Five decorative railings panels are proposed, each containing different elements, albeit they would be similar in feel to maintain coherency of design (i.e. other panels might feature 2 or 3 smaller fish, newts or trailing weed etc). In terms of their positioning, form, style and detailing the proposed percent for art is acceptable.

#### NRG3 - Discharge of condition 12

- 8.22 Policy NRG3 of the MLP requires on site zero and low carbon equipment contribution to provide at least an extra 15% reduction in CO2 in terms of the 2007 building regulations carbon dioxide standard. Building warrants have not yet been sought or obtained for the buildings. Future applications for building warrants stand to be determined against the 2011 Building Regulations. The 2011 Building Regulations require a CO2 reduction greater than 15%, which can be achieved with either low carbon equipment or improved thermal insulation in construction of the buildings or a combination of the two. Consequently it would not be reasonable for the Planning Authority to insist that the new buildings include low carbon equipment.

#### Sustainable Urban Drainage System (SUDS) - Discharge of condition 3vii

- 8.23 The proposed SUDS detention basin takes up part of the northern extremity of the site. The SUDS basin will appear as a natural feature in the landscape. The SUDS scheme will ensure that there will be no net detriment to the locality's drainage whilst providing a locally attractive space. There is a steep slope along the roadside edge. However, the distance between the roadway and the edge of the SUDS

feature is such that there is no requirement on safety grounds for a roadside safety barrier or bollards. SEPA raise no concerns over flooding.

#### Phasing - Discharge of conditions 2 & 6ix

- 8.24 A comprehensive phasing plan has been submitted with the application as required by condition 2 (Phasing) of outline planning permission 09/00056/OUT. The phasing plan submitted denotes the build phase and phasing of SUDS, structural landscaping and infrastructure, including footpaths. The structural landscaping is identified for implementation in phase 1 and therefore the landscaping will be established early. The phasing plan delineates the completion of the principal open space, including informal kick about pitch; the equipped children's play area and the percent for art prior to the houses fronting onto them being occupied. This means that open space is implemented at an early stage in the development, thus ensuring that the future occupants of the houses have access to open space for recreation and children's informal play space early on in the development, to the benefit of their amenity.
- 8.25 The phasing plan shows the listed steading buildings the subject of a separate planning application and listed building consent application to be converted to houses prior to the first occupation of the houses adjacent to it, which are within the AIQ. If the steading buildings were not converted prior to their occupation, owing to their dilapidated condition they would become a source of unsightliness, harmful to the residential amenity of the adjacent new build houses.

#### Landscaping - Discharge of condition 3ii, 3iii, 3v, 3vi & 3xiii

- 8.26 Planting is proposed along the eastern and south east boundaries where the site abuts the existing Butlerfield housing development. This makes good use of the steep ground in this location, mitigating the visual impact of the development and creating a good buffer zone. Elsewhere in the development the proposed hard and soft landscaping will enhance the development and integrate it into the area. The woodland management plan is acceptable and seeks to secure the woodland in the long term following good woodland management principles.
- 8.27 In places, the development is illustrated with rear gardens backing onto a footpath and thus not allowing for natural surveillance. Native, thorny shrubs are to be planting along the rear garden boundaries to deter unauthorised access to the gardens.
- 8.28 The two mature trees on the site; which have good amenity value, are to be retained.

## Ground Conditions

- 8.29 A site investigation report on the ground conditions of the site has not been submitted with the planning application. It therefore remains to be demonstrated to the Planning Authority that any ground contamination/instability issues can be mitigated. Consequently, planning condition 7 (contamination and ground conditions) of outline planning permission 09/00056/OUT cannot be discharged as part of this planning application. A separate matter specified in conditions application is required for the discharge of condition 7.

## Ecology - Discharge of conditions 10 & 11

### **Badgers**

- 8.30 A report on a badger survey of the site; dated March 2016, informs that several badger setts exist in the woodland on the western edge of the site to the east of Cockpen Dean Burn and the River South Esk, which are as close as 10 metres from the proposed development. One of the setts has up to five entrances all which have signs of recent activity. Approximately 8 metres outside the development boundary is a two entrance sett which has signs of activity and occupation. There are numerous established runs and numerous snuffle holes within the woodland but no latrine. The report states that it is possible that badgers forage over the development land but no evidence was found of this form of use. It is possible badgers may be attracted into the new development but is it recognised there is extensive good quality forage within the vicinity of the land. The report concludes that it is not anticipated that there will be an adverse effect on badgers as a consequence of the development. One badger sett near to the northern end of the site is within 8 metres of the boundary with the proposed development and 20 metres from the nearest proposed building on the site. It is recommended in the report that it will be necessary to obtain a disturbance licence to accommodate construction of that house, but it is anticipated that there will only be temporary disturbance of the sett if the development is implemented as proposed. A licence application can only be submitted subsequent to a grant of planning permission. The licence application will need to contain measures for mitigating the impact on badgers which in this case is likely to include temporary closure of the sett. The measures required will be decided on completion of an occupation assessment of the sett.
- 8.31 A Badger Mitigation Addendum Report, dated June 2016, makes a number of recommendations to mitigate harm/disruption to badgers including: (i) the management of the open grassland to the north west of the site as badger forage land; (ii) the introduction of a grass mowing regime to the open spaces in the development to improve their value for badger foraging (iii) the application of fertiliser to open spaces within the development to improve the nutrient of the ground and thus increase the forage value of the land for badgers; (iv) the provision of

each new household in the development with a 'Badger Pack' when they move into their property, which details how to manage their coexistence both on their property and in the locality. Subject to the implementation of the recommended badger mitigation there would be no significant harm to the local badger population and there should be an adequate foraging resource to support a viable badger population. The applicant has confirmed in writing to the Planning Authority that the recommended badger mitigation shall be carried out prior to the first occupation of any house built on the site.

### **Bats**

- 8.32 In June 2016 a bat survey was undertaken of the existing farm buildings on the site. No evidence was found of bats using the buildings and no bat activity was recorded. Therefore the proposed development would not have a detrimental impact on bats.

### **Barn Owls**

- 8.33 In June 2016 a barn owl survey was undertaken of the existing farm buildings on the site. No evidence was found of barn owl activity. Therefore the proposed development would not have a detrimental impact on barn owls.
- 8.34 The Ecological Constraints Report submitted with the previous application recommended the implementation of mitigation measures to safeguard otter, barn owl and bats. The recommended mitigation included: (i) a walkover check survey by a suitably qualified ecologist for signs of otter presence/activity prior to works commencing; (ii) the adherence to best practice working guidelines for otter; (iii) a further dusk/dawn emergence/re-entry surveys to be undertaken of the farmhouse and outbuildings prior to works commencing, in accordance with Bat Conservation Trust (BCT) survey guidelines; (iv) the erection of bat boxes on mature trees surrounding the site; and, (v) measures to enhance the listed folly as barn owl habitat and the installation of bird boxes within Catholes Wood. All of this recommended mitigation was secured by planning conditions imposed on the previous planning permission. Subject to this mitigation being carried out, the other protected species within the area would not be harmed by the proposed development.

### Archaeology

- 8.35 An on-site archaeological investigation has not yet been undertaken for this site. Thereby condition 9 of outline planning permission 09/00056/OUT cannot be discharged yet. A separate matter specified in conditions application is required for the discharge of condition 9.

#### Condition 1 of outline planning permission 09/00056/OUT

- 8.36 Given that conditions 4, 7 and 9 of outline planning permission 09/00056/OUT cannot be discharged as part of this current planning application, condition 1 of the outline planning permission; which requires further applicant(s) to be submitted for the discharge of conditions 4, 7 and 9, also cannot be discharged.
- 8.37 The development cannot commence on site unless and until application(s) for matters specified in conditions 1, 4, 7 & 9 of outline planning permission 09/00056/OUT have been submitted to and approved by the Planning Authority.

#### Developer Contributions

- 8.38 Developer contributions; including a contribution towards additional education capacity was secured through a Section 75 Legal Agreement signed prior to the grant of outline planning permission 09/00056/OUT. No additional developer contributions are required for this current application.

#### Other Issues - Representations

- 8.39 Issues raised by the representors have been largely addressed above. With regards to the matters raised in letters of objection and not addressed above:
- The application is sufficiently detailed to show the nature of the proposed development for which permission is sought.
  - The application is legally valid. The Planning Authority has not received any evidence to the contrary. The neighbour notification has been carried out in accordance with the requirements of planning legislation.
  - The site is not within the Green Belt and thus there would be no loss of Green Belt land.
  - The scale of the development is unlikely to generate undue harm to the amenity of neighbouring properties in terms of dirt and waste or noise nuisance. If a significant nuisance or public health issue were to arise during period of construction it could be controlled by environmental health legislation.
  - There is no legislative requirement for the applicants to have submitted a noise impact assessment with the application.
  - The matter raised by an objector concerning where material required to be imported to remediate ground conditions will come from and the potential for that imported material to pollute the water environment is a Building Standards/Environmental Health matter

and for consideration at the Building Warrant stage and in a future application for the discharge of condition 7 (ground conditions) of outline planning application 09/00056/OUT. Therefore, this is not a material consideration in the determination of this current planning application.

- The matter raised by an objector about whether excess soil on site will have to be deposited off site is not a material consideration in the determination of this planning application.
- The removal of/safe disposal of any existing building roofing material containing asbestos is controlled through legislation other than planning legislation and thus there is no requirement for the planning authority to impose conditions on a grant of planning permission to address this.
- Any potential damage caused to a gas main/pipe as a result of works to form the construction access and by the movements of construction vehicles is not a material planning consideration. Health and safety during construction works is controlled by legislation other than planning legislation.

8.40 In addition, the following matters raised in letters of representation are also not material considerations in the determination of this planning application:

1. Loss of view and outlook.
2. Title to and covenant over parts of the application site including whether there are covenants on Butlerfield spine road.
3. Any delay in the commencing of the development on site owing to the current/future economic climate and the implications of this on the maintenance of the site.
4. Whether there are existing problems of flooding of existing neighbouring properties.
5. Whether the existing doctor and dental surgery in the area have spare capacity to meet the demand that is likely to be generated by the proposed development – this is an issue addressed through the Council's development plan responsibilities.
6. The effect of the proposed development on the market value and saleability of existing neighbouring properties.
7. Whether there exist more appropriate sites in Midlothian for proposed residential development including brownfield sites.
8. Whether there is a need for the proposed development.
9. Whether the existing car park at Newtongrange railway station is adequate and existing problems of people utilising the railway station parking on roads within the neighbouring Orchard Grange Estate causing parking congestion.



## **9 RECOMMENDATION**

- 9.1 It is recommended that planning permission be granted to discharge conditions 2, 3, 6, 8, 10, 11 and 12 of Outline Planning Permission 09/00056/OUT for the following reason:

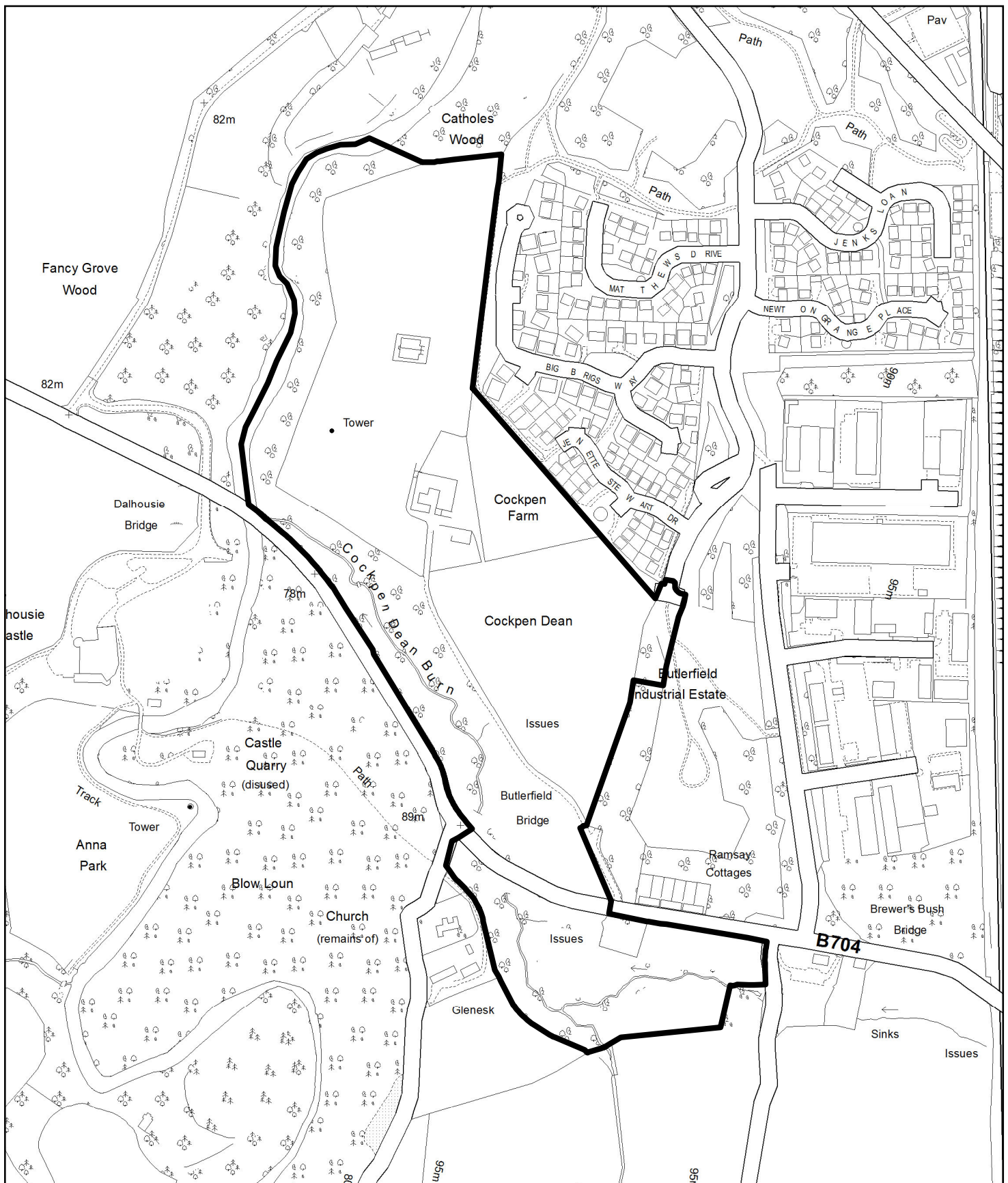
*The principle of the development of the site has been established by the previous grant of planning permission and site's allocation in the Midlothian Local Plan 2008. The proposed detailed scheme of development is of good design in terms of its layout, form and landscaping and meets the requirements of conditions 2, 3, 6, 8, 10, 11 and 12 of Outline Planning Permission 09/00056/OUT. The detailed scheme complies with the adopted Midlothian Local Plan and the presumption for the development is not outweighed by any other material considerations.*

**Ian Johnson**  
**Head of Communities and Economy**

**Date:** 23 August 2016

**Application No:** 15/00968/MS (Available online)  
**Applicant:** Omnivale Ltd & Miller Homes Ltd, Edinburgh Park,  
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**Validation Date:** 14 December 2015  
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**Background Papers:** 09/00056/OUT



**Education, Economy  
& Communities**  
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Erection of 131 dwellinghouses and formation of access and associated works (approval of matters specified in conditions 2, 3, 6, 8, 10, 11 and 12 of planning permission 09/00056/OUT) at Cockpen Farm Cockpen Dean Bonnyrigg

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