

Notice of Meeting and Agenda



Planning Committee

Venue: Council Chambers,
Midlothian House, Dalkeith, EH22 1DN

Date: Tuesday, 14 May 2019

Time: 13:00

Director, Resources

Contact:

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

Clerk Email: mike.broadway@midlothian.gov.uk

Further Information:

This is a meeting which is open to members of the public.

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1 Welcome, Introductions and Apologies

2 Order of Business

Including notice of new business submitted as urgent for consideration at the end of the meeting.

3 Declaration of Interest

Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

4 Minute of Previous Meeting

- 4.1** Minute of Meeting held on 2 April 2019 - For Approval 5 - 14

5 Public Reports

- 5.1** Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage – Report by Director, Education, Communities and Economy. 15 - 22

- 5.2** Appeals and Local Review Body Decisions - Report by Director, Education, Communities and Economy. 23 - 24

- 5.3** Supplementary Guidance: Housing Development in the Countryside and Green Belt – Report by Director, Education, Communities and Economy. 25 - 66

Pre-Application Consultations - Reports by Director, Education, Communities and Economy.

- 5.4** Proposed Development of Mountain Bike Trail Centre, Indoor and Outdoor Leisure Facilities, Food and Drink Uses, Professional Service Suites, Offices, Retail, Visitor Accommodation and Associated Site Access Parking, Landscaping and Other Works at Former Lothianburn Golf Club 106 Biggar Road Edinburgh (19/00126/PAC). 67 - 72

- 5.5** Proposed Residential Development with Associated Engineering Works, Open Space and Landscaping at Land North of Oak Place Mayfield Dalkeith (19/00106/PAC). 73 - 78

Applications for Planning Permission Considered for the First Time – Reports by Director, Education, Communities and Economy.

- 5.6** Application for Planning Permission for the Erection of 247 Dwellinghouses; Formation of Access Roads and Car Parking; SUDs Features and Associated Works on part of Site HS11 Dalhousie South Bonnyrigg (18/00740/DPP). 79 - 104

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| 5.7 | Application for Planning Permission in Principle for Residential Development on part of Site HS11 Dalhousie South Bonnyrigg (18/00743/DPP). | 105 - 126 |
| 5.8 | Section 42 Application to Remove Condition 7, requiring enhanced Public Transport facilities, imposed on grant of Planning Permission 17/00951/PPP for a Retail Unit at Soutra Mains Farm, Blackshiels, Fala, Pathhead (19/00221/S42). | 127 - 142 |

6 Private Reports

No Private Reports to be discussed at this meeting.

7 Date of Next Meeting

The next meeting will be held on Tuesday 18 June 2019 at 1.00pm

Plans and papers relating to the applications on this agenda can also be viewed online at www.midlothian.gov.uk.

Minute of Meeting



Planning Committee

Date	Time	Venue
2 April 2019	1.00 pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Baird	Councillor Cassidy
Councillor Curran	Councillor Hackett
Councillor Hardie	Councillor Lay-Douglas
Councillor McCall	Councillor Muirhead
Councillor Munro	Councillor Russell
Councillor Smail	Councillor Wallace

In Attendance:

Mary Smith, Director, Education, Communities and Economy	Peter Arnsdorf, Planning Manager
Alan Turpie, Legal Services Manager	Jim Gilfillan, Consultant Policy & Planning, Policy & Road Safety
Mike Broadway, Democratic Services Officer	

1. Apologies

Apologies for absence were intimated on behalf of Councillors Johnstone, Milligan, Parry and Winchester.

2. Order of Business

The order of business was confirmed as outlined in the agenda.

3. Declarations of interest

No declarations of interest were received

4. Minutes of Previous Meetings

The Minute of Meeting of the Committee which took place on 19 February 2019 was submitted for approval. The Committee unanimously approved the Minute and the Chair was authorised to sign it as a true record of the meeting.

5. Reports

Agenda No	Report Title	Presented by:
5.1	Development Plan Scheme for Midlothian Number 11	Peter Arnsdorf
Outline of report and summary of discussion		
There was submitted a report dated 22 March 2019 by the Director, Education, Communities and Economy seeking approval for the Development Plan Scheme for Midlothian No. 11 (DPSM11) which was required to be published annually to satisfy legislative requirements. Each year local planning authorities were required to prepare and submit a Development Plan Scheme (DPS) to Scottish Ministers setting out their intentions with respect to preparing, reviewing and consulting on the development plans for its area over the coming twelve months.		
Decision		
The Committee, having heard from the Planning Manager: <ul style="list-style-type: none">(a) Approved the Development Plan Scheme for Midlothian No.11 (DPSM11); a copy of which was appended to the report; and(b) Agreed to the publication of the DPSM11, copies to be placed in all public libraries and to formally submit a copy to Scottish Ministers.		
Action		
Director, Education, Communities and Economy/Planning Manager		

Agenda No	Report Title	Presented by:
5.2	Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf

Outline of report and summary of discussion

There was submitted a report dated 22 March 2019 by the Director, Education, Communities and Economy updating the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.

The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants was outlined in Appendices A and B attached to this report.

Decision

The Committee noted the major planning application proposals which were likely to be considered by the Committee in 2019 and the updates for each of the applications.

Action

Planning Manager

Agenda No	Report Title	Presented by:
5.3	Appeals and Local Review Body Decisions	Peter Arnsdorf

Outline of report and summary of discussion

There was submitted a report dated 22 March 2019 by the Director, Education, Communities and Economy informing the Committee of the notices of review determined by the Local Review Body (LRB) at its meeting in March 2019 and two appeal decisions received from Scottish Ministers.

Appended to the report were copies of the following appeal decision notices from the Scottish Government, Planning and Environmental Appeals Division:-

- Dated 12 March 2019, upholding an appeal by Midlothian Developments against refusal of planning permission for the erection of one dwellinghouses at Land adjoining Airybank House, Quarrybank/Kilns Road, Cousland (18/00592/DPP) and granting planning permission, subject to conditions; and
- Dated 12 March 2018, upholding an appeal by Midlothian Developments against refusal of planning permission for the erection of three dwellinghouses at Land adjoining Airybank House, Quarrybank/Kilns Road, Cousland (18/00593/DPP) and granting planning permission, subject to conditions, and a legal agreement.

Decision

The Committee:

- (a) the decisions made by the Local Review Body at its meetings on 5 March 2019; and
- (b) the outcome of the appeals determined by Scottish Ministers

Action

Planning Manager

Sederunt

Councillor Hackett joined the meeting during consideration of the foregoing item of business, at 1.03 pm.

Agenda No	Report Title	Presented by:
5.4	Supplementary Guidance: Resource Extraction	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.2 of the Minutes of 22 January 2019, there was submitted report, dated 22 March 2019, by the Director of Education, Communities and Economy, providing the Committee with an update on the adoption of the Resource Extraction Supplementary Guidance.

The report explained in particular that –

- the required public notification/advertisement advising that the Resource Extraction Supplementary Guidance would not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment had been published in the Midlothian Advertiser newspaper on 31 January 2019; and
- Scottish Ministers, in response to notification of the Council's intention to adopt the supplementary guidance had informed the Council by letter dated 19 February 2019 that they did not propose to issue a direction in relation to the guidance and that the Council was free to adopt the guidance

Decision

The Committee, having heard from the Planning Manager, noted the update on adoption of the Special Landscape Areas Supplementary Guidance.

Action

Planning Manager

Agenda No	Report Title	Presented by:
5.5	Supplementary Guidance: Food and Drink and Other Non-Retail Uses in Town Centres	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.1 of the Minutes of 20 November 2018, there was submitted report, dated 22 March 2019, by the Director of Education, Communities and Economy, providing the Committee with an update on the adoption of the Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance.

The report explained in particular that –

- the required public notification/advertisement advising that the Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance would not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment had been published in the Midlothian Advertiser newspaper on 28 February 2019; and

<ul style="list-style-type: none"> Scottish Ministers, in response to notification of the Council’s intention to adopt the supplementary guidance had informed the Council by letter dated 4 March 2019 that they did not propose to issue a direction in relation to the guidance and that the Council was free to adopt the guidance
Decision
The Committee, having heard from the Planning Manager, noted the update on adoption of the Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance.
Action
Planning Manager

Agenda No	Report Title	Presented by:
5.6	Tree Preservation Order for Trees at the Former Wellington School Site and on Land to the South and East of Ard Craig, Penicuik	Peter Arnsdorf
Outline of report and summary of discussion		
<p>With reference to paragraph 6.1 of the addendum of the Minutes of 28 August 2018, there was submitted report, dated 22 March 2019 by the Director, Education, Communities and Economy, concerning the Tree Preservation Order made to protect the trees and groups of trees on land at the former Wellington School and on land to the south and east of Ard Craig. Penicuik (residential property off the A701) between the A701 and the Lead Burn.</p> <p>The report explained that the TPO which had come into effect on 5 December 2018 would remain in effect for six months, unless the Local Planning Authority ‘confirmed’ the TPO. To ‘confirm’ the Order the Local Planning Authority must register the TPO in the Land Register of Scotland, place a copy on its own TPO register and notify the Forestry Commission, interested persons and any person who has made a representation</p> <p>The Committee, having heard from the Planning Manager, acknowledged that protecting trees with a preservation order did not prevent the owners from carrying out necessary work to the trees or to improve the land, it simply ensured that such works were carried out in accordance with an appropriate management plan which has to be agreed with the Council in advance.</p>		
Decision		
The Committee agreed to confirm the TPO to protect the trees and groups of trees on land at the former Wellington School and on land to the south and east of Ard Craig. Penicuik (residential property off the A701) between the A701 and the Lead Burn.		
Action		
Planning Manager/Legal Services Manager		

Sederunt

With reference to item 3 above, Councillor Hackett declared a non-pecuniary interest in the following item of business, on the grounds that not long after being elected as a Councillor he had naively offered a view making reference to this particular application. He withdrew from the meeting at 1.08 pm, taking no part in the consideration thereof.

Agenda No	Report Title	Presented by:
5.7	Proposed erection of 64 Dwellinghouses; Car Parking and Associated Works at Land South East of Tynewater Primary School, Crichton Road, Pathhead (19/00076/PAC)	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 22 March 2019, by the Director, Education Communities and Economy advising that a pre application consultation had been submitted regarding the proposed erection of 64 dwellinghouses; car parking and associated works at land south east of Tynewater Primary School, Crichton Road, Pathhead (19/00076/PAC).

The report advised that in accordance with the pre-application consultation procedures noted by the Committee at its meeting on 6 June 2017 (paragraph 5.8 refers) the pre application consultation was being reported to Committee to enable Members to express a provisional 'without prejudice' view on the proposed major development. The report outlined the proposal, identified the key development plan policies and material considerations and stated a provisional without prejudice planning view regarding the principle of development for the Committee's consideration.

Summary of Discussion

The Committee, having heard from the Planning Manager, discussed the potential for the developers to enter into dialogue with the A68 Group, who themselves were in discussion with Transport Scotland, as trunk roads authority, regarding road safety in Pathhead. Concerns having been raised about the fact that the development site was on the opposite side of the A68 to many facilities.

Decision

The Committee noted:

- (a) The provisional planning position set out in the report;
- (b) The comments made by Members; and
- (c) That the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.

Action

Director, Education, Communities and Economy; Planning Manager

Sederunt

Councillor Hackett rejoined the meeting at the conclusion of the foregoing item of business at 1.12 pm.

Agenda No	Report Title	Presented by:
5.8	Application for Planning Permission for the Erection of a Community Facility incorporating Primary School; Early Years Provision; Library and Leisure Facilities at Land at Danderhall Primary School and Danderhall Recreation Ground, Edmonstone Road, Danderhall (18/00735/DPP).	Peter Arnsdorf

Outline of report and summary of discussion

There was submitted report, dated 22 March 2019, by the Director, Education, Communities and Economy concerning the above application.

The Committee, having heard from the Planning Manager, acknowledged the importance to the local community of delivering on the proposals to mitigate the loss of the informal open space through access to facilities being made available out of hours.

Decision

The Committee agreed to grant the planning permission for the following reasons

The site is located within the settlement boundary of Danderhall and on a site with an established educational and community use and as such there is presumption in favour of an appropriate educational and community use development. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies. The presumption for development is not outweighed by any other material considerations.

subject to the detailed conditions set out in the report.

Action

Planning Manager

Agenda No	Report Title	Presented by:
5.9	Application for Planning Permission in Principle for Residential Development and Associated Works at Site HS19 Land to the Northwest of Moat View, Roslin (18/00535/PPP).	Peter Arnsdorf

Outline of report and summary of discussion

There was submitted report, dated 22 March 2019, by the Director, Education, Communities and Economy concerning the above application.

Having heard from the Planning Manager, the Committee considered the potential use of developer contributions towards Roslin Country Park, the provision for affordable housing; and the likely impact of the proposal to link the spine road within the proposed development site to the spine road within the neighbouring Chapel Lawns development to the west on Core Path 29, which was the subject of a 450 signature online and paper petition.

Decision

The Committee, after further discussion, agreed to grant the planning permission for the following reason:

The proposed development site is identified as being part of the Council's committed housing land supply within the Midlothian Local Development Plan 2017 and as such there is a presumption in favour of the proposed residential development. This presumption in favour of development is not outweighed by any other material considerations.

subject to:

- i) the prior signing of a legal agreement to secure the provision of affordable housing and contributions towards education provision, the A701 Relief Road, community facilities/space and the maintenance of children's play areas/open space.

The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.

- ii) the detailed conditions as set out in the report.

Action

Planning Manager

Agenda No	Report Title	Presented by:
5.8	Application for Planning Permission for the erection of 43 dwellinghouses and 8 flatted dwellings; the formation of associated access road; and a sustainable urban drainage system (SUDS) on land 65m west of Rosslyn Bowling Club, Main Street, Roslin (18/00703/DPP)	Peter Arnsdorf

Outline of report and summary of discussion

There was submitted report, dated 22 March 2019, by the Director, Education, Communities and Economy concerning the above application.

The Committee, having heard from the Planning Manager, discussed seeking developer contributions from this and other proposed developments along the A701 corridor towards improved public transport links.

Decision

The Committee agreed to grant the planning permission for the following reason:

The proposed development site is allocated in the Midlothian Local Development Plan 2017. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies, subject to securing developer contributions. There would be no significant harm to the amenity of any neighbouring property. The presumption for development is not outweighed by any other material considerations.

subject to:

- i) the prior signing of a legal agreement to secure the provision of affordable housing and contributions towards education provision, the A701 Relief Road, community facilities/space, the maintenance of children's play areas/open space and public transport.

The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.

- ii) the conditions as set out in the report.

Action

Planning Manager

6. Private Reports

No private business was discussed.

7. Date of Next Meeting

The next meeting will be held on Tuesday 14 May 2019.

The meeting terminated at 1.42 pm



MAJOR DEVELOPMENTS: APPLICATIONS CURRENTLY BEING ASSESSED AND OTHER DEVELOPMENTS AT PRE-APPLICATION CONSULTATION STAGE

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 This report updates the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.

2 BACKGROUND

- 2.1 A major application is defined by regulations and constitutes proposed developments over a specified size. For example; a development comprising 50 or more dwellings, a business/industry use with a gross floor space exceeding 10,000 square metres, a retail development with a gross floor space exceeding 5,000 square metres and sites exceeding 2 hectares. A major application (with the exception of a Section 42 application to amend a previous grant of planning permission) cannot be submitted to the planning authority for determination without undertaking a formal pre application consultation (PAC) with local communities.
- 2.2 At its meeting of 8 June 2010 the Planning Committee instructed that it be provided with updated information on the procedural progress of major applications on a regular basis.
- 2.3 The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants is outlined in Appendices A and B attached to this report.

3 DEVELOPMENT PLAN UPDATE

- 3.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan June 2013 (SDP1) and the Midlothian Local Development Plan 2017 (MLDP). The MLDP was adopted by the Council at its meeting of 7 November 2017. The proposed Strategic Development Plan (SDP2) has been subject to examination by Scottish Government Reporters and is with the Scottish Ministers for final consideration.

4 RECOMMENDATION

- 4.1 The Committee is recommended to note the major planning application proposals which are likely to be considered by the Committee in 2019 and the updates for each of the applications.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 2 May 2019
Contact Person: Peter Arnsdorf, Planning Manager
peter.arnsdorf@midlothian.gov.uk
Tel No: 0131 271 3310

Background Papers: Planning Committee Report entitled 'Major Developments: Applications currently being assessed and other developments at Pre-Application Consultation stage' 8 June 2010.

APPENDIX A

MAJOR APPLICATIONS CURRENTLY BEING ASSESSED

Ref	Location	Proposal	Expected date of reporting to Committee	Comment
17/00435/DPP	Land at Newbyres, River Gore Road, Gorebridge	Erection of 125 residential units; formation of access roads, SUDS features and associated works	Being held in abeyance	Pre-Application Consultation (13/00609/PAC) carried out by the applicants in August - November 2013. The application has been held in abeyance for a significant period of time whilst the applicant considers amending their layout.
18/00099/DPP	Land at Gore Avenue and Newbyres Crescent, Gorebridge	Erection of 46 flatted dwellings; 17 dwellinghouses and 12 extra care units associated works	Being held in abeyance pending additional information from the applicant	Pre-Application Consultation (17/00913/PAC) carried out by the applicants in November 2017 – February 2018. This application is being held in abeyance subject to the applicant submitting additional information regarding mine gas mitigation measures.
18/00403/DPP	Land between Rosewell Road and Carnethie Street, Rosewell	Erection of 100 dwellinghouses and associated works	June 2019	Pre-Application Consultation (15/00774/PAC) carried out by the applicants in September 2015 – December 2015.
18/00495/DPP	Land west of Burnbrae Terrace Bonnyrigg	Erection of resource facility including offices; skills training suites, stores, workshops, ambulance depot and enterprise units; formation of car parking, access roads and external storage areas; and associated works	June 2019	Pre-Application Consultation (17/00721/PAC) carried out by the applicants in September 2017 – December 2017. Additional information from the applicant in relation to noise mitigation, the operation of the facility and other environmental matters has been recently submitted and is subject to consultation.
18/00528/S42	Land at Calderstone, Biggar Road, Lothianburn	Section 42 Application to amend conditions 3, 4, 5, 6 and 10 of planning permission 15/00113/PPP, for the erection of hotel (to amend the phasing of the development)	August 2019	Section 42 applications do not require to go through the Pre-Application Consultation process. The conditions relate to the phasing of development, landscaping, building design and layout and transportation matters. This application was held in abeyance for a significant period of time pending additional information being submitted by the applicant.

18/00628/S42	Land at Calderstone, Biggar Road, Lothianburn	Section 42 Application to amend conditions 4 and 5 of planning permission 15/00113/PPP, for the erection of hotel (to amend the phasing of the development)	August 2019	Section 42 applications do not require to go through the Pre-Application Consultation process. The conditions relate to the landscaping and building design and layout. This application was held in abeyance for a significant period of time pending additional information being submitted by the applicant.
18/00740/DPP	Part of Site Hs11, Dalhousie South, Bonnyrigg	Erection of 248 dwellinghouses and associated works	May 2019	Pre-Application Consultation (17/00402/PAC) carried out by the applicants in May 2018 – August 2017. A separate planning permission in principle application (18/00743/PPP) has been submitted for the provision of affordable housing on the wider Hs11 site. This application is reported to this meeting of the Committee.
18/00743/PPP	Part of Site Hs11, Dalhousie South, Bonnyrigg	Planning application in principle for residential development	May 2019	Pre-Application Consultation (17/00402/PAC) carried out by the applicants in May 2018 – August 2017. A separate planning application (18/00740/DPP) has been submitted for the rest of site Hs11. This application is reported to this meeting of the Committee.
19/00112/PPP	Land at the former Monktonhall Colliery Site, Monktonhall Colliery Road, Newton, Danderhall	Erection of a community facility incorporating secondary and primary school; early years provision; family learning provision; library, leisure and healthcare facilities, sports pitches and associated works.	June 2019	Pre-Application Consultation (18/00558/PAC) carried out by the applicants in August 2018 – October 2018.
19/00299/DPP <i>New addition to the table</i>	Land between Deanburn and Mauricewood Road, Penicuik	Erection of 91 dwellinghouses and associated works (amendment to house numbers, house types and layout approved in terms of planning permission 17/00068/DPP)	August 2019	This application seeks to amend the house numbers, house types and layout of part of the development approved by planning permission 17/00068/DPP which was considered by the Committee at its meeting in November 2017.

<p>19/00099/PPP</p> <p><i>New addition to the table</i></p>	<p>Land to the north of Hardengreen House, Dalkeith</p>	<p>Planning application in principle for mixed use development including Class 1 (Shops); Class 2 (Financial, Professional and Other Services); Class 3 (Food and Drink); Class 4 (Business); and Class 9 (Houses).</p>	<p>June 2019</p>	<p>Pre-Application Consultation (17/00670/PAC) carried out by the applicants in August 2017 – October 2017.</p>
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APPENDIX B

NOTICE OF PRE-APPLICATION CONSULTATIONS RECEIVED AND NO APPLICATION HAS BEEN SUBMITTED

Ref	Location	Proposal	Date of PAC submission	Earliest date for receipt of planning application and current position
16/00830/PAC	Land east of junction with Greenhall Road Barleyknowe Road Gorebridge	Residential development This site is not allocated for housing	24 November 2016	10/02/17 - no application yet received. A pre-application report was reported to the January 2017 meeting of the Committee.
17/00296/PAC	Land to the east of Lawfield Road and to the north of Ash Grove, Mayfield	Residential development This site is not allocated for housing	19 April 2017	06/07/17 - no application yet received. A pre-application report was reported to the June 2017 meeting of the Committee.
17/00367/PAC	Site Hs12 Hopefield Farm 2 Bonnyrigg	Residential development The site is identified for an indicative 375 residential units in the MLDP.	9 May 2017	02/08/17 - no application yet received. A pre-application report was reported to the August 2017 meeting of the Committee.
17/00606/PAC	Land south east of Auchendinny, The Brae, Auchendinny (Site Hs20)	Residential development The site is identified for an indicative 350 residential units in the MLDP.	27 July 2017	20/10/17 - no application yet received. A pre-application report was reported to the November 2017 meeting of the Committee.
17/00663/PAC	Land bounded by A7, Stobhill Road and Pentland Avenue, Gorebridge	Mixed use development comprising residential and commercial land uses	16 August 2017	09/11/17 - no application yet received. A pre-application report was reported to the October 2017 meeting of the Committee.
18/00894/PAC	Land at Wull Muir, Gorebridge	Erection of up to 9 wind turbines (wind farm)	9 November 2018	02/02/19 - no application yet received. A pre-application report was reported to the January 2019 meeting of the Committee.
18/00962/PAC	Land east and west of Easthouses Road, Easthouses	Residential development and erection of school, with associated engineering works, open space and landscaping	14 December 2018	09/03/19 - no application yet received. A pre-application report was reported to the February 2019 meeting of the Committee.

18/00970/PAC	Midlothian Snow Sports Centre	Redevelopment of existing snowsports centre to include leisure facilities; tourist accommodation; hotel; function suite and ancillary retail and restaurant; formation of access and car parking	21 December 2018	16/03/19 - no application yet received. A pre-application report was reported to the February 2019 meeting of the Committee.
19/00012/PAC	Land east of Salters Road, Dalkeith	Mixed use development comprising film and TV studios including workshops/offices; reception/commissary; gatehouse; backlot; trailer park; film academy and associated student accommodation; and associated access, parking and infrastructure	9 January 2019	04/04/19 - no application yet received. A pre-application report was reported to the January 2019 meeting of the Committee.
19/00076/PAC	Land south east of Tynewater Primary School, Crichton Road, Pathhead	Erection of 64 dwellinghouses; car parking and associated works	1 February 2019	27/04/19 - no application yet received. A pre-application report was reported to the May 2019 meeting of the Committee.
19/00106/PAC	Land north of Oak Place, Mayfield, Dalkeith	Residential development The site is identified for an indicative 63 residential units in the MLDP.	8 February 2019	04/05/19 This pre application consultation is reported to this meeting of the Committee.
19/00126/PAC	Former Lothianburn, Golf Club, 106 Biggar Road, Edinburgh	Mixed use development comprising mountain bike trail centre, indoor and outdoor leisure uses, food and drink, professional services, retail, visitor accommodation and associated works	14 February 2019	10/05/19 This pre application consultation is reported to this meeting of the Committee.
19/00252/PAC <i>New addition to the table</i>	Land at Wellington School, Penicuik	Residential development The site is identified as an 'Additional Housing Development Opportunity' for an indicative 50 - 60 residential units in the MLDP.	20 March 2019	13/06/19 This pre application consultation will be reported to the June meeting of the Committee.



APPEALS AND LOCAL REVIEW BODY DECISIONS

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 This report informs the Committee of a notice of review determined by the Local Review Body (LRB) at its meeting in April 2019. There are no Scottish Government appeal decisions to report to the Committee.

2 BACKGROUND

- 2.1 The Council's LRB considers reviews requested by applicants for planning permission, who wish to challenge the decision of planning officers acting under delegated powers to refuse the application or to impose conditions on a grant of planning permission.
- 2.2 The decision of the LRB on any review is final, and can only be challenged through the Courts on procedural grounds.
- 2.3 Decisions of the LRB are reported for information to this Committee.

3 PREVIOUS REVIEWS DETERMINED BY THE LRB

- 3.1 At its meeting on 16 April 2019 the LRB made the following decision:

	Application Reference	Site Address	Proposed Development	LRB Decision
1	18/00654/DPP	70 Lothian Street, Bonnyrigg	Change of use from retail to hot food take away and installation of flue	Permission refused at LRB meeting of 16.04.2019

4 RECOMMENDATION

- 4.1 The Committee is recommended to note the decision made by the Local Review Body at its meetings in April 2019.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 2 May 2019
Contact Person: Peter Arnsdorf, Planning Manager
peter.arnsdorf@midlothian.gov.uk
Tel No: 0131 271 3310

Background Papers: LRB procedures agreed on the 13 June 2017.



SUPPLEMENTARY GUIDANCE: HOUSING DEVELOPMENT IN THE COUNTRYSIDE AND GREEN BELT

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek agreement to the adoption of the Housing Development in the Countryside and Green Belt Supplementary Guidance.

2 BACKGROUND

- 2.1 At its meeting of 7 November 2017 the Council adopted the Midlothian Local Development Plan 2017 (MLDP). The MLDP included a commitment to prepare Supplementary Guidance and Planning Guidance on a number of topic areas (Section 7.2, pages 81 and 82 of the MLDP). Additional guidance is required to provide further detail and interpretation of the policies and strategy set out in its development plan. One of the topic areas which needs further detail is with regard Housing Development in the Countryside and Green Belt.
- 2.2 At its meeting of 9 October 2018 the Committee approved the draft Housing Development in the Countryside and Green Belt Supplementary Guidance for consultation and agreed to consider a further report on the Guidance following the proposed consultation.
- 2.3 The consultation period ran for eight weeks from 22 November 2018 to 18 January 2019.
- 2.4 The draft Housing Development in the Countryside and Green Belt Supplementary Guidance was published on the Council's website and available for inspection at Fairfield House and in all Midlothian Council libraries. All Midlothian Community Councils, those who had commented on the relevant sections of the Proposed Midlothian Local Development Plan (and who had expressed a continuing wish to be involved in Midlothian planning matters) and other known parties considered to have an interest in the document including Government agencies were consulted.

3 REPRESENTATIONS

- 3.1 As part of the consultation process responses from eight parties were received. Responses were received from a range of consultees including Community Councils, landowners, developers, Government agencies and members of the public.
- 3.2 A summary of the consultation responses received with the proposed officer response and a track change copy of the draft Housing Development in the Countryside and Green Belt Supplementary Guidance document showing proposed deletions and additions to the document arising from the consultation is attached to this report. New/edited text within the guidance document is shown in red.

4 STRATEGIC ENVIRONMENTAL ASSESSMENT

- 4.1 All Scottish public bodies and a few private companies operating in a 'public character' (e.g. utility companies) within Scotland are required to assess, consult and monitor the likely impacts of their plans, programmes and strategies on the environment. This process is known as Strategic Environmental Assessment (SEA).
- 4.2 As required by the Environmental Assessment (Scotland) Act 2005, screening for likely significant environmental effects from the draft supplementary guidance has been undertaken with the Consultation Authorities - SEPA, Scottish Natural Heritage and Historic Environment Scotland. The Consultation Authorities agree with the Council's opinion that no such effects are likely.
- 4.3 The Council is now in a position to make a formal determination that no such effects are likely, thereby exempting the supplementary guidance from any requirement for Strategic Environmental Assessment ('SEA'). The supplementary guidance cannot be considered adopted until such a determination has taken place. The determination requires to be advertised in a local paper within 14 days and copied to the consultation authorities.
- 4.4 The guidance has also been screened for a Habitats Regulations Appraisal (HRA) and because of the protection of sites within the MLDP a HRA is considered not to be required.

5 HOUSING DEVELOPMENT IN THE COUNTRYSIDE AND GREEN BELT SUPPLEMENTARY GUIDANCE

- 5.1 The Midlothian Local Development Plan (2017) has a commitment to prepare supplementary guidance on Housing Development in the Countryside and Green Belt. Not adopting this supplementary guidance would lead to an insufficient policy framework when considering new applications for housing in the countryside and green belt.

5.2 The supplementary guidance includes:

- details of what constitutes a housing group under policy RD1;
- guidance on identifying the most appropriate location for new dwellings at existing housing groups;
- guidance on when non-residential buildings can be redeveloped and the appropriate scale and design for replacement development; and
- details on what constitutes an acceptable steading conversion.

5.3 Section 22 of the Planning etc. (Scotland) Act 2006 requires the Council to send Scottish Ministers a copy of the Housing Development in the Countryside and Green Belt Supplementary Guidance intended for adoption, together with a statement setting out the publicity measures undertaken for the consultation, the comments received and how comments submitted were taken into account. Unless Scottish Ministers have directed otherwise, after at least 28 days have elapsed the Council may adopt the Supplementary Guidance,

6 RECOMMENDATION

6.1 The Committee is recommended to:

- a) adopt the Housing Development in the Countryside and Green Belt Supplementary Guidance (as amended following the consultation process);
- b) agree that the Housing Development in the Countryside and Green Belt Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
- c) instruct the Planning Manager to undertake the required notification/advertisement advising that the Housing Development in the Countryside and Green Belt Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
- d) instruct the Planning Manager to notify the Scottish Ministers of the Council's intention to adopt the Housing Development in the Countryside and Green Belt Supplementary Guidance; and
- e) be advised of the outcome of the notification to the Scottish Ministers.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 2 May 2019
Contact Person: Fraser James, Planning Officer
fraser.james@midlothian.gov.uk
Tel No: 0131 271 3514
Background Papers: MLDP 2017 adopted 7 November 2017.

Name/Contact	Organisation	Question	Comment	Council amendment
Sections 1 & 2: Introduction and Development in Rural Areas				
	Roslin & Bilston Community Council	Development in Rural Areas, Paragraph 2.1	“While this principle...” suggests a weakening of the principle when the need to protect the countryside is greater than ever. Seeks amendment referencing NFP and SPP.	Consider that this paragraph reflects Scottish Government policy of encouraging rural development that supports prosperous and sustainable communities while protecting and enhancing environmental quality, particularly the Policy Principles listed in the SPP (paragraph 75).
	Roslin & Bilston Community Council	Development in Rural Areas, Paragraph 2.3	Second sentence should begin, “They seek, ...”. Policies reproduced in appendix A should be referenced here rather than later in the guidance. Suggests additional sentence at end stating “ <i>If this is not done, the supplementary guidance will open up loopholes in policy RD1.</i> ”	Agree that reference should be made to Appendix A earlier in the document. The Council do not see the merit in the suggested sentence.
Debbie MacKay (Savills)	Crown Estate	Introduction	Seeks more positive wording and tone to guidance and considers text in para 1.2 provides a very limited and restrictive view on how rural areas contribute to Midlothian’s aspirations. Points to Scottish Government’s ‘Rural Economy Narrative’ document as a more positive example. Questions whether the guidance reflects the Scottish Government’s approach. Considers that there is a case for a more dynamic vision for rural areas that allows greater flexibility in development opportunities.	Considers that the text reflects the Policy Principles listed in the SPP (paragraph 75).
Sections 3 & 4: Countryside and Green Belt in Midlothian and General Development Requirements				
	Roslin & Bilston Community Council	Countryside and Green Belt in Midlothian	Section contains random and unnecessary information that could be condensed into one paragraph. Important to point out that ‘as much of this prime agricultural land has been set aside for	Consider that the proposed change is unnecessary given the prime agricultural land is protected under policy ENV4 of the MLDP.

Name/Contact	Organisation	Question	Comment	Council amendment
	Roslin & Bilston Community Council	General Development Requirements, Paragraph 4.1	<p>large scale housing developments, it is of particular importance that extreme restraint and stringent standards be applied to any building on the remaining undeveloped land.</p> <p>Sets out requirements of RD1 but is not identical to them, which may cause confusion. Questions why the use of a private water supply is no longer acceptable and if there remains a commitment to protecting the water environment.</p>	<p>Additional sentence added to paragraph 4.1 to clarify.</p> <p>The Council discourages the provision of additional sources of private water supply as they are vulnerable to contamination that may cause infections of other ill effects. In addition, an increase in provision results in an increase burden upon the Council to monitor such water supplies to ensure that they are safe.</p>
	Roslin & Bilston Community Council	General Development Requirements, Paragraph 4.3	<p>Reference to compliance with policy not clear as to whether referring to previous section of SG or policy RD1. Reference to 'ENV2' is incorrect.</p>	<p>Additional text has been added to paragraph 4.2 to make clear that the public transport requirement is an element of policy RD1. Incorrect policy reference has been amended.</p>
Debbie MacKay (Savills)	Crown Estate	General Development Requirements	<p>Considers that the focus on public transport availability as a measure of sustainability to be deeply flawed.</p>	<p>The requirement for access to public transport or local services is set in policy RD1 of the LDP. The Supplementary Guidance cannot amend or contradict the contents of the Local Development Plan, however additional text has been included to clarify the purpose of the criterion and the matters against which the Council will weigh it, particularly alternative means of promoting sustainability.</p>

Name/Contact	Organisation	Question	Comment	Council amendment
Paul Lewis	Scottish Environment Protection Agency (SEPA)	General Development Requirements	Very supportive of requirement that development should be capable of being provided with drainage, a public water supply and access to public transport. These requirements limit pressure on the water environment and provide an alternative to private transport, which is a major contributor to climate change and deteriorating air quality.	While greater reliance on the car is often inevitable in rural areas, measures to encourage bus travel, cycling and walking should always be encouraged. PAN 73 on Rural Diversification encourages the directing of development to sites where infrastructure is available or can be provided at reasonable cost. Noted. No changes required.
Section 5: Housing – Development Required to Support and Established Countryside Activity				
	Roslin & Bilston Community Council	Housing – Development Required to Support an Established Countryside Activity	Para 5.1 should reference the policies in question. Section fails to reference the need in policy RD1 for a new dwelling to be permanent. Where an activity is used as justification, the proposed new house must be one that will persist into the indefinite future. Where the activity depends on a particular skill, this justification may disappear if developer moves away, retires or dies.	Paragraph 5.2 references need to dwelling to be permanent. Policies RD1 and ENV1 are referenced in the preceding sections. The second sentence in paragraph 5.1 is worded so as not to give the impression that an applicant need only comply with these two policies exclusively, when other policies in the LDP may be relevant.
Section 6: Housing – Development in Housing Groups				
Ms Vivienne Gray	Scottish Natural Heritage (SNH)	Development in Housing Groups, Question 2	Advise strengthening of text under 'Guidance on Acceptable Plots': 'Proposals which impact adversely on trees, hedgerow and boundary features or are located on the opposite site of physical features which form	Suggested change to text under 'Guidance on Acceptable Plots' has been made. In relation to the 'small scale' reference, clarification has been made to the text.

Name/Contact	Organisation	Question	Comment	Council amendment
Mr John Goffin		Development in Housing Groups, Question 2	<p>strong boundaries (e.g. main roads, burns, substantial tree belts, etc) will not be acceptable.'</p> <p>Seeks clarification of 'small scale' in paragraph 6.8.</p> <p>Guidelines are not acceptable for the following reasons:</p> <ol style="list-style-type: none"> 1) Requirement to have a plot within 1 mile of public transport as it isolates significant parts of Midlothian. Dwellings proposed in these areas are proposed in the full knowledge that public transport is distant. It should not be for the Council to determine that applicants are wrong, particularly since the Council provides services to remote areas. 2) Need for a dwelling at a remote location should be a determination of the landowner, not the Council. Rural businesses need economic diversity which can result in, for example, traditional cottages being used for holiday lets and new dwellings being needed for temporary and permanent occupation. The Council could set a guideline that the proposed dwelling could not be sold individually and should remain a functional part of the rural enterprise. 	<p>The planning system seeks to promote development that is sustainable with regards to its effect on the environment. Remote development that is dependent on the use of the private car is likely to have unsustainable impacts on air quality and in the production of greenhouse gases.</p> <p>While greater reliance on the car is often inevitable in rural areas, measures to encourage bus travel, cycling and walking should always be encouraged. PAN 73 on Rural Diversification encourages the directing of development to sites where infrastructure is available or can be provided at reasonable cost.</p> <p>However, the Council recognises that in remote areas ensuring access to public transport is more challenging and therefore the maximum distance to public transport outlined in national guidance is used in policy RD1. The Supplementary Guidance cannot amend or contradict the contents of the Local Development Plan, however additional text has been included to clarify the purpose of the criterion and the matters against which the Council will</p>

Housing in the Countryside Supplementary Guidance – Summary of consultation responses

Name/Contact	Organisation	Question	Comment	Council amendment
Ms Vivienne Gray	Scottish Natural Heritage (SNH)	Development in Housing Groups, Question 1	No comment.	weigh it, particularly alternative means of promoting sustainability. NA
Mr John Goffin		Development in Housing Groups, Question 1	<p>Considers that the guidance isolates and condemns small clusters of rural housing due to their distance from public transport. Most of Midlothian is within 6 miles of a public transport link, which is not considered onerous. Also considers that the guidance restricts the ability of rural businesses to diversify, particularly if housing is required to accommodate customers or clients.</p> <p>While greater reliance on the car is often inevitable in rural areas, measures to encourage bus travel, cycling and walking should always be encouraged. PAN 73 on Rural Diversification encourages the directing of development to sites where infrastructure is available or can be provided at reasonable cost.</p> <p>However, the Council recognises that in remote areas ensuring access to public transport is more challenging and therefore the maximum distance to public transport outlined in national guidance is used in policy RD1. The Supplementary Guidance cannot amend or contradict the contents of the Local Development Plan, however additional text has been included</p>	

Name/Contact	Organisation	Question	Comment	Council amendment
Jess Powell	Colliers International	Development in Housing Groups, Question 1	Generally accept the basic principles for housing development in the Green Belt and countryside, however concerned that the Supplementary Guidance does not consider the current circumstances of the Shawfair development area. Wishes to see a flexible approach to the Green Belt in the Shawfair area to ensure that the new settlement can react to future change and pressures as and when they arise.	to clarify the purpose of the criterion and the matters against which the Council will weigh it, particularly alternative means of promoting sustainability. The Council considers that the proposed change would be contrary to policy ENV1 in the MLDP. While Supplementary Guidance can expand upon the policies in the plan, it cannot contradict it. Furthermore, it is considered that SPP requires Green Belts to provide certainty by providing clearly identifiable boundaries (para 51).
	Roslin & Bilston Community Council	Development in Housing Groups	Para 6.1 – Seeks clarification over wording to ensure connection with policy. Para 6.2 – Suggests inserting ‘in a group’ after ‘dwellings’ in second sentence. Para 6.4 – As rural road hardly have footways and lighting and questions who would walk 1,600m to catch a bus. Suggests use of 400m distance used in para 287 of SPP would be more realistic. 1,600m reference in policy RD1 refers to distance to settlements. Para 6.7 – Suggests text may be missing from last sentence. Questions 1 & 2 - Yes	Para 6.1 – Policy RD1 is referenced at the start of the first sentence of this paragraph, providing a clear link with the policy. Para 6.2 – Agree with suggested change. Para 6.4 –The 1600m is a requirement of policy RD1 which applies to both local and bus services. This distance represents the maximum permissible under PAN 75. Given that Midlothian is not a remote rural area and has access to public transport to Edinburgh, it is considered appropriate to retain this requirement. Para 6.7 – The text in the last sentence of para 6.7 has been amended.

Name/Contact	Organisation	Question	Comment	Council amendment
Debbie MacKay (Savills)	Crown Estate	Housing – Development of Housing Groups	<p>Seeks clarification over status of previously identified housing groups from the previously adopted guidance.</p> <p>Guidance should explicitly allow for applications for Planning Permission in Principle (PPP) to reduce uncertainty for applicants. Stating that “<i>the design of any proposed dwelling will be an important consideration in determining the acceptability of a proposal.</i>” Implies that design will be required up front as part of any application, which involves considerable expense on the part of the applicant.</p> <p>Para 6.1 – Suggests change of “<i>a group of 5 existing dwelling houses</i>” to “<i>5 or more Dwelling houses</i>” for the sake of clarity.</p> <p>Suggests approach taken by Perth & Kinross Council, which refers to ‘Building Groups’, which is defined as “<i>An existing group is defined as 3 or more buildings of a size at least equivalent to a traditional cottage, whether they are of a residential and/or business/agricultural nature. Small ancillary premises such as domestic garages and outbuildings will not be classed as buildings for the purposes of this policy.</i>” Considers that this provides flexibility, resulting in greater economic and social opportunities.</p> <p>There should not be an assumption that ribbon or linear development is inherently unacceptable. In</p>	<p>Additional text added to make reference to previously identified housing groups. Addition of ‘or more’ made to first sentence of paragraph 6.1. Reference to ribbon development expanded to clarify.</p> <p>The Council has previously accepted outline/planning permission in principle applications in relation to applications at housing groups. However, it cannot be guaranteed that a positive outcome for such an application can be achieved without requesting more detailed plans to establish whether the proposal is acceptable. While this is not always the case, the Council would not wish to give the impression that the principle of development can always be established with the submission of minimal details.</p> <p>Considers that adopting definition outlined would be contrary to policy RD1 of the LDP, which states that the relevant Supplementary Guidance will address ‘housing groups’, not building groups. While the Supplementary Guidance can expand on the policies in the LDP, it cannot contradict them.</p>

Name/Contact	Organisation	Question	Comment	Council amendment
Section 7: Conversions of redundant farm buildings or other non-residential buildings				
Ms Vivienne Gray	Scottish Natural Heritage (SNH)	Question 4	No comment.	NA
Mr John Goffin		Question 3	Consider guidelines to be fundamentally flawed and would prevent innovation in the retention of traditional buildings. It should be the determination of the owner as to the change of use of the building. Traditional buildings are not designed for mechanised agriculture use and livestock practices, therefore it is inevitable that traditional buildings will become redundant. It should be the objective of the Council to encourage the repurposing of these building even if it requires extension or alteration of the original fabric.	It is acknowledged that traditional buildings are not designed for modern uses, therefore some additional text has been included in paragraph 7.4 to take account of this. The Council does not agree that the guidance prevents innovation in retaining buildings, which allows for extensions. Owners do not always pursue development with the public interest in mind and there is little interest in allowing the historic fabric of a building to be subsumed by extensions or being significantly altered.
Ms Vivienne Gray	Scottish Natural Heritage (SNH)	Question 3	Seeks inclusion of additional bullet point to ensure that likely requirements are clearly highlighted to developers at an early stage: <ul style="list-style-type: none"> The building is capable of renovation and conversion without adverse impacts upon protected species that may use the buildings such as bats or barn owls; or, if impacts are unavoidable, that a protected species license is capable of being granted. 	The Council is supportive of including text clarifying the need to avoid adverse impacts on protected species making use of redundant buildings. Amendment has been made to the General Requirements section.

Name/Contact	Organisation	Question	Comment	Council amendment
Mr John Goffin		Question 4	<p>Suggests inclusion of link to SNH website providing guidance to planners and developers.</p> <p>Does not consider that planning restrictions encourage redevelopment or conversion of redundant buildings. Fails to acknowledge that applicant is often more knowledgeable of the matter than the Council and will often have the historic knowledge as well as an aesthetic in mind when designing a proposal.</p> <p>Considers that only allowing minor extensions when converting a building is an abuse of the planning system and represents an attempt by the planning authority to specify design. Considers the caveat relating to buildings or architectural/historical interest is inappropriate given that the listing process determines whether a building is worthy of retention.</p>	<p>Owners do not always pursue development with the public interest in mind and there is little interest in allowing the historic fabric of a building to be subsumed by extensions or being significantly altered</p>
	Roslin & Bilston Community Council	Conversions of redundant farm buildings or other non-residential buildings	<p>Green box – Second bullet point, 'loss' should be replaced by 'conversion'. Third bullet point, insert 'is' after 'building'.</p> <p>Para 7.4 – Replace 'or' with 'of' in first line. Refers primarily to the buildings whereas the curtilage can also be important, particularly with regards to avoiding clutter such as parked cars, washing lines, etc. Site layout must make provision for such clutter to be kept where it does not detract from the conversion and where it is not readily seen from the surrounding area.</p> <p>Question 3 – Yes</p>	<p>Agree with amendments to second bullet point and paragraph 7.4.</p> <p>While it is acknowledged that the issue of clutter around steading conversions can detract from amenity of the area, the difficulties in enforcing this.</p>

Name/Contact	Organisation	Question	Comment	Council amendment
Debbie MacKay (Savills)	Crown Estate	Conversions of redundant farm buildings or other non-residential buildings	<p>Question 4 – No, see comments</p> <p>Largely appropriate but consider there should be some discretion to add an element of new-build to a steading complex conversion. The cost of these development are often prohibitive and since the recession less have been undertaken.</p> <p>A flexible approach is encouraged to improve the viability of such proposals. There is often the need for farmyard decontamination from such sites, resulting in a net benefit. Flexibility in the phasing of the development to allow the early sale of units would assist the cash flow of such proposals.</p>	<p>The Council is not averse to being flexible in the phasing of proposals where it would assist the viability of a development. The provision of additional units associated with a steading conversion is not supported as a general principle but would be considered on a case-by-case basis.</p>
Section 8: Redevelopment of redundant farm buildings or other non-residential buildings				
Ms Vivienne Gray	Scottish Natural Heritage (SNH)	Redevelopment of redundant farm buildings or other non-residential buildings, Question 6	No comment.	NA
Mr John Goffin		Redevelopment of redundant farm buildings or other non-residential buildings, Question 5	<p>Guidance is generally acceptable. Considers that the operation of the Planning System does not enable constructive working and encourages conflict.</p> <p>Health and safety may require a building to be demolished. Such demolition may occur years before replacement development is considered.</p>	<p>Opinion on the operation of the planning system is noted. If the owner of a building feels that there is a need to demolish it for reasons of health and safety, it does not automatically mean that a redevelopment opportunity would have been acceptable. On a site that has been cleared of buildings, proposals for new buildings would not constitute redevelopment.</p>

Name/Contact	Organisation	Question	Comment	Council amendment
Ms Vivienne Gray	Scottish Natural Heritage (SNH)	Redevelopment of redundant farm buildings or other non-residential buildings, Question 5	<p>Seeks inclusion of additional bullet point to ensure that likely requirements are clearly highlighted to developers at an early stage:</p> <ul style="list-style-type: none"> The building is capable of renovation and conversion without adverse impacts upon protected species that may use the buildings such as bats or barn owls; or, if impacts are unavoidable, that a protected species license is capable of being granted. <p>Suggests inclusion of link to SNH website providing guidance to planners and developers.</p>	The Council is supportive of including text clarifying the need to avoid adverse impacts on protected species making use of redundant buildings. Amendment has been made to the General Requirements section.
Mr John Goffin		Redevelopment of redundant farm buildings or other non-residential buildings, Question 5	<p>Guidance is generally acceptable. Considers that the operation of the Planning System does not enable constructive working and encourages conflict.</p> <p>Health and safety may require a building to be demolished. Such demolition may occur years before replacement development is considered.</p>	Opinion on the operation of the planning system is noted. If the owner of a building feels that there is a need to demolish it for reasons of health and safety, it does not automatically mean that a redevelopment opportunity would have been acceptable. On a site that has been cleared of buildings, proposals for new buildings would not constitute redevelopment.
	Roslin & Bilston Community Council	Redevelopment of redundant farm buildings or other non-residential buildings	<p>Para 8.1 – Given that the Council can issue a section 179 notice where a building becomes an eyesore, the guidance should make clear that permission will only be given in exceptional circumstances (end of first sentence).</p> <p>Suggests replacing the second sentence with text promoting use of Section 179 notice in the first instance to remove eyesores followed by consideration of redevelopment proposal.</p>	It is not the Council's position that redevelopment of redundant buildings in rural areas should be an exceptional circumstance. Such projects provide the means of meeting the requirements of SPP to encourage sustainable communities and business in rural areas in locations where some public good, through the removal of eyesores can be achieved.

Name/Contact	Organisation	Question	Comment	Council amendment
Debbie MacKay (Savills)	Crown Estate	Redevelopment of redundant farm buildings or other non-residential buildings, Questions 5 & 6	<p>Green box – As the redundant buildings is likely to be a part of a group of buildings, provision should be made to ensure that new residential dwellings do not give rise to a conflict with an existing use, resulting in an adverse effect on ongoing business activity.</p> <p>Does not agree with exclusion of such proposals where they are located in the Green Belt. Derelict buildings and rural brownfield sites detract from the attractiveness and functionality of the Green Belt.</p> <p>Questions the caveat in guidance that redevelopment is only acceptable where ‘the building does not represent an example of traditional architectural or historic interest or make a significant contribution to the character and appearance of the landscape’ which could be too limiting where it is not viable to convert such buildings. Where this is the case, sympathetic redevelopment, which could retain the key features of architectural/historic interest from the original building should not be ruled out. Text suggested.</p>	<p>Policy ENV1 of the MLDP does not allow for the redevelopment of redundant buildings in the Green Belt.</p> <p>The circumstances under which the Council would approve a redevelopment of a building of traditional architectural or historic interest would only be under exceptional circumstances that are specific to the site. In general the Council would not promote such proposals and it is therefore inappropriate to make provision for them in the development plan.</p>
Section 9: Enabling Development				
Ms Vivienne Gray	Scottish Natural Heritage (SNH)	Enabling Development, Question 8	No comment.	NA
Mr John Goffin		Enabling Development, Question 7	Guidance is generally acceptable subject to:	The need to re-use a building in the Green Belt is acknowledged, but amending the guidance to allow for enabling

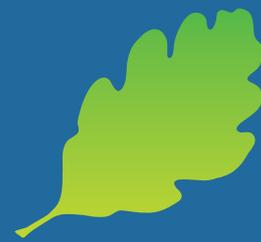
Housing in the Countryside Supplementary Guidance – Summary of consultation responses

Name/Contact	Organisation	Question	Comment	Council amendment
Mr Allan Ainslie	Friends of the Pentlands	Enabling Development, Question 8	<p>1) Redundant buildings in the Green Belt still have a requirement to be re-used. Policy would result in these deteriorating;</p> <p>2) Council must consider the cost implications of any intervention and seek to enable development.</p> <p>No comment.</p>	development would contradict policy ENV1. Supplementary Guidance can expand upon but cannot contradict the plan, however the policy will be reviewed when the LDP is being replaced.
Ms Vivienne Gray	Scottish Natural Heritage (SNH)	Enabling Development, Question 7	<p>Found the text confusing in interpreting which parts apply to a building of value. Recommend clarification.</p> <p>Consider the final bullet point key in retaining and enhancing the quality and setting. Recommends expanding on this by providing clear link to other relevant guidance, such as the forthcoming <i>Quality of Place</i> Supplementary Guidance.</p>	The Council considers that the reference in paragraph 1.2 to other sections of the plan and forthcoming supplementary guidance addresses the need for cross compliance with other elements of the development plan.
Mr John Goffin		Enabling Development, Question 8	<p>Raises the following points:</p> <ul style="list-style-type: none"> - Redundant buildings in the Green Belt should be acceptable. They have a footprint but will need to be repurposed for modern uses; - The planning process is currently a barrier to conversion/redevelopment. Planning officers need to work constructively with applicants to ensure the project is financially viable; - As it is only through private financing that buildings can be retained, the planning authority should ensure that any caveats 	Officers are aware that the financial viability of a project can be hindered by applying onerous requirements and are open to discussing this with developers during the consideration of planning applications. The need to re-use a building in the Green Belt is acknowledged, but amending the guidance to allow for enabling development would contradict policy ENV1. Supplementary Guidance can expand upon but cannot contradict the plan, however the policy will be reviewed when the LDP is being replaced.

Name/Contact	Organisation	Question	Comment	Council amendment
Mr Allan Ainslie	Friends of the Pentlands	Enabling Development, Question 7	<p>imposed can be undertaken efficiently with as little cost implication as possible;</p> <ul style="list-style-type: none"> - This change in culture among planners would require planning performance to be measured appropriately. <p>Considers that the restoration of listed buildings should occur at the same time as the enabling development.</p>	<p>While the concern about enabling development proceeding without the necessary repairs being undertaken is understandable, there are limitations to the extent to which the Council can control the phasing of development. Nonetheless, prior to consent being issued and work commencing, the applicant will be required to enter into a legal agreement with the Council to ensure that the agreed financial contributions towards the repair and/or restoration of the building are secured. It is considered that this will prove sufficient to ensure that the agreed repairs/restoration will occur.</p>
	Roslin & Bilston Community Council	Enabling Development	<p>Green box – Considers that it is not enough to require the repair or restoration of the building that is to be retained. It must be demonstrated that the buildings are brought into use that will ensure that it is properly maintained for the foreseeable future.</p> <p>Enabling development and repair/restoration must happen simultaneously and planning conditions should require this. Work on the enabling development must stop if repair/restoration falls behind an agreed programme.</p>	<p>Agree that the resulting use can have a bearing on the long term maintenance of the building. Additional text has been added to reflect this.</p> <p>While the concern about enabling development proceeding without the necessary repairs being undertaken is understandable, there are limitations to the extent to which the Council can control the phasing of development. Nonetheless, prior to consent being issued and work</p>

Name/Contact	Organisation	Question	Comment	Council amendment
			Question 7 – Only a yes if the above taken into account.	commencing, the applicant will be required to enter into a legal agreement with the Council to ensure that the agreed financial contributions towards the repair and/or restoration of the building are secured. It is considered that this will prove sufficient to ensure that the agreed repairs/restoration will occur.
Debbie MacKay (Savills)	Crown Estate	Enabling Development, Question 7	Support this policy, but suggest it could be improved by including residential buildings of value as there may be significant houses which require enabling development in order to achieve their renovation or preservation. Suggests having policies allowing for 'remote enabling development'. This would allow for enabling development to be located at a different location from the asset it is supporting, particularly where modern development is not appropriate in proximity. Would be helpful if the concept could be applied more widely to other forms of rural development. For example, East Lothian Council has a policy allowing enabling development to support tourism facilities.	Agree that the Enabling Development section could apply to residential properties.
Debbie MacKay (Savills)	Crown Estate	Enabling Development, Question 8		Policy ENV22 on Listed Buildings in the MLDP does not allow for remote enabling development, which was tested at the examination into the plan. The Council does not consider that it would be appropriate to make provision for it in the Supplementary Guidance as it could result in conflict between the listed building and countryside policies. Furthermore, it would not be appropriate for remote enabling development to be acceptable where there is no listed building when it is unacceptable where the impact on the setting of a listed building may be an issue.
Appendix				
Paul Lewis	Scottish Environment Protection Agency (SEPA)	Appendix 1	Pleased that the SG draws attention to the requirements of policy RD1 for protecting the water environment. Notes that if a planning application does not demonstrate that there will	Noted.

Name/Contact	Organisation	Question	Comment	Council amendment
			be no unacceptable and unnecessary surface and foul water discharges to watercourses or to groundwater, SEPA will object.	



Housing Development in the Countryside and Green Belt Supplementary Guidance

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Housing Development in the Countryside and Green Belt SG - Post-consultation

1. Introduction

1.1 This Supplementary Guidance relates principally to policies RD1 Development in the Countryside of the Midlothian Local Development Plan 2017 but also ENV1 Protection of the Green Belt. It seeks to provide additional guidance and clarity regarding the circumstances in which exceptions may be made to the requirement to demonstrate that the proposed housing is for the furtherance of a countryside activity, including: the circumstances when/where new housing may be appropriate within the context of housing groups; when the conversion of redundant farm buildings or other non-residential buildings to houses would be acceptable; when/where redevelopment of farm buildings or other non-residential buildings would be acceptable; and enabling development. Policy RD1 includes reference to business development in the countryside but this issue is not subject of this guidance.

1.2 When considering proposals, prospective applicants should be aware that all policies in the Local Development Plan will apply to any proposal. While policies RD1 or ENV1 are likely to be the most significant factor in determining applications in the countryside, this alone does not guarantee compliance with the plan as a whole. Consideration of proposals for development covered by these policies should also refer to policies RD2 Low Density Rural Housing, MIN1 Areas of Search for Mineral Extraction, NRG1 Renewable and Low Carbon Energy Projects, and NRG2 Wind Energy, where these are applicable. In addition consideration and acknowledgement should be given to existing and emerging supplementary and planning guidance on relevant topics such as Green Networks, Low Density Rural Housing, Quality of Place etc.

2. Development in Rural Areas

2.1 Generally planning policy has historically sought to restrict unnecessary development in countryside locations, principally to prevent sporadic and unsustainable growth and to maximise use of infrastructure, resources and services more commonly available in established urban areas. While this principle is still relevant today, the countryside is a workplace for some, a playground for others and a vital ecosystem for all.

2.2 Government policy supports rural development that supports prosperous and sustainable communities and business whilst protecting and enhancing environmental quality. It also promotes responsible access and the right to roam. However as a place to live and work there are challenges to address and overcome in respect of the the climate change agenda and the Government's sustainability policies, particularly given the development pressures resulting from Midlothian's close proximity to Edinburgh.

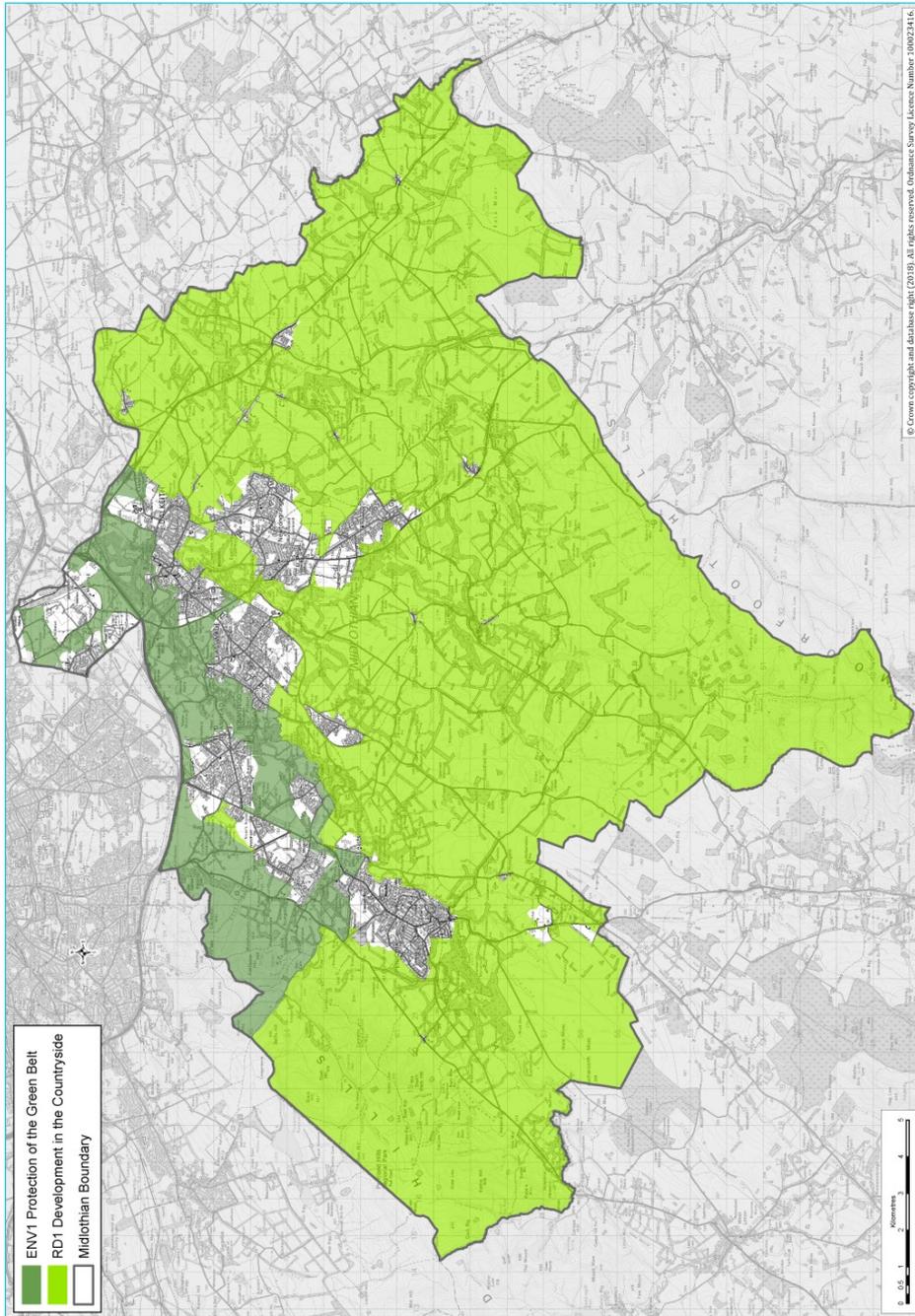
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2.3 The Council's planning policies seek to provide a balance between development and protecting the essential characteristics of the countryside. It seeks to do this by minimising the adverse affects on the character of the countryside while maximising the benefits to its communities and the Midlothian economy. Policies RD1 and ENV1 from the Local Development Plan are reproduced in Appendix 1 for convenience.

3. Countryside and Green Belt in Midlothian

3.1 For the purposes of this guidance, the countryside is defined as land out with defined settlement boundaries, which can be seen in the image below. Approximately 9.5% of Midlothian is covered by the Green Belt and a further 80% is covered by the countryside policy.

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3.2 Midlothian is located in close proximity to Edinburgh with the A720 City bypass forming the majority of the northern boundary. This creates development pressure for housing developments of all types, including in the countryside. As a consequence of this location, Midlothian's larger settlements are located close to the City Bypass and alongside the main north-south transport routes through Midlothian, particularly the A7 and A701. This has resulted in a concentration of urban development at the northern edge of the county with concerns frequently raised about the loss of countryside, the increase in coalescence between settlements and the consequential loss of identity for communities. As a result, the countryside in this area is covered by the Green Belt policy. Green Belt is a long established planning policy tool to protect the setting of urban areas, prevent urban sprawl and manage and protect agricultural, forestry and recreational uses and discourage inappropriate development.

3.3 The wider landscape of Midlothian consists of the Pentland Hills in the west, the Moorfoot Hills in the south with the Tranent-Mayfield ridge in the east. This bowl shape was the result of a concentration of ice which melted approximately 20,000 years ago with a torrent of melt water carving out the river valleys of the North and South Esk. The ground elevation of Midlothian is slightly higher than Edinburgh to the north due to a rebound in the earth's crust.

3.4 The character of the agricultural land in the north of the county is generally flat and lower lying, which contains the majority of Midlothian's Prime Agricultural Land. The land rises gently southwards away from the coast where a more undulating landscape is common, resulting in a large number of protected Special Landscape Areas. There are a wide variety of landscapes in this area with moorlands and natural uplands towards the Moorfoot Hills at the southern boundary and dramatic incised valleys around the North and South Esk.

3.5 Throughout Midlothian there are large areas of countryside owned by landed estates centred on historic castles and country houses which have played a crucial role in the shaping of Midlothian's human landscape and are an important link to our past. The gardens and parkland in the vicinity of these have often been carefully designed to provide an attractive setting, with many identified in the *Inventory of Historic Gardens and Designed Landscapes* for their aesthetic, historical, scenic and/or nature conservation value.

3.6 The wider human landscape has been shaped by past and present developments in agriculture. Throughout Midlothian there are many groups of historic sandstone agricultural buildings, with the most common layouts being steadings with associated housing such as stand alone farmhouses (often 2-storey) and terraced farm cottages (often single or one and a half storey).

3.7 There are large river valleys centred on the North and South Esk rivers in the west and centre of the county and the Tyne to the east. As the geography of these areas have been untouched by agriculture in many places, these form important wildlife corridors and well as distinctive features in the landscape.

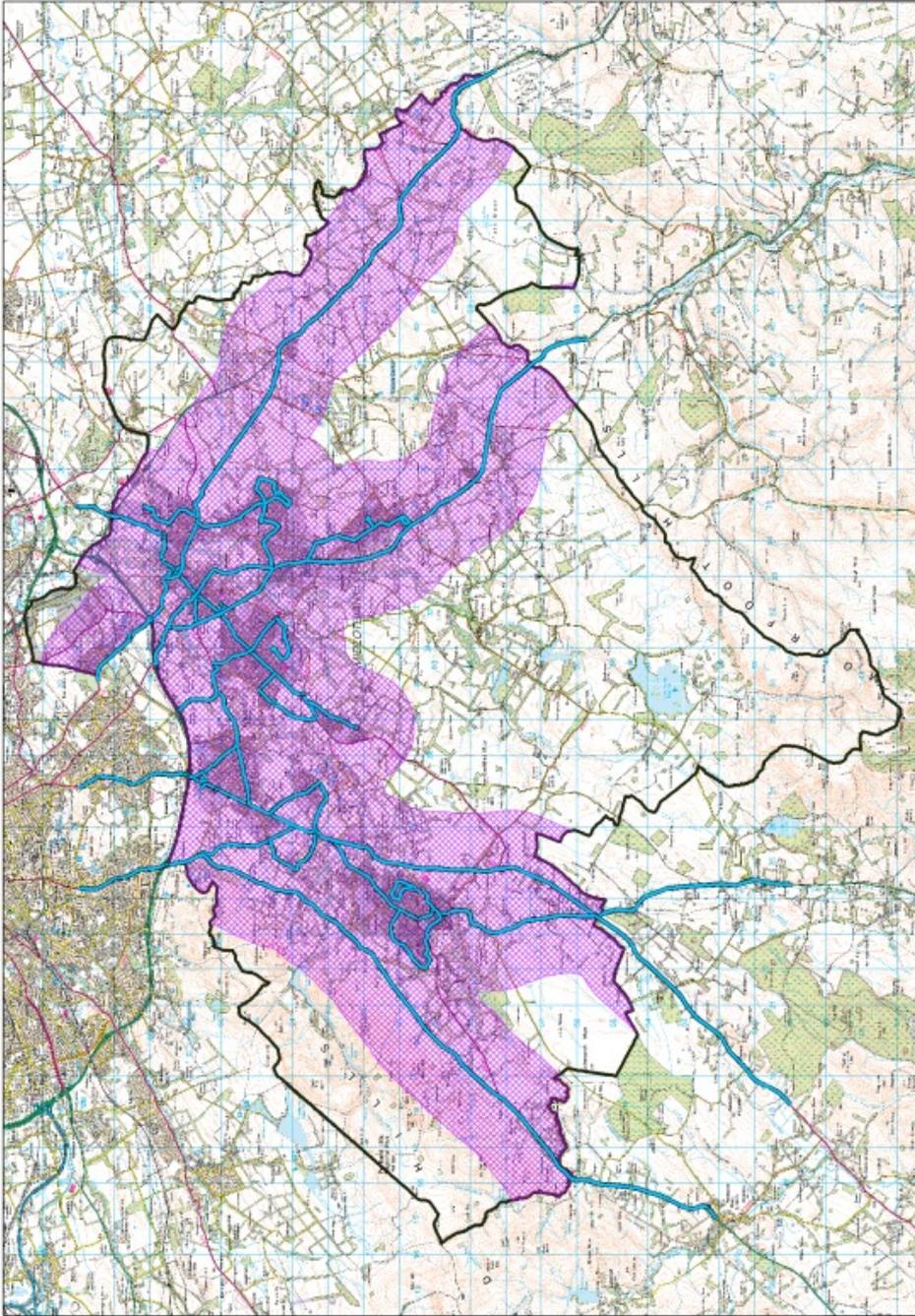
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4. General Development Requirements

4.1 All development in the countryside is required to be of a scale and character that is appropriate to the rural landscape, be capable of being serviced with an adequate and appropriate access, be capable of being provided with drainage and public water supply and be accessible by public transport. These requirements are a necessary pre-requisite for any development to be considered acceptable, irrespective of whether the proposal would otherwise be supported by LDP policy. **Reference should be made to policies RD1 and ENV1 for the full requirements.**

4.2 With respect to the public transport requirement, all development has to be either within 1 mile (1600m) of services (such as shops or schools) or to a bus service of at least 1 per hour. The map below shows the bus routes in Midlothian at the time of writing and the areas that are within 1 mile of them. **The purpose of this element of policy RD1 is to ensure that development proposals in rural areas are located in sustainable locations. While proposals at locations remote from public transport and services would be contrary to this aspect of the policy RD1, the Council will give consideration to other aspects of sustainability, such as measures to minimise greenhouse gas emissions and reducing energy use through good design and use of low and zero-carbon technology, in weighing the significance of this.**

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4.3 Where proposals involve the restoration, redevelopment or other work to redundant buildings, care will be required in ensuring that adverse impacts on protected species are avoided. Such buildings can be in use by Barn Owls or Bats for nesting or roosting. Where such impacts are unavoidable, it will need to be demonstrated that a protected species licence is capable of being granted. Developments which do not avoid adverse impacts on protected species will be contrary to policy ENV15 of the MLDP.

4.4 It will be the responsibility of the applicant to demonstrate compliance with the policy and the necessary standards. Policies RD1 and ENV21 are reproduced in Appendix 1.

5. Housing - Development Required to Support an Established Countryside Activity

5.1 Both policies permit development which is required for the furtherance of an established countryside activity. The onus is on the applicant to demonstrate compliance with the relevant policies to the satisfaction of the Council.

5.2 In demonstrating the need for a permanent dwelling, the Council will expect an application to be accompanied by an independent report prepared by a suitably qualified professional to support the need for a house and on the viability of the associated business and its operational requirements. In outlining the needs of the business, it should be apparent to the Council whether the need can be met within an existing settlement and whether the occupier will be employed full-time in the associated countryside activity, and therefore whether it meets the other requirements of the policy. The most common reasons for such houses are typically the need for an onsite presence for security and animal husbandry.

6. Housing - Development in Housing Groups

6.1 Policy RD1 allows for the development of a house where there is a group of 5 or more existing dwellinghouses. This aspect of the countryside policy sets out a flexible approach to ensure that there are appropriate opportunities for small-scale infill within housing groups. The aim is to allow for development in the countryside of a scale and at locations which maintain the essential character of the countryside.

Groups that are applicable

6.2 The policy does not apply to housing groups of less than five housing units. Neither does it apply where an existing planning permission for one or more dwellings, if implemented, brings the number of dwellings in a group up to five during the Local Development Plan period. Only houses that are complete by the Local Development Plan adoption date (7 November 2017) will be considered in determining the size of the group. Groups within the Green Belt are covered by policy ENV1 of the LDP, which does not make provision for

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development at housing groups, therefore proposals in such locations will not be considered in accordance with the plan. Dwellings located within the built-up area as defined by policy DEV2 of the LDP will not be considered as constituting part of a group.

6.3 The cohesiveness of the group will be considered in determining the appropriateness of any proposed development. The proximity of the buildings which constitute a group should, as a rule of thumb, be no more than twice the width of the curtilage of the existing units. Units should generally have intervisibility with one another for them to be considered as part of the same cohesive group, therefore local topographical features will be important.

6.4 The planning system seeks to direct development to areas where there is good access to public transport and/or local services. This is more difficult to achieve in the countryside as the public transport and services available are typically not of a frequency which would normally accommodate new development, leading to a concern relating to sustainability and reducing the need for car based travel. Policy RD1 states that any development will need to be accessible to public transport or local services within 1600m (1 mile).

6.5 Housing groups that were identified in the previous adopted *Development in the Countryside* Supplementary Planning Guidance were identified using very similar criteria to those outlined above. It is therefore likely that they will be regarded as groups that are applicable under this Supplementary Guidance unless there has been a significant change of circumstances.

Identifying appropriate plots for development

6.6 Upon receipt of a proposal, the council will assess the suitability for growth within the group in question in line the criteria outlined. Account will be taken of the form, character and cohesiveness of the group as well as the level of containment provided by existing features, such as natural and manmade boundaries.

6.7 Any new unit within a housing group must be of a location, scale and character that is in keeping with that of the existing group. More significant proposals beyond infill development, with wider implications for landscape impact or servicing should be promoted through the Local Development Plan.

6.8 With regards to the location of new development, the preference of the Council will generally be for new units to be located within any gaps in the group. Where there are no gaps, consideration will be given to locations adjoining the existing group, particularly where there is a site that adjoins the group on two sides. ~~or w~~Where there are existing physical or visually barriers separating the site or where distance results in the site being remote from the host group, development will not be acceptable.

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Guidance on Acceptable Plots

1. Gap sites within the group will generally take precedence over other locations (typically these are sites with built development on either side);
2. Where no gap sites are present, sites adjoining the group are preferable. Normally, a site will be preferred if at least two sides adjoin the boundaries of existing properties though, in some cases, a site which adjoins the boundary of only one property may be preferable if it relates better visually to the group. All proposals which adjoin a group (as opposed to gap sites) should meet the following requirements:
 - there is an existing physical or visual feature which provides containment for the group and therefore reduces pressure for ribbon development or rural sprawl;
 - where such a feature does not exist, there should be potential for such a feature to be provided so long as it is in character with the scale and appearance of the group;
3. Proposals located in open fields adjoining a group, which have no physical features to provide containment will not be acceptable;
4. Proposals **which impact adversely on trees, hedgerow and boundary features or are** located on the opposite side of physical features which form strong boundaries for a group (e.g. main roads, burns, substantial tree belts, etc) will not be acceptable.

6.9 The design of any proposed dwelling will be an important consideration in determining the acceptability of a proposal. Development must be small-scale **in relation to the existing group** and respect the character, cohesiveness and amenity of the group being extended. For example, proposals should not be suburban in character when they relate to the expansion of a group whose character and design is of a rural vernacular nature. Proposals should be avoided where they represent ribbon or linear development along a public road **unless this represents the most sustainable building pattern for the locality**. Furthermore, proposals will not be acceptable where it results in coalescence with another group or settlement. More detail on acceptable design can be found in the Quality of Place Supplementary Guidance.

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Question 1

Does the draft guidance set appropriate parameters for identifying housing groups?

Question 2

Does the draft guidance set appropriate parameters for identifying acceptable plots within housing groups?

7. Conversions of redundant farm buildings or other non-residential buildings

7.1 Policies RD1 and ENV1 gives policy support for the conversion of redundant farm steadings and other non-residential buildings in the countryside. The aim is to ensure that buildings that contribute to the character of the countryside, such as those of traditional or historic design, are retained and where possible alternative uses found.

7.2 Before such developments can be considered, it must be justified and demonstrated that the buildings in question are fully redundant. The Planning Authority will not support the conversion of such buildings where these are still in use or where their loss may result in the requirement for a replacement building elsewhere.

7.3 Where buildings are capable of renovation and conversion and are examples of traditional, architectural or historic interest their demolition and redevelopment will be resisted. Resulting buildings must make a significant and positive contribution to the landscape and its retention beneficial to the surroundings.

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Will converting a non-residential building be acceptable?

The conversion of the building may be acceptable, provided that both of the following are not applicable:

- The building still in use; and
- The **less conversion** of the building would result in a requirement for a building elsewhere, unless it is demonstrated that the existing building is no longer suitable for the use that is being displaced.

Both of the following must be applicable for a conversion to be deemed acceptable:

- The building capable of renovation and conversion without substantial alteration or extension to the original fabric; and
- The building represents an example of traditional, architectural or historic interest OR the building makes a significant positive contribution to the character and appearance of the landscape

7.4 The acceptability **or-of** a proposed steading conversion will largely depend upon the design elements used, **though account will be made for the needs of future users**. The building which is proposed for conversion should be of a scale which will allow for the conversion without the need for significant extension to the building. Where the building has existing openings, these should be retained in designing the conversion in order to retain its character. Acceptable conversions should not alter the original fabric of the building to a significant degree. More detail on acceptable design can be found in the Quality of Place Supplementary Guidance.

Housing Development in the Countryside and Green Belt SG - Post-consultation

Question 3

Does the draft guidance set appropriate parameters for identifying those non-residential buildings where conversion will be encouraged?

Question 4

Are the requirements set for proposed conversions appropriate?

8. Redevelopment of redundant farm buildings or other non-residential buildings

8.1 Where a redundant farm building or other non-residential building in the countryside is judged not to be an example of traditional, architectural or historic interest, their demolition and redevelopment may be appropriate. The aim is to allow for the removal of buildings, which may be an eyesore, and their replacement with development of a higher design quality, resulting in a net environmental benefit.

8.2 As mentioned above, before such developments can be considered, it must be justified and demonstrated that the buildings in question are fully redundant. The aim is to ensure that new development preserves and enhances the appearance and character of the countryside, therefore should such a building be demolished prior to receipt of a planning application and assessment by the Council, it is unlikely that new development will be supported except unless it is required for an established countryside use as outlined in policy RD1. Redevelopment of redundant buildings will not be consented in the Green Belt and such proposals are not supported by policy ENV1.

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Will redeveloping a non-residential building be acceptable?

The redevelopment of the building may be acceptable, provided that the following are applicable:

- The building is no longer in use;
- The loss of the building would not result in a requirement for a building elsewhere, unless it is demonstrated that the existing building is no longer suitable for the use that is being displaced; and
- The building does not represent an example of traditional, architectural or historic interest or make a significant positive contribution to the character and appearance of the landscape

8.3 For a proposal for redevelopment to be deemed successful, it must result in a development which respects and enhances the character and appearance of the countryside. Furthermore, the scale of development should not extend significantly beyond the footprint of the original building, unless there are significant design reasons for doing so. More detail on acceptable design can be found in the Quality of Place Supplementary Guidance.

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Question 5

Does the draft guidance set appropriate parameters for identifying those non-residential buildings where redevelopment would be permitted?

Question 6

Are the requirements for the development replacing the non-residential building appropriate?

9. Enabling Development

9.1 There are a number of large rural ~~non-residential~~ buildings of value to the local landscape and whose current use has or may become redundant. In the interest of retaining such buildings, the Council will consider enabling development as an option. Where a building is listed, reference should be made to policy ENV22 of the MLDP.

9.2 Where such enabling development is proposed, it is the responsibility of the applicant/developer to bring to the attention of the Council any issue that they consider relevant. The Council will need to be convinced of the following in determining such a proposal.

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Will enabling development be acceptable?

The provision of new development to financially assist in the preservation of a redundant building may be acceptable, provided that the following are applicable:

- It is demonstrated that the quality of the building and/or its contribution to the character or appearance of the rural landscape is of considerable significance;
- The building is not located in the Green Belt;
- The proposed enabling development is located in the vicinity of the building whose restoration it is proposed to enable;
- It is demonstrated that such development is the only means of retaining the building and other options of funding have been exhausted.
- It is demonstrated that the scale of the proposed development represents the minimum necessary to enable the building's conservation and reuse;
- The resulting development is of a high quality design that respects the building and its setting-;
- **The resulting development will result in the building having a lasting use.**

9.3 In considering matters relating to the financial viability of alternative options and the minimum necessary scale of new development needed to retain a building, the Council reserves the right to base its decision on satisfactory evidence to that effect through an open book process.

Question 7

Does the draft guidance establish an acceptable approach to the retention of buildings of value?

Question 8

What alternative options would you suggest to secure the retention of buildings of value?

10. Appendix 1: LDP Policies

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Policy RD 1

Development in the Countryside

Development in the countryside will only be permitted if:

- A. it is required for the furtherance of agriculture (including farm-related diversification), horticulture, forestry, countryside recreation or tourism; or
- B. it accords with policies RD2, MIN1, NRG1 or NRG2; or
- C. it accords with the Council's Supplementary Guidance on *Development in the Countryside and Green Belt*.

All such development will need to be:

- a. of a scale and character appropriate to the rural area and well integrated into the rural landscape; and
- b. capable of being serviced with an adequate and appropriate access; and
- c. capable of being provided with drainage and a public water supply at reasonable cost, or an acceptable private water supply. Development must protect and where appropriate improve the water environment, avoiding unacceptable and unnecessary surface and foul water discharges to watercourses; and
- d. accessible by public transport and services (where appropriate), either within 1,600 metres (1 mile) of a settlement or a bus route with a frequency of at least 1 bus per hour.

Housing

Normally, housing will only be permissible where it is required for the furtherance of an established countryside activity (see criterion A above). The applicant will be required to show the need for the new dwelling is permanent; cannot be met within an existing settlement; and that the occupier will be employed full-time in the associated countryside activity.

Proposals to replace an existing dwelling may be permissible where it can be demonstrated that it is incapable of renovation or improvement; that the proposal relates to a complete dwelling (i.e. not the plot of a previous, now demolished house); and provided that the replacement is of a similar scale.

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The following circumstances are exceptions to the above requirement to demonstrate that the housing is for the furtherance of a countryside activity. The details of these exceptions will be set out in the relevant Supplementary Guidance:

- housing groups (allowing 1 new dwelling during the plan period where there are 5 existing units);
- conversions of redundant farm buildings or other non-residential buildings;
- redevelopment of redundant farm buildings or other non-residential buildings; or
- enabling development where it can be clearly shown to be the only means of preventing the loss of a heritage asset and securing its long-term future.

In all circumstances, proposals for new dwellings in the countryside must demonstrate a 'Very Good' or better BREEAM (Buildings Research Establishment Environmental Assessment Methodology) rating or equivalent standard for any successor development.

Business in the countryside

Development opportunities that will enhance rural economic development opportunities will be permitted provided that they accord with criteria a - d above. Proposals will not be permissible if they are of a primarily retail nature or harm the amenity of nearby residents through unacceptable levels of noise, light or traffic.

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Policy 1

Protection of the Green Belt

Protection of the Green Belt

Development will not be permitted in the Green Belt except for proposals that:

- A. are necessary to agriculture, horticulture or forestry; or
- B. provide opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield; or
- C. are related to other uses appropriate to the rural character of the area; or
- D. provide for essential infrastructure; or
- E. form development that meets a national requirement or established need if no other site is available.

Any development proposal will be required to show that it does not conflict with the overall objectives of the Green Belt which are to:

- Direct development to the most appropriate locations and support regeneration;
- Protect and enhance the character, landscape setting and identity of the City and Midlothian towns by clearly identifying their physical boundaries and preventing coalescence; and
- Protect and provide access to open space.

Housing

Housing will normally only be permissible where it is required for the furtherance of an established Green Belt activity (see criterion A above). The applicant will be required to show the need for the new dwelling is permanent; cannot be met within an existing settlement; and that the occupier will be employed full-time in the associated countryside activity. A planning condition limiting the occupancy of the house is likely to be attached in the event of approval.

COMMUNICATING CLEARLY

We are happy to translate on request and provide information and publications in other formats, including Braille, tape or large print.

如有需要我們樂意提供翻譯本，和其他版本的資訊與刊物，包括盲人點字、錄音帶或大字體。

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ਅਸੀਂ ਮੰਗ ਕਰਨ ਤੇ ਖੁਸ਼ੀ ਨਾਲ ਅਨੁਵਾਦ ਅਤੇ ਜਾਣਕਾਰੀ ਤੇ ਹੋਰ ਰੂਪਾਂ ਵਿੱਚ ਪ੍ਰਕਾਸ਼ਨ ਪ੍ਰਦਾਨ ਕਰਾਂਗੇ, ਜਿਨ੍ਹਾਂ ਵਿੱਚ ਬਰੇਲ, ਟੇਪ ਜਾਂ ਵੱਡੀ ਛਪਾਈ ਸ਼ਾਮਲ ਹਨ।

Körler için kabartma yazılar, kaset ve büyük nüshalar da dahil olmak üzere, istenilen bilgileri sağlamak ve tercüme etmekten memnuniyet duyarız.

اگر آپ چاہیں تو ہم خوشی سے آپ کو ترجمہ فراہم کر سکتے ہیں اور معلومات اور دستاویزات دیگر شکلوں میں مثلاً بریل (تایپا افراد کے لیے) بھرے ہوئے حروف کی لکھائی میں، ٹیپ پر یا بڑے حروف کی لکھائی میں فراہم کر سکتے ہیں۔



PRE - APPLICATION REPORT REGARDING DEVELOPMENT OF MOUNTAIN BIKE TRAIL CENTRE, INDOOR AND OUTDOOR LEISURE FACILITIES, FOOD AND DRINK USES, PROFESSIONAL SERVICE SUITES, OFFICES, RETAIL, VISITOR ACCOMMODATION AND ASSOCIATED SITE ACCESS PARKING, LANDSCAPING AND OTHER WORKS AT FORMER LOTHIANBURN GOLF CLUB, 106 BIGGER ROAD, EDINBURGH (19/00126/PAC)

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre-application consultation submitted regarding the development of a mountain bike trail centre, indoor and outdoor leisure facilities, food and drink uses, professional service suites, offices, retail, visitor accommodation and associated works at the Former Lothianburn Golf Club, 106 Biggar Road, Edinburgh.
- 1.2 The site forms part of a wider application site for a mixed uses leisure based development which extends across a relatively small area of Midlothian and a much larger area in the City of Edinburgh. That part of the site that lies within Midlothian comprise the access road for the Midlothian Snowsports Centre, the land at the junction of the said access road and a small section of the A702 and adjoining Lothian Burn.
- 1.3 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.

- 2.2 A pre-application consultation for the development of a mountain bike trail centre, indoor and outdoor leisure facilities, food and drink uses, professional service suites, offices, retail, visitor accommodation and associated works at the Former Lothianburn Golf Club, 106 Biggar Road, Edinburgh was submitted on 14 February 2019.
- 2.3 As part of the pre application consultation process the applicant held a drop in event at the Swanston Golf Club, 111 Swanston Road, Edinburgh on 5 March 2019, from 2pm until 7pm. On the conclusion of the consultation the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.
- 2.4 A copy of the pre application notice has been sent by the prospective applicant to the Damhead Community Council.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP).
- 3.3 The former Lothianburn Golf Club is located to the south of the A720 City Bypass on the northern slopes of the Pentland Hills. It adjoins the Midlothian Snowsports Centre and Hillend Country Park at its northern boundary, covers an area of approximately 66.5 hectares and is predominantly within the City of Edinburgh Council administrative area. That part of the site that lies within Midlothian comprise the access road for the Midlothian Snowsports Centre, the land at the junction of the said access road and a small section of the A702 and adjoining Lothian Burn.
- 3.4 The proposal is in part a tourist attraction and as such is subject to policy VIS1 of the MLDP, which specifies the circumstances under which tourism attractions will be considered. This policy promotes the establishment of new, or the expansion of existing tourist attractions provided that the Council is satisfied that there is no significant negative environmental or amenity impacts. This policy also states that any development proposals that would directly or cumulatively prejudice the effective operation of an existing or consented tourist attraction will not be permitted.

- 3.5 The Planning Committee will recall that a pre-application consultation regarding a mixed use leisure and tourism based development at the Midlothian Snowsports Centre was reported to its meeting of 19 February 2019 (18/00970/PAC). Mountain biking didn't form part of the Snowsports Centre proposals and as such it could be argued that the two uses complement each other. However, as both proposals include retail and tourist accommodation, consideration will need to be given as to whether there would be a conflict of interest which impacts on the viability of one or both of the proposals, or creates an overall quantum of development, in particular retail uses, which impacts on other centres.
- 3.6 The area is covered by a number of policies designed to protect the sensitivity of the landscape setting of Hillend Country Park and the wider Pentland Hills (policies RD3 and RD4). The site is also located within the green belt and the Pentland Hills Special Landscape Area (ENV1 and ENV6).
- 3.7 Policies RD3 and RD4 provide protection for the Pentland Hills Regional Park and Midlothian's Country Parks (Hillend being a Country Park). Proposals within the parks are not acceptable where they are contrary to the aims and objectives of the park.
- 3.8 Proposals within the green belt are not permitted unless they are proposals which are necessary to agricultural, horticulture or forestry or provide opportunities for access to the open countryside, outdoor sport or outdoor recreation or relate to other uses appropriate to the rural character of the area.
- 3.9 Development within the Special Landscape Areas (SLA) must incorporate high standards of siting and design so that they do not have an unacceptable impact on the qualities of the Pentland Hills Special Landscape Area. The *Special Landscape Areas Supplementary Guidance* was adopted by the Planning Committee at its meeting of 9 October 2018 and contains a Statement of Importance for each SLA that outlines the important characteristics of the landscape.
- 3.10 Policies relating to tourism and retail would also be pertinent in determining an application. Policy VIS1 promotes the establishment of new, or the expansion of existing tourism-related development where it can be demonstrated that it improves the quality of visitor facilities within Midlothian, while VIS2 supports proposals for the development of hotels or self-catering tourist accommodation, including at key gateway locations within ease of access to the major junctions on the A720 City Bypass.
- 3.11 With regard to the retail policies in the MLDP (particularly TCR2), major retail proposals outwith the identified town centres are not supported. Exceptions are made with the Straiton Commercial Hub and an identified potential opportunity of Gorebridge/Redheugh –

Newtongrange corridor, provided the proposal does not undermine the vitality or viability of the town centres within the expected catchment of the proposals.

3.12 Consequently, the retail element of the proposal may be contrary to the development plan. However, the scale and nature of the retail offer in relation to the development of the site as a whole would be an important consideration in determining its acceptability as an ancillary development. Furthermore, the Council have considered proposals where the retail offer is provided to primarily service the tourism market and where it would not undermine the local town centres – in these cases the Council would have to give consideration to appropriate controls to mitigate the impact of the offer.

3.13 A significant consideration will be the access arrangements, of which a number of options are being examined by the applicant. While the pre-application consultation does not provide a detailed layout of the proposal, the applicant has provided copies of the display boards that they have used for consultation purposes which provide an indicative layout. These show the main reception buildings at the southeast corner of the site close to the A702 and the access road to the Midlothian Snowsports Centre. Potential access options include:

- Crossing the Lothian Burn to make use of the access road to the Midlothian Snowsports Centre;
- Forming an access onto the A702 between The Steading and the residential property to the north of it;
- Making use of the existing access road onto the A702 between the former Clubhouse and the residential property to the north by forming an access road behind The Steading and the former Clubhouse. It is worth noting that this junction is to have traffic lights installed as part of the consent for a hotel on the opposite side of the A702.

3.14 If the first access option is preferred, the Council if approached to grant the necessary right of access, will have to consider whether it will be possible to alter the existing access road and junction to ensure it can cope with the expected increase in patronage of the site arising from the development. There may be a cumulative effect to be considered in relation to access if this application is being determined at the same time as the proposal for the Midlothian Snowsport Centre. As all of the options above seek access from the Trunk Road network, Transport Scotland will need to be consulted should a planning application be submitted.

3.15 The prominence of the site on the northern slopes of the Pentland Hills will make the detail of any landscape treatment and design of great importance in determining the acceptability of any proposal. The potential environmental impacts arising as a result of the development will have to be considered. The submission of an Environmental Impact Assessment (EIA) may be required in relation to the

application. This process systematically sets out the relevant environmental impacts in order that they can be assessed, designed out of the proposal, minimised or mitigated.

- 3.16 If an application is submitted there is a presumption in favour of supporting leisure and tourist based developments. There may also be a requirement for developer contributions to be made towards the A701 Relief Road.

4 PROCEDURES

- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.
- 4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

5 RECOMMENDATION

- 5.1 It is recommended that the Committee notes:
- a) the provisional planning position set out in this report;
 - b) that any comments made by Members will form part of the minute of the Committee meeting; and
 - c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 2 May 2019

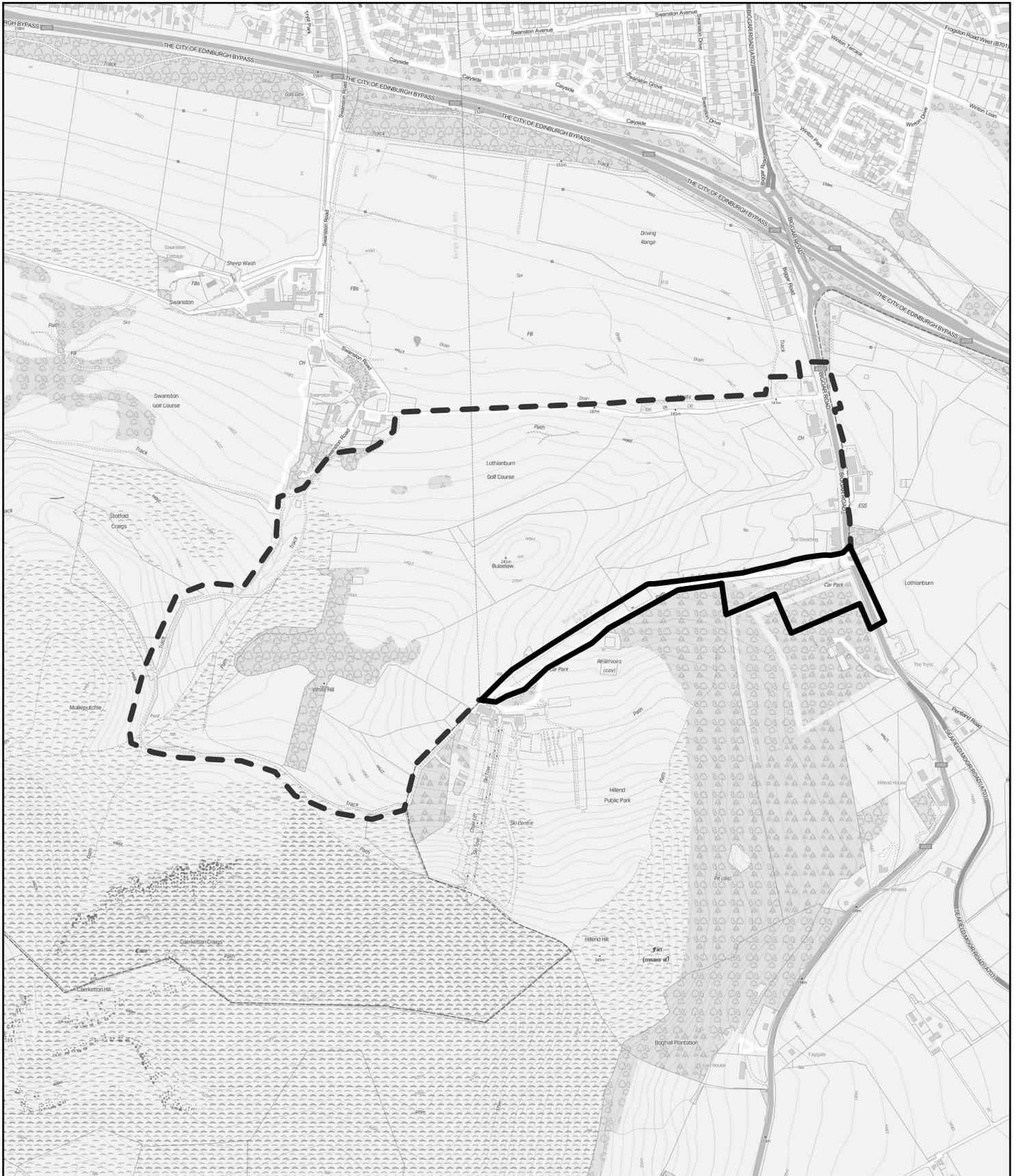
Application No: 19/00126/PAC (Available online)
Applicant: Oli Munden, Avison Young, Fountainbridge,
Edinburgh

Validation Date: 14 February 2019

Contact Person: Fraser James

Tel No: 0131 271 3514

Background Papers:



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Proposal of application notice for development of mountain bike trail centre, indoor and outdoor leisure facilities, food and drink uses, professional service suites, offices, retail, visitor accommodation and associated site access, parking, landscaping and other works at Former Lothianburn Golf Club, 106 Biggar Road, Edinburgh

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File No: 19/00126/PAC

Scale: 1:10,000
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PRE - APPLICATION REPORT REGARDING RESIDENTIAL DEVELOPMENT WITH ASSOCIATED ENGINEERING WORK, OPEN SPACE AND LANDSCAPING AT LAND NORTH OF OAK PLACE, MAYFIELD (19/00106/PAC)

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre-application consultation submitted regarding residential development with associated engineering work, open space and landscaping at land north of Oak Place, Mayfield. The land comprises site h41 in the Midlothian Local Development Plan 2017 (MLDP) which is a housing allocation with an indicative capacity for 63 units. The site was originally allocated in the 2003 Midlothian Local Plan.
- 1.2 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre-application consultation for residential development with associated engineering work, open space and landscaping at land north of Oak Place, Mayfield was submitted on 8 February 2019.
- 2.3 As part of the pre-application consultation process the applicant held a drop in event at the Mayfield and Easthouses Church Hall on 28 March 2019, from 3pm. On the conclusion of the consultation the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the

Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

- 2.4 Copies of the pre application notices have been sent by the prospective applicant to the local elected members and Mayfield and Easthouses Community Council.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP).
- 3.3 The site is approximately 8.3 hectares of agricultural land and forms part of Lawfield Farm. The site slopes upwards from the south west to the north east. There are open views from the site westwards towards the Pentland Hills and the north west of Edinburgh.
- 3.4 The land comprises site h41 in the Midlothian Local Development Plan 2017 (MLDP) which is a housing allocation with an indicative capacity for 63 units. The site was originally allocated in the 2003 Midlothian Local Plan.
- 3.5 As a committed site within the established housing land supply, support for the early implementation of the site is supported. The specific policies any proposal is likely to be subject to include STRAT1 Committed Development; DEV2 Protecting Amenity within the Built-Up Area; DEV3 Affordable and Specialist Housing; DEV5 Sustainability in New Development; DEV6 Layout and Design of New Development; DEV7 Landscaping in New Development; DEV9 Open Space Standards; TRAN1 Sustainable Travel; TRAN5 Electric Vehicle Charging; IT1 Digital Infrastructure; ENV9 Flooding; ENV10 Water Environment; NRG6 Community Heating; IMP1 New Development; IMP2 Essential Infrastructure Required to Enable New Development to Take Place; and IMP3 Water and Drainage.
- 3.6 The Mayfield and Easthouses Settlement Statement in the MLDP outlines a number of matters to be considered in the design of any proposed development (page 105). The plan notes that the site is in an elevated position and that development will need to avoid the highest parts of the site and to provide substantial perimeter planting to create a long-term settlement edge. It is also stated that the site should be accessed through the neighbouring housing allocation at Bryans (h48) to give a better design/layout solution.
- 3.7 Planning application 16/00134/DPP for 179 houses and 20 flats and associated works on the site was refused by the Committee at its

meeting in January 2018. This proposal was considered an overdevelopment of the site which resulted in a number of unacceptable impacts including: a lack of local education capacity; insufficient public open space and private garden provision; the need for excessive engineering works to raise site levels and inadequate separation distances with existing properties to maintain acceptable levels of privacy. This pre-application consultation does not specify the number of units proposed, however if a resulting planning application proposes a scale of development that significantly exceeds the indicative capacity of 63 units, similar issues may arise and will need to be considered.

- 3.8 The proposals do not identify an access solution. The site is adjoined to the west by the former Bryans Primary School site, which was granted planning permission for 28 dwellinghouses and 44 flats in February 2019 (19/00042/DPP) as part of the Council's housing programme. While the approved site layout includes a link that could provide access to this adjoining site, consideration will be given to whether this layout is adequate to manage the level of traffic from both sites. If this proves not to be the case then alternative access options will need to be considered, the most likely of which is onto Oak Place to the south.
- 3.9 During the assessment of any subsequent planning application consideration will have to be given to design matters such as materials, layout, separation distances between buildings, landscaping and garden sizes in order for the scheme to accord with the policies in the sustainable place-making section of the MLDP (Policies DEV2, DEV3, DEV5, DEV6, DEV7 and DEV9).
- 3.10 The site is located within a predominantly residential area with existing properties at Oak Place to the south and future properties adjoining the site to the west. As a consequence consideration will need to be given towards protecting the privacy and amenity of residents. Given that the northern parts of the site are elevated, particular care will be required in designing this part of the site.
- 3.11 A core path is identified as passing through the site in a north-south direction (core path 5-11). The loss of this route without the provision of an alternative would not be acceptable and the layout of any proposal should make provision for this. Furthermore, the Midlothian Green Network Supplementary Guidance, which seeks to create new green links between settlements, identifies a proposal for a path at the northern edge of this site. Making such provision would accord with policy ENV2 of the MLDP.
- 3.12 If an application is submitted, there is a presumption in favour of an appropriate residential development and associated works subject to securing developer contributions towards infrastructure including education provision, equipped children's play provision, town centre improvements and a community facility. Additionally, any application would be subject to the need to provide affordable housing equal to,

or exceeding 25% of the total number of dwellings consented, as required by policy DEV3.

4 PROCEDURES

- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.
- 4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

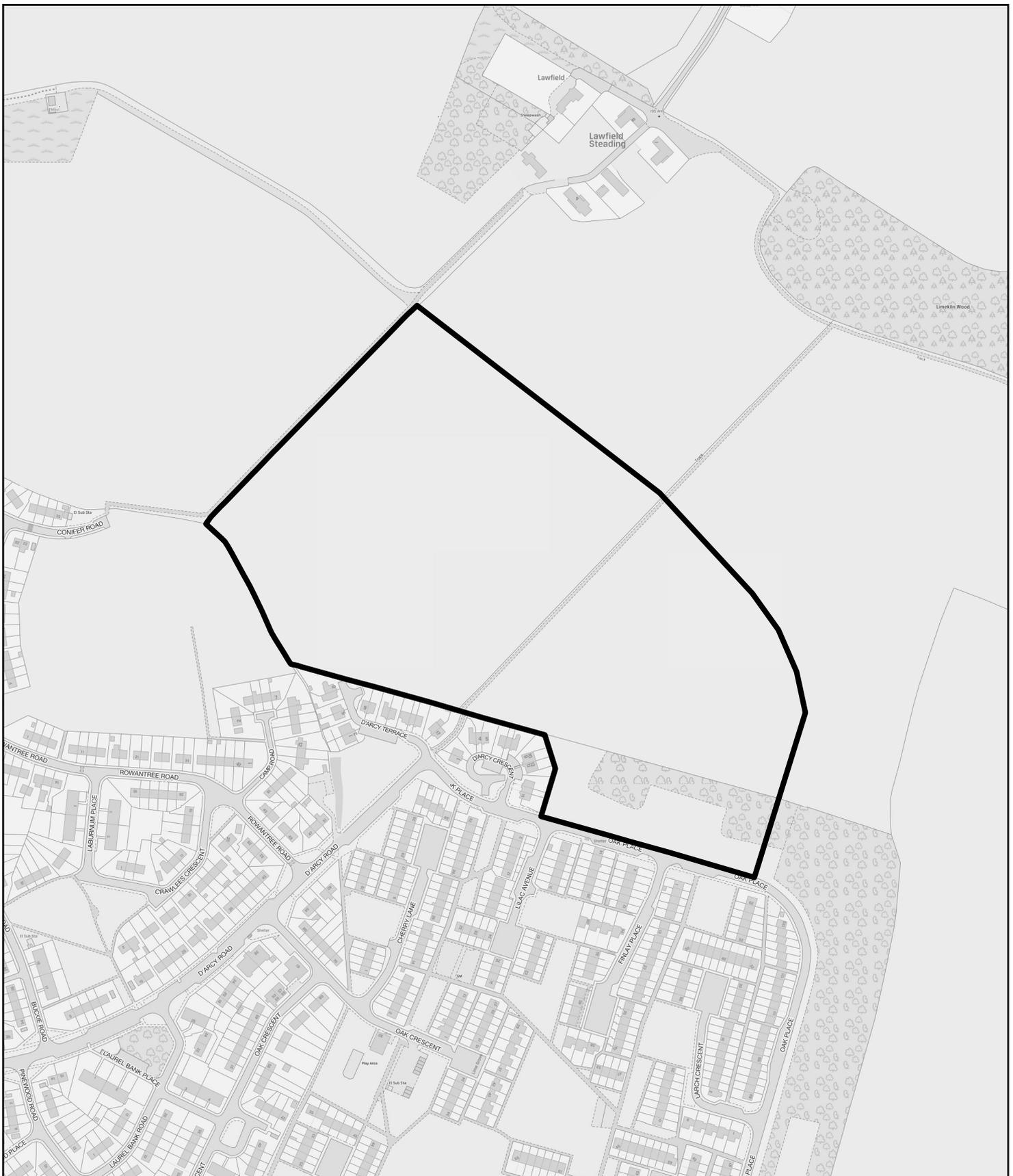
5 RECOMMENDATION

- 5.1 It is recommended that the Committee notes:
- a) the provisional planning position set out in this report;
 - b) that any comments made by Members will form part of the minute of the Committee meeting; and
 - c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 2 May 2019

Application No: 19/00106/PAC (Available online)
Applicant: Gladman Developments Ltd, Eliburn
Validation Date: 8 February 2019
Contact Person: Fraser James
Tel No: 0131 271 3514
Background Papers:



Midlothian Council
 Fairfield House
 8 Lothian Road
 Dalkeith
 EH22 3AA

Proposal of application notice for residential development with associated engineering works, open space and landscaping at Land North of Oak Place, Mayfield, Dalkeith

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File No: 19/00106/PAC

Scale: 1:4,000
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APPLICATION FOR PLANNING PERMISSION 18/00740/DPP, FOR ERECTION OF 247 DWELLINGHOUSES; FORMATION OF ACCESS ROADS AND CAR PARKING; SUDS FEATURES AND ASSOCIATED WORKS ON PART OF SITE HS11 DALHOUSIE SOUTH, BONNYRIGG

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the erection of 247 dwellinghouses on land to the east of the B6392, Bonnyrigg. The site comprises part of allocated housing site Hs11. There have been eight representations and consultation responses from The Coal Authority, the Scottish Environment Protection Agency, Scottish Water, Historic Environment Scotland, the Council's Archaeology Advisor, the Council's Head of Education, the Council's Environmental Health Manager, the Council's Policy and Road Safety Manager and Bonnyrigg and Lasswade Community Council.**
- 1.2 The relevant development plan policies are Policies 5 and 7 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESPlan) and policies STRAT3, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV19, ENV22, ENV23, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.**
- 1.3 The recommendation is to grant planning permission subject to conditions and the applicant entering into a Planning Obligation to secure developer contributions towards necessary infrastructure and the provision of affordable housing.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is located to the east of Bonnyrigg. The site is bound; to the west by the B6392 with residential properties beyond, to the east by an unclassified road which links Cockpen Road (B704) to the A7, underneath the Lothianbridge, Newbattle Viaduct (category B listed building), to the south by Cockpen and Carrington Church (category A listed building) and associated cemetery, and to the north by Dalhousie Mains House (a category B listed building).**

- 2.2 The site is approximately 23.7 hectares and slopes down to the east. It is currently in agricultural use and overhead lines cross the north eastern part of the site and the central part of the site. The confluence of the Dalhousie Burn and the River South Esk is to the northeast of the site.
- 2.3 There is a core path located to the southeast of the site and a national cycle route to the south. Other paths link to the town centre and to the A7 and onward to the Borders Rail Station at Eskbank. The A7 is to be the subject of an urbanisation scheme which will include proposed multi user paths. Links can also be made through nearby existing residential areas and the proposed development at Dalhousie Mains (Hs10) on the other side of the B6392.
- 2.4 The site is located adjacent to, but outwith, the Dalhousie and Cockpen Conservation Area. This conservation area is located to the east and south of the site. There is a known archaeological site and an artefact find-spot within the site.

3 PROPOSAL

- 3.1 The proposal is for residential development on part of allocated housing site Hs11. A central part of site Hs11 is subject to a separate planning application (18/00743/PPP).
- 3.2 The proposed development comprises 247 dwellings of which 240 are private market dwellings and seven are affordable units. All the dwellinghouses are two storey buildings with the exception of one bungalow (one of the affordable housing units).The housing mix comprises:

terraced units	14	three bed units	66
semi-detached units	22	four bed units	132
<u>detached units</u>	<u>211</u>	<u>five bed units</u>	<u>49</u>
Total	247	Total	247

- 3.3 The proposed development also comprises:
- Two vehicular accesses off the B6392;
 - Pedestrian and cycle path links to the B6392, the unclassified road to the east and throughout the site;
 - A landscaped buffer around the edge of the site;
 - An area of open space incorporating a play area, tree planting and sustainable urban drainage system (SUDS) basin in the central eastern part of the site;
 - An area of open space in the northern part of the site which could be used as a kickabout area;
 - An area of informal open space and landscaping in the southern part of the site in close proximity to the Cockpen and Carrington Church;

- An area of informal open space and landscaping, incorporating SUDS in the northern part of the site under the overhead power lines;
 - Areas of Improved Quality (AOIQ), incorporate enhanced materials of slate roof tiles, reconstituted stone and wetdash render, are proposed adjacent to the areas of open space in the south and north of the site and at the vehicular entrances to the site forming a 'gateway'. Materials outwith the AIQ include dry dash render and grey and red concrete roof tiles.
- 3.4 The vehicular access incorporates ghost islands and right-hand turn lanes on the B6392 for vehicles entering the site. A pedestrian light controlled crossing over the B6392 is proposed to the southwest of the site, this will form part of the safe route to school. A second proposed pedestrian crossing point is located more centrally on the western boundary.
- 3.5 Car parking provision is proposed on the site to align with the Council's parking standards.
- 3.6 The application is accompanied by:
- A design and access statement;
 - An archaeological desk top based assessment;
 - A biodiversity management plan;
 - A pre-application consultation (PAC) report;
 - A mineral risk assessment
 - A transport assessment

4 BACKGROUND

- 4.1 In June 2017 the planning authority issued a screening opinion (17/00399/SCR) for the site advising that an Environmental Impact Assessment submission is not required.
- 4.2 The applicant carried out a pre application consultation (17/00402/PAC) for residential development in May – August 2018. The pre application consultation was reported to the Committee at its meeting of August 2017.
- 4.3 An associated planning application for planning permission in principle (18/00743/PPP) for an indicative 73 affordable housing units on the central part of site Hs11 is elsewhere on the Committee agenda and is intrinsically linked to this application. The site layout drawing for this detailed application is included as the masterplan for this application.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application. However, further more detailed considerations of ground conditions and/or

foundation design may be required as part of any subsequent building warrant application.

- 5.2 The **Scottish Environment Protection Agency (SEPA)** does not object to the application based on the information submitted by the applicant, subject to no development work taking place over the water main running through the site.
- 5.3 **Scottish Water** does not object to the application, but state that this does not confirm that the site can be serviced.
- 5.4 **Historic Environment Scotland (HES)** advise that Cockpen Parish Church is a cruciform-plan, Tudor-Gothic church with a half-engaged square-plan tower. It was designed by the noted architect Archibald Elliot in 1818-1820 and refitted by Peddie and Kinnear in 1886. The design for the tower was altered so it could be seen from both Dalhousie Castle and Arniston House. It is recommended that views of the church tower from the public road to the east would be better preserved by removing the proposed housing from the southern corner of the site (south of the water main) and/or by redesigning this section to retain open views from the east, where the church tower is a distinctive and noticeable feature on the raised section of road. This may mean skewing the development site to retain open views of the tower.
- 5.5 The Council's **Archaeological Advisor** does not object to the application but recommends a 'Programme of Archaeological Works' (Trial Trench Evaluation) is necessary. The trial trench evaluation required is to be no less than 8% of the total site area. The requirement for this work can be secured by condition.
- 5.6 The Council's **Head of Education** advises that a development of 248 dwellings would give rise to 117 primary school pupils and 92 secondary school pupils and advises that the applicant will be required to make a developer contribution to meet the provisional requirements. The site is in the catchment area of Bonnyrigg Primary School, St Mary's RC Primary School, Lasswade High School and St David's RC High School.
- 5.7 The Council's **Environment Health Manager** does not object to the application, subject to conditions being attached to any grant of planning permission ensuring that ground contamination and/or former mine workings remediation works are undertaken.
- 5.8 The Council's **Policy and Road Safety Manager** does not object to the application subject to the following matters being addressed by conditions being attached to any grant of planning permission:
1. Details of the proposed traffic signal controlled pedestrian/cyclist crossing point on the B6392 should be submitted for approval with

the crossing being available for use prior to the first house being occupied;

2. In line with the Council's view of providing publicly available electric vehicle charging points within new developments some of the proposed visitor parking spaces should be designated and formed as publicly available electric vehicle charging points;
3. As the development will require changes to the existing designation of footway/cycleway links from the site to the local primary school the developer should enter into a S75 agreement (or similar agreement) to provide a financial contribution to the costs involved in drafting and promoting these legal orders; and
4. A low retaining wall (0.45m high) is shown on Drg No. DMS59-231 between the proposed cycleway/footpath link and plots 13 and 14. If this wall is required to provide retention to the cycleway/footpath link then structural details of the feature will require to be submitted for technical approval.

5.9 **Bonnyrigg and Lasswade Community Council (BLCC)** has expressed concern over the rapid growth of the town and the resulting impact on infrastructure. This strain on infrastructure is exacerbated by the Council's challenging financial position and as such any further house building is not welcome until appropriate infrastructure is provided. The main issues are as follows:

- Local employment opportunities are not available for new residents and so there will be an increased need to travel into Edinburgh for work, placing additional strain on transport infrastructure, in particular Sheriffhall roundabout, the A720 and routes to and from these destinations;
- There needs to be easy and safe access to Eskbank Railway Station;
- The urbanisation of the A7 may help pedestrians cross the A7 to reach the Eskbank Railway Station but is unlikely to do anything for the queues of traffic along this stretch of the A7 during busy periods;
- The community identity of Bonnyrigg and Lasswade is being changed too rapidly. This is potentially why there is a youth anti-social behaviour problem in the town. Maintaining community identity and preventing coalescence are planning objectives;
- It is unlikely the local schools have adequate capacity for this site. Experience shows more families with young children move to Bonnyrigg and Lasswade than expected. The capacity in Bonnyrigg Primary School is unlikely to be sufficient. The Lasswade High School is over capacity already. The developer contributions do not arrive fast enough for the school capacity to be built in advance of need;
- The other services needed for families such as nurseries, breakfast clubs, holiday clubs, after school facilities, playgroups do not have spare capacity for the expected new residents. Furthermore, there are shortages in the provision of the after-school activities. Cubs,

scouts, gymnastic classes and other cultural and sporting activities have waiting lists;

- Community space in Bonnyrigg and Lasswade is limited as the Lasswade High School Centre was expected to provide a Hub and a number of older community facilities closed down. As pupil numbers in the high school have grown the school has taken over some of the rooms available to the community. None of the new developments have local facilities except play parks;
- The primary care provision in the town is not robust enough to support the projected growth in population. More house building will not provide more GPs;
- It is possible to walk to Bonnyrigg Primary School from the site (HS11) but many parents have children at more than one stage of schooling. Most of the other nurseries and playgroups are further away and if the time schedule is not co-ordinated the parents can feel forced to go by car to be on time at more than one facility. It is one of the disadvantages of the HS11 site that it is so far out from other facilities in the town and walking with small children while desirable is not always feasible;
- A major issue with the HS11 site is its position on the 'other' side of the distributor road, the B6392, which is a natural boundary for the town. This is out with the traditional urban envelope of Bonnyrigg and Lasswade and there is no reason for this development prior to the land within the envelope being developed;
- The new houses will reduce the functionality of the distributor road. This bypass of the difficult town centre (a major Midlothian east-west crossroads) will have another junction for the HS10 development as well as the two junctions for HS11. This is not to include the continuing development of Hopefield. If the consequential extra traffic delays at the Hardengreen Roundabout (and urbanised A7) are substantial more traffic may try to cross Midlothian via Bonnyrigg Toll. This would be development at the expense of the existing residents;
- There are concerns about this site being included in the MLDP at all. The field lies adjacent to the Newbattle Strategic Green Space and should be part of it. It slopes down to the Dalhousie Burn and the crucial wildlife corridor that links from Newbattle to Whitehill as well as to the Dalhousie Castle wooded area. The weakest spot is around the HS11 site;
- Bonnyrigg has only ever been located on the area between the two very special river valleys of the North and South Esk. This plan is expanding Bonnyrigg out with its natural limits and endangering our historic framework and landscape. Newbattle Abbey, Cockpen Church and Dalhousie Castle are all major sites and the development of this site, sitting right in the middle as it does, endangers the historic setting of all three. This site should be part of the Newbattle Strategic Green Space.

6 REPRESENTATIONS

- 6.1 There have been eight objections all of which can be viewed in full on the online planning application case file. A summary of the objections are as follows:
- Lack of local infrastructure to cope with the increase in demand, in particular school places and medical services/GP surgeries;
 - Impact on road capacities, especially at peak times;
 - Impact on the setting of Cockpen Church and Dalhousie Mains, both of which are listed buildings;
 - The development does not have an economic benefit to the area;
 - The impact of increased traffic, including construction traffic, using the rural unnamed road to the east on walkers, cyclists and horse-riders. This road should be enhanced by planting and by preserving the existing planting along this road. The speed should be restricted to 40mph;
 - Concern that an environmental impact assessment has not been carried out in relation to the proposed development;
 - Improved gas and broadband connections should be provided;
 - An appropriate crossing should be provided at the roundabout on Cockpen Road;
 - The site/nearby land has been liable to flooding and there is concern that the proposed SUDS will not improve the situation;
 - The impact on the amenity of nearby properties, in particular from a proposed footpath in close proximity to existing homes;
 - The scale of development in close proximity to, and landscaping under, the power lines which cross the site;
 - The proposed development will adversely affect the setting of the nearby conservation area and special landscape area; and
 - Concern about overlooking of existing properties from the proposed housing.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017, adopted in November 2017. The following policies are relevant to the proposal:

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 **Policy 5 (HOUSING LAND)** requires Local Development Plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing requirements for each period.
- 7.3 **Policy 7 (MAINTAINING A FIVE YEAR HOUSING LAND SUPPLY)** states that sites for Greenfield housing development proposals either

within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying each of the following criteria: (a) The development will be in keeping with the character of the settlement and local area; (b) The development will not undermine Green Belt objectives; and (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

Midlothian Local Development Plan 2017 (MLDP)

- 7.4 Policy **STRAT3 Strategic Housing Land Allocations** states that strategic land allocations identified in the plan will be supported provided they accord with all other policies. The development strategy supports the provision of an indicative 360 housing units on the site (Hs11).
- 7.5 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.6 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.
- 7.7 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.
- 7.9 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.10 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that Plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan.

- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.
- 7.13 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.14 Policy **ENV2: Midlothian Green Networks** supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the Midlothian Green Network.
- 7.15 Policy **ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.
- 7.16 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run off rates are not greater than in the site's pre-development condition, and to avoid any deterioration of water quality.
- 7.17 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate local flooding and to enhance biodiversity and the environmental.
- 7.18 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.

- 7.19 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.20 Policy **ENV19: Conservation Areas** states that development will not be permitted within or adjacent to conservation areas where it would have any adverse effect on its character or appearance.
- 7.21 Policy **ENV22: Listed Buildings** does not permit development which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.
- 7.22 Policy **ENV23: Scheduled Monuments** states that development which could have an adverse effect on a scheduled monument, or the integrity of its setting, will not be permitted.
- 7.23 Policy **ENV24: Other Important Archaeological or Historic Sites** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting.
- 7.24 Policy **ENV25: Site Assessment, Evaluation and Recording** requires that where development 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 likely impact of the proposal on the archaeological resource.
- 7.25 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.26 Policy **IMP1: New Development** seeks to ensure that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.
- 7.27 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.

- 7.28 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development. Policy DEV5: Sustainability in New Development sets out the requirements for development with regards to sustainability principles.

National Policy

- 7.29 The **SPP (Scottish Planning Policy)** sets out Government guidance for housing. All proposals should respect the scale, form and density of their surroundings and enhance the character and amenity of the locality. The individual and cumulative effects of infill must be sustainable in relation to the social and economic infrastructure of a place, and must not lead to over-development.
- 7.30 The SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to be considered high quality, as such a development should be; distinctive; safe and pleasant; welcoming; adaptable; resource efficient; and, easy to move around and beyond. The aims of the SPP are developed within the local plan and local development plan policies.
- 7.31 The SPP states that design is a material consideration in determining planning applications and that planning permission may be refused and the refusal defended at appeal or local review solely on design grounds.
- 7.32 The SPP supports the Scottish Government's aspiration to create a low carbon economy by increasing the supply of energy and heat from renewable technologies and to reduce emissions and energy use. Part of this includes a requirement to guide development to appropriate locations.
- 7.33 The SPP notes that "high quality electronic communications infrastructure is an essential component of economic growth across Scotland". It goes on to state that "Planning Authorities should support the expansion of the electronic communications network, including telecommunications, broadband and digital infrastructure, through the development plan and development management decisions, taking into account the economic and social implications of not having full coverage or capacity in an area".
- 7.34 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.
- 7.35 **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.

- 7.36 The Scottish Government's Policy on **Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

8 PLANNING ISSUES

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

The Principle of Development

- 8.2 The application site is part of a site allocated for housing (site Hs11) in the MLDP and is located within the built-up area of Bonnyrigg, where there is a presumption in favour of appropriate residential development. The indicative number of units allocated for site Hs11 in the MLDP is 360.
- 8.3 The planning application is accompanied by a masterplan layout plan which includes the whole of site Hs11, including the land which is the subject of a current application for planning permission in principle (18/00743/PPP). The detailed layout, the subject of this current application, stands to be considered in relation to the masterplan layout. The 247 dwellings proposed in this planning application, combined with the developer's indicative aspirations for the neighbouring site of 73 dwellings will result in an overall development of 320 dwellings.

The Layout and Form of Development

- 8.4 The proposed development comprises all but one two storey buildings. The layout includes three substantive areas of open space incorporating two SUDS basins. Links through the site ensure connections with an existing core path network and an existing national cycle route. The listed buildings in close proximity to the site include the category A listed Cockpen and Carrington Church and Cemetery and Dalhousie Mains. The open spaces and layout of the site complements the setting of the said church and cemetery. The site includes landscaping to the boundaries to create a landscape framework and to provide a planted or open space buffer to the unclassified lane to the east of the site. The built form of the site will form the new built edge to Bonnyrigg. The proposal also includes two new vehicular accesses, landscaping, car parking and SUDS provision. The stated development components meet the requirements set out in the MLDP and are configured so that the layout will provide a good form of development which provides an attractive place to live with good amenity and respects the nearby historical buildings and landscape.

- 8.5 The form of development comprises a mix of two storey dwelling houses of various sizes and designs and one single storey dwellinghouse which is one of the proposed seven affordable housing units. There is a mix of terraced, semi-detached and detached properties. The form of development complies with the fundamental design principles of; dwellings overlooking open space (other than the open space and SUDs basin to the north of the site, which is of a more rural design), SUDS features and footpaths/cyclepaths; variations in character and density throughout the site and attractive streets, some lined with trees, to create a sense of place.
- 8.6 The MLDP requires good levels of amenity for residential development in terms of garden sizes, open space and separation between buildings to mitigate overlooking, loss of privacy and a sense of overbearing on neighbours. The required spatial standards were set out in the superseded Midlothian Local Plan 2008 and are likely to be incorporated into the supplementary guidance on 'Quality of Place' which is currently being drafted following the adoption of the MLDP in November 2017. These dimensional standards help those in the planning process quantify what good levels of amenity are and therefore it is reasonable to expect housing developments to meet these requirements unless there is justification not to do so. The requirements with regard usable private garden sizes should be: (i) 100 square metres for terraced houses of 3 or more apartments; (ii) 110 square metres for other houses of 3 apartments; and (iii) 130 square metres for houses of 4 apartments or more. There are 33 houses on the site with rear usable gardens that are below the standards. Of which nine are terraced houses which would have unduly long gardens if they were to be compliant, ten back onto planted areas on the boundaries of the site and six are within a gateway character area. There are eight remaining houses which do not have a specific design justification for their smaller than standard gardens. However on balance considering, this is relatively few units, there is density variation across the site and that there are fewer houses on the site than allocated in the MLDP, the proposed rear usable garden sizes are considered to be acceptable.

Affordable Housing

- 8.7 The applicant is proposing a total of 80 affordable housing units across site Hs11, 25% of the total 320 residential units. Seven units are part of this application and 73 units are subject to an associated planning permission in principle application (18/00743/PPP). This volume of provision complies with the MLDP and is acceptable.
- 8.8 The proposed mix of affordable units in this application is for five terraced units, a detached dwellinghouse and a single story detached bungalow. The form of these units and those in associated application

18/00743/PPP are compatible with the Council's housing aspirations to meet local need.

Open Space and Landscaping

- 8.9 The proposed development includes four areas of open space, as set out in paragraph 3.3, which are well connected to the residential development and afforded some passive surveillance from the proposed dwellings. The area of open space and landscaping located in the southern part of the site is strategically positioned and laid out to enhance the setting of Cockpen and Carrington Church.
- 8.10 This represents an appropriate provision of open space in terms of the scale and variation of the offer. The requirement for, and assessment of, open space provision is set by MLDP Policy DEV 9 (and associated Appendix 4). This policy requires that open space is considered in relation to the quantity, quality and accessibility of the open space. In relation to accessibility, this is measured against standards for the proximity to country parks, district and town parks and in relation to local park/play park provision or significant amenity open space (such as a community woodland). In allocating the site for housing the Council has determined that the sites relationship to existing country and town parks is acceptable. Therefore the priority is for the proposed development to deliver provision to meet the localised need, which it does.
- 8.11 The main formal pitch provision in Bonnyrigg is at Poltonhall Recreation Ground and at King George V Park. Further provision is made at Lasswade High School and associated with primary schools. Developer contributions are to be made towards community facilities which can include provision for sports pitches.
- 8.12 Landscaping is to be provided on the boundaries of the site, in the areas of open space, as part of the entrance areas and in some small pockets throughout the housing layout.

Access and Transportation Issues

- 8.13 The two vehicular access points are off the B6392 to the west of the site. This road has a 60mph speed limit and connects Cockpen Road to the A7. The transport assessment submitted with the application concludes that the proposed development will have a limited impact on the operation of existing junctions and that the proposed site accesses will operate satisfactorily. Hardengreen roundabout is currently very busy during peak periods and the development will add some traffic to this junction adding to the momentary queuing, but at a level which is acceptable. This position is balanced against the Council's aspirations for promoting public transport and active travel (walking and cycling), in particular its plans for the urbanisation of the A7. The proposed upgrading of the Sheriffhall roundabout/grade separated junction and the urbanisation of the A7 may benefit the traffic flow arising from this

development – however the development is not dependant on the completion of these infrastructure projects and as such cannot be delayed pending their completion as proposed by the Community Council.

Archaeology/Ground conditions

- 8.14 The proposed development is in close proximity to known archaeology assets and as such the programme of archaeological works recommended by the Council's Archaeological Advisor can be secured by a condition imposed on a grant of planning permission. Subject to these controls the archaeological value of the site will be adequately assessed and the impact on any identified archaeological resource mitigated.
- 8.15 Mitigation against concerns regarding ground conditions and contamination of the site and/or previous mineral workings can be secured by a condition imposed on a grant of planning permission and by the Council's Building Standards service as part of the building warrant process.

Energy Efficiency and Carbon Reduction

- 8.16 In order for the Government's renewable energy and heat demand targets to be met, it is important that all types of new development consider the role they play in using heat from renewable sources. Paragraph 154 of SPP states that the planning system should support the transitional change to a low carbon economy including deriving *"11% of heat demand from renewable sources by 2020"* and supporting *"the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity – and the development of heat networks"*. MLDP policy NRG6 states that community heating within new developments should be supported where technically and financially feasible. It remains to be demonstrated by the applicant that the proposed development does not offers the potential for a new district heating network to be created within the site. Therefore, it should be made a condition of a grant of planning permission that a feasibility study for the provision of a community heating system for the new development undertaken by a suitably qualified engineer commissioned by the applicant be submitted for the approval of the planning authority.

Ecology

- 8.17 The Biodiversity Management Plan submitted with the application considers evidence of protected species on the site and makes provision for bat and bird boxes and the use of appropriate planting to enhance biodiversity within the site. It also makes a commitment towards biodiversity provision as demonstrated at the show home for

the site - this is a good initiative to supporting/promoting biodiversity on the site. A condition relating to the need for an updated species surveys will be required to ensure safeguards for any potential protected species are in place should surveys be out of date before development commences. Implementation of the Biodiversity Management Plan can be secured by condition on a grant of planning permission.

Developer Contributions

- 8.18 If the Council is minded to grant planning permission for the development it will be necessary for the applicant to enter into a Section 75 planning obligation in respect of the following matters:
- the provision of affordable housing equal to, or greater than 25% of the total number of residential units across site Hs11 as a whole;
 - a financial contribution towards education provision;
 - a financial contribution towards community facilities (which could include the provision/upgrading of sports pitches);
 - a financial contribution towards public transport/Borders Rail;
 - a financial contribution towards the Council's A7 urbanisation scheme;
 - maintenance of open space; and
 - a financial contribution towards the promotion of roads orders to secure safe routes to school.
- 8.19 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:
- necessary to make the proposed development acceptable in planning terms (paragraph 15)
 - serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
 - relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)
 - fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)
 - be reasonable in all other respects

The requirements set out for the proposed Planning Obligation meet the above tests.

Other matters raised by representors and consultees

- 8.20 The concerns raised about the existing capacity of general practice in Midlothian and the impact of new house building on health and care services is a matter would need to be addressed by the Midlothian Health and Social Care Partnership through the provision of sufficient health service capacity. That can involve liaison with the Council as planning authority but it is not, on its own, a sufficient basis in itself on which to resist or delay the application.
- 8.21 Regarding matters raised by representors and consultees and not already addressed in this report:
- The site is allocated in the adopted local development plan and there is no requirement for the implementation of the development to be delayed;
 - The Council's Economic Development Service supports and promotes new and existing businesses with the ambition of creating jobs. Furthermore, construction is an important part of the job market and employees approximately 3,000 people in Midlothian, equating to 9.5% of the local workforce (this is significantly higher than the Scottish national average of 5.6%);
 - The proposed development makes provision for linkages to the wider footway and cycleway network including the unclassified road to the east and onward route to the Eskbank Rail Station;
 - Provision is made within the site for landscaping along the eastern boundary, integrating the site into the wider landscape and providing a rural edge to the site which integrates into the neighbouring countryside;
 - The provision of additional education capacity is met by way of developer contributions and from central funding (towards early years provision). The Council ensures there are the required education services;
 - The proposed development does not lead to a physical coalescence to another settlement and will be seen as part of Bonnyrigg and in time will be integrated into that community. The physical boundary of the settlement will be the Dalhousie Burn and the landscape buffer along this corridor;
 - Community facilities are provided across Bonnyrigg, including at the Lasswade High School Hub;
 - Broadband provision will be secured by a condition on the grant of planning permission;
 - Speed limits set on the Council's public highways are regulated by a separate regulatory process (not the planning application process); and
 - Details of construction access arrangements will be secured by a condition on the grant of planning permission.

Other Matters

- 8.22 It is anticipated that the Cockpen and Carrington Cemetery will be full in approximately 11 years and there is the need to plan for a future extension because of the popularity of the site. One way of addressing this issue would be to safeguard land on the opposite side of Cockpen Road, opposite the existing cemetery, in the next local development plan. Another potential solution is to use the proposed southern area of open space in this development as an extension. The applicant has advised that there is, subject to appropriate timetabling (house purchasers would have to be advised), acceptance in principle to selling this land to the Council for an extension to the cemetery. In land use planning terms, this could potentially be acceptable in principle, but would result in the loss of open space to the detriment of the scheme and residential amenity.

9 RECOMMENDATION

- 9.1 That planning permission be granted for the following reason:

The proposed development site is allocated in the Midlothian Local Development Plan 2017. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies, subject to securing developer contributions and subject to appropriate conditions. The presumption for development is not outweighed by any other material considerations.

Subject to:

- i) the prior signing of a legal agreement to secure:
- the provision of affordable housing equal to, or greater than 25% of the total number of residential units across site Hs11 as a whole;
 - a financial contribution towards education provision;
 - a financial contribution towards community facilities (which could include the provision/upgrading of sports pitches);
 - a financial contribution towards public transport/Borders Rail;
 - a financial contribution towards the Council's A7 urbanisation scheme;
 - maintenance of open space; and
 - a financial contribution towards the promotion of roads orders to secure safe routes to school.

The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.

- ii) the following conditions:

1. The indicative phasing plan submitted with the application is not approved. Development shall not begin until details of the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of affordable housing, the provision of open space, structural landscaping, the SUDS provision and transportation/roads infrastructure including construction access. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

Reason: *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.*

2. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. An enhanced quality of materials shall be used in the area of improved quality (20% of the proposed dwellings, hard surfaces and boundary treatments). Development shall thereafter be carried out using the approved materials 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 DEV2 and DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

3. Notwithstanding that delineated on application drawing the development shall not begin until details of a revised scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
 - i other than existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
 - 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, road verges and open space, including trees, shrubs, hedging, wildflowers and grassed areas. The new planting shall include a replacement hedge along the entire length of the linear planning strip on the eastern roadside edge of the site and the planting of a trees behind (adjacent to the west) of the hedge and along its length;

- 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;
- ix drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
- x proposed car park configuration and surfacing;
- xi proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and
- xii details of existing and proposed services; water, gas, electric and telephone

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).

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 DEV2, DEV6 and DEV7 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

4. Development shall not begin until details of the site access, roads, footpaths, cycle ways and transportation movements 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, cycle and pedestrian access;
 - iii proposed roads (including turning facilities), construction access, footpaths and cycle ways;
 - iv proposed visibility splays, traffic calming measures, lighting and signage;
 - v 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
 - vi proposed car parking arrangements;
 - vii the proposed traffic signal controlled pedestrian/cycle crossing point on the B6392; and
 - viii a programme for completion and subsequent maintenance

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.*

5. 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 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

6. 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.

On completion of the decontamination/ remediation works referred to above and prior to any residence on the site being occupied, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No residence on the site shall be occupied unless or until the planning authority have approved the required validation.

Reason: *To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation 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.

7. No building shall have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the planning authority.

Reason: *Under-building exceeding this height is likely to have a materially adverse effect on the appearance of a house.*

8. Development shall not begin until a programme of archaeological works on the site (metal detecting survey and trial trench evaluation) in accordance with a written scheme of investigation has been carried out. The approved programme of works shall be reported upon initially through a Data Structure Report submitted to the planning authority and carried out by a professional archaeologist prior to any construction works or pre commencement ground works taking place. There shall be no variation therefrom unless otherwise agreed in writing by the planning authority.

Reason: *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policies ENV24 and ENV25 of the Midlothian Local Development Plan 2017.*

9. The Biodiversity Management Plan submitted as part of the planning application is approved. The Management Actions in part 2 shall be implemented and the related Management Action Progress Record (part 3) shall be maintained and submitted to the Planning Authority for inspection by the planning authority and they shall be submitted annually to the planning authority following the commencement on the site. A schedule showing the provision of all of the actions to 'foster and maintain biodiversity' identified in the Management Action progress record shall be submitted to the planning authority within 6 months of the commencement of development on the site. Thereafter the provision shall be made in accordance with the approved schedule. Planting proposals for the site submitted in relation to condition 2 shall make specific provision for the biodiversity matters set out in the Biodiversity Management Plan. The details for fencing and boundary treatments submitted in relation to condition 3 shall pay cognisance to the Biodiversity Management Plan. The show home shall make provision for all of the details identified in the Biodiversity Management Plan. The development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

Reason: To ensure the development accords with the requirements of policy DEV5 of the Proposed Midlothian Local Development Plan 2017.

10. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each dwelling. The delivery of high speed fibre broadband shall be implemented as per the approved details.

Reason: To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure.

11. Development shall not begin until details of the provision and use of electric vehicle charging stations throughout the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

Reason: To ensure the development accords with the requirements of policy TRAN5 of the Midlothian Local Development Plan 2017.

12. Prior to the commencement of development a feasibility study on the operation of a community heating scheme for the development hereby approved, and if practicable other neighbouring developments/sites, in accordance with Midlothian Local Development Plan 2017 Policy NRG6, shall be submitted for the prior written approval of the planning authority. Should the planning authority conclude, on the basis of this study, that a scheme is viable, no dwelling on the site shall be occupied until a community heating scheme, and if practicable, other neighbouring developments/sites, is approved in writing by the planning authority. There shall be no variation therefrom unless with the prior written approval of the planning authority. The approved scheme shall be implemented in accordance with a phasing scheme also to be agreed in writing in advance by the planning authority.

Reason: To ensure opportunities for the provision of a community heating system for the site is fully explored to accord with the requirements of policy NRG6 of the Midlothian Local Development Plan 2017 and in order to promote sustainable development.

13. Development shall not begin until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:
 - i. details of a construction access;

- ii. signage for construction traffic, pedestrians and other users of the site;
- iii. controls on the arrival and departure times for construction vehicles, delivery vehicles and for site workers (to avoid school arrival/departure times);
- iv. details of piling methods (if employed);
- v. details of any earthworks;
- vi. control of emissions strategy;
- vii. a dust management plan strategy;
- viii. waste management and disposal of material strategy;
- ix. a community liaison representative will be identified to deal with the provision of information on the development to the local community and to deal with any complaints regarding construction on the site;
- x. prevention of mud/debris being deposited on the public highway;
- xi. material and hazardous material storage and removal; and
- xii. controls on construction, engineering and any other operations (to take place between 0700 to 1900hrs Monday to Friday and 0800 to 1300hrs on Saturdays).

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

Reason: *In order to control the construction activity on the site, ensure environmental impact during the construction period is acceptable and to ensure appropriate mitigation is in place*

14. If development has not commenced on site within one year of the ecological survey information being carried out a further ecological assessment of the site shall be carried out and a report on it shall be submitted for the prior inspection and approval of the planning authority. The scope of the assessment shall be agreed in advance in writing by the planning authority. The recommendations made within the new ecological assessment shall be implemented in full.

Reason: *In the interests of safeguarding biodiversity, including European Protected Species and because the initial survey is now considered to be out of date and it requires to be updated.*

Dr Mary Smith
Director of Education, Communities and Economy

Date: 2 May 2019

Application No: 18/00740/DPP

Applicant: Grange Estates (Newbattle) Ltd

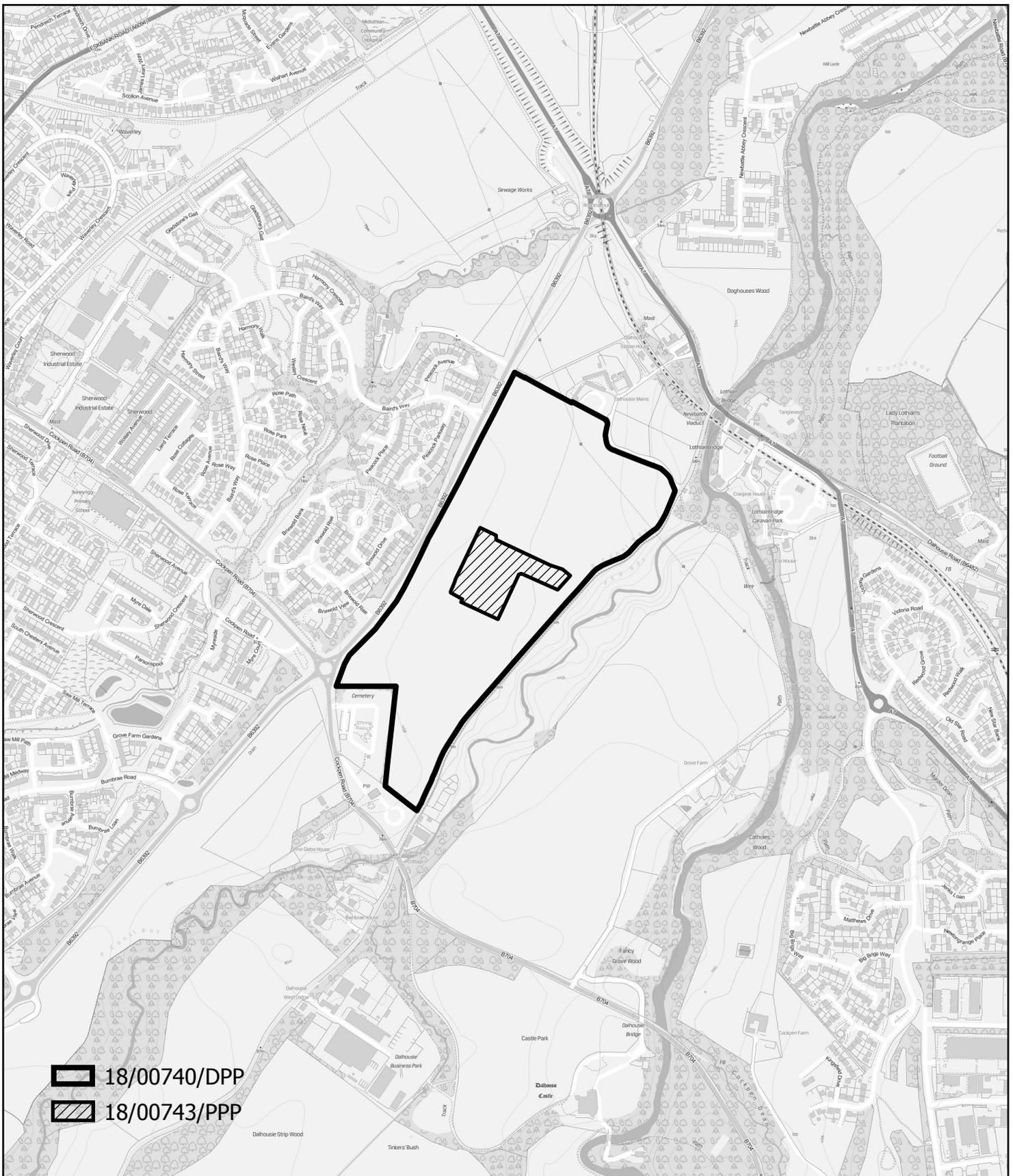
Agent:

Validation Date: 27 September 2018

Contact Person: Joyce Learmonth

Tel No: 0131 271 3311

Background Papers: 17/00399/SCR, 17/00402/PAC and 18/00743/PPP



 18/00740/DPP

 18/00743/PPP



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Erection of 248 dwellings; formation of access roads and car parking; SUDs features and associated works (18/00740/DPP) and application for Planning Permission in Principle for residential development (18/00743/DPP) at Site Hs11 Dalhousie South, Bonnyrigg

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File Nos. 18/00740/DPP and 18/00743/PPP

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**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE
18/00743/PPP, FOR RESIDENTIAL DEVELOPMENT ON PART OF SITE
HS11 DALHOUSIE SOUTH, BONNYRIGG**

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the planning permission in principle for residential development on land to the east of the B6392, Bonnyrigg. The site comprises part of allocated housing site Hs11. There has been one representation and consultation responses from The Coal Authority, the Scottish Environment Protection Agency, Scottish Water, the Council's Archaeology Advisor, the Council's Head of Education, the Council's Environmental Health Manager, the Council's Policy and Road Safety Manager and Bonnyrigg and Lasswade Community Council.**
- 1.2 The relevant development plan policies are Policies 5 and 7 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESPlan) and policies STRAT3, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV19, ENV22, ENV23, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.**
- 1.3 The recommendation is to grant planning permission subject to conditions and the applicant entering into a Planning Obligation to secure developer contributions towards necessary infrastructure and the provision of affordable housing.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is located to the east of Bonnyrigg. It comprises a pocket of land within the centre of a wider development site (Hs11) which is bound; to the west by the B6392 with residential properties beyond, to the east by an unclassified road which links Cockpen Road (B704) to the A7, underneath the Lothianbridge, Newbattle Viaduct (category B listed building), to the south by Cockpen and Carrington Church (category A listed building) and associated cemetery, and to the north by Dalhousie Mains House (a category B listed building).**

- 2.2 The site is approximately 1.8 hectares and slopes down to the east. It is currently in agricultural use and overhead lines cross part of the site. The confluence of the Dalhousie Burn and the River South Esk is to the northeast of the site.
- 2.3 There is a core path located to the southeast of the site and a national cycle route to the south. Other paths link to the town centre and to the A7 and onward to the Borders Rail Station at Eskbank. The A7 is to be the subject of an urbanisation scheme which will include proposed multi user paths. Links can also be made through nearby existing residential areas and the proposed development at Dalhousie Mains (Hs10) on the other side of the B6392.
- 2.4 The site is an integral part of a wider development site which is located adjacent to, but outwith, the Dalhousie and Cockpen Conservation Area. This conservation area is located to the east and south of the Hs11. There is a known archaeological site and an artefact find-spot within the site.

3 PROPOSAL

- 3.1 The proposal is for residential development on part of allocated housing site Hs11. It comprises a central pocket of land within a wider development which is subject to a separate planning application (18/00740/DPP). Although the application is in principle the indicative plan shows the site being developed for 73 units comprising:

One bed units	18
Two bed units	32
three bed units	19
<u>four bed units</u>	<u>4</u>
Total	73

- 3.2 The proposed indicative 73 units and the seven affordable housing units proposed as part of application 18/00740/DPP comprise the affordable housing for site Hs11 and will equate to 25% of the overall number of units on the wider site which is currently planned to be 320 dwellings.
- 3.3 The site the subject of this application is integrated into the wider development site and is dependent on it for road, footpath and cycle path connections, the provision of open space, sustainable urban drainage, a landscape framework and wider biodiversity enhancement.
- 3.4 The application is accompanied by:
- A design and access statement;
 - An archaeological desk top based assessment;
 - A biodiversity management plan;
 - A pre-application consultation (PAC) report;
 - A mineral risk assessment

- A transport assessment

4 BACKGROUND

- 4.1 In June 2017 the planning authority issued a screening opinion (17/00399/SCR) for the site advising that an Environmental Impact Assessment submission is not required.
- 4.2 The applicant carried out a pre application consultation (17/00402/PAC) for residential development in May – August 2018. The pre application consultation was reported to the Committee at its meeting of August 2017.
- 4.3 An associated planning application (18/00740/DPP) for 247 dwellings for the majority of site Hs11 is elsewhere on the Committee agenda and is intrinsically linked to this application.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application. However, further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent building warrant application.
- 5.2 The **Scottish Environment Protection Agency (SEPA)** does not object to the application based on the information submitted by the applicant, subject to no development work taking place over the water main running through the site.
- 5.3 **Scottish Water** does not object to the application, but state that this does not confirm that the site can be serviced.
- 5.4 The Council's **Archaeological Advisor** does not object to the application but recommends a 'Programme of Archaeological Works' (Trial Trench Evaluation) is necessary. The trial trench evaluation required is to be no less than 8% of the total site area. The requirement for this work can be secured by condition.
- 5.5 The Council's **Head of Education** advises that a development of 73 dwellings would give rise to 35 primary school pupils and 27 secondary school pupils and advises that the applicant will be required to make a developer contribution to meet the provisional requirements. The site is in the catchment area of Bonnyrigg Primary School, St Mary's RC Primary School, Lasswade High School and St David's RC High School.
- 5.6 The Council's **Environment Health Manager** does not object to the application, subject to conditions being attached to any grant of planning permission ensuring that ground contamination and/or former mine workings remediation works are undertaken.

5.7 The Council's **Policy and Road Safety Manager** does not object to the application subject to the following matters being addressed by conditions being attached to any grant of planning permission:

1. As access for this development will be through the main Hs11 site, all the transportation improvements on the B6392 required under application 18/00740/DPP would require to be in place prior to any development taking place on this site;
2. The masterplan indicates a standard road and footway layout with long sections of straight roads which will require some form of traffic calming to maintain low vehicle speeds;
3. Its not clear from the masterplan if sufficient residential and visitor parking spaces can be provided for the number of units indicated for this site and a detailed layout indicating the parking proposed for each unit will be required at the detailed planning stage; and
4. All the services, street lighting and surface water drainage should be provided in connection/as an integral part of the wider development.

5.8 **Bonnyrigg and Lasswade Community Council (BLCC)** has expressed concern over the rapid growth of the town and the resulting impact on infrastructure. This strain on infrastructure is exacerbated by the Council's challenging financial position and as such any further house building is not welcome until appropriate infrastructure is provided. The main issues are as follows:

- Local employment opportunities are not available for new residents and so there will be an increased need to travel into Edinburgh for work, placing addition strain on transport infrastructure, in particular Sheriffhall roundabout, the A720 and routes to and from these destinations;
- There needs to be easy and safe access to Eskbank Railway Station;
- The urbanisation of the A7 may help pedestrians cross the A7 to reach the Eskbank Railway Station but is unlikely to do anything for the queues of traffic along this stretch of the A7 during busy periods;
- The community identity of Bonnyrigg and Lasswade is being changed too rapidly. This is potentially why there is a youth anti-social behaviour problem in the town. Maintaining community identity and preventing coalescence are planning objectives;
- It is unlikely the local schools have adequate capacity for this site. Experience shows more families with young children move to Bonnyrigg and Lasswade than expected. The capacity in Bonnyrigg Primary School is unlikely to be sufficient. The Lasswade High School is over capacity already. The developer contributions do not arrive fast enough for the school capacity to be built in advance of need;
- The other services needed for families such as nurseries, breakfast clubs, holiday clubs, after school facilities, playgroups do not have

spare capacity for the expected new residents. Furthermore, there are shortages in the provision of the after-school activities. Cubs, scouts, gymnastic classes and other cultural and sporting activities have waiting lists;

- Community space in Bonnyrigg and Lasswade is limited as the Lasswade High School Centre was expected to provide a Hub and a number of older community facilities closed down. As pupil numbers in the high school have grown the school has taken over some of the rooms available to the community. None of the new developments have local facilities except play parks;
- The primary care provision in the town is not robust enough to support the projected growth in population. More house building will not provide more GPs;
- It is possible to walk to Bonnyrigg Primary School from the site (HS11) but many parents have children at more than one stage of schooling. Most of the other nurseries and playgroups are further away and if the time schedule is not co-ordinated the parents can feel forced to go by car to be on time at more than one facility. It is one of the disadvantages of the HS11 site that it is so far out from other facilities in the town and walking with small children while desirable is not always feasible;
- A major issue with the HS11 site is its position on the 'other' side of the distributor road, the B6392, which is a natural boundary for the town. This is out with the traditional urban envelope of Bonnyrigg and Lasswade and there is no reason for this development prior to the land within the envelope being developed;
- The new houses will reduce the functionality of the distributor road. This bypass of the difficult town centre (a major Midlothian east-west crossroads) will have another junction for the HS10 development as well as the two junctions for HS11. This is not to include the continuing development of Hopefield. If the consequential extra traffic delays at the Hardengreen Roundabout (and urbanised A7) are substantial more traffic may try to cross Midlothian via Bonnyrigg Toll. This would be development at the expense of the existing residents;
- There are concerns about this site being included in the MLDP at all. The field lies adjacent to the Newbattle Strategic Green Space and should be part of it. It slopes down to the Dalhousie Burn and the crucial wildlife corridor that links from Newbattle to Whitehill as well as to the Dalhousie Castle wooded area. The weakest spot is around the HS11 site;
- Bonnyrigg has only ever been located on the area between the two very special river valleys of the North and South Esk. This plan is expanding Bonnyrigg out with its natural limits and endangering our historic framework and landscape. Newbattle Abbey, Cockpen Church and Dalhousie Castle are all major sites and the development of this site, sitting right in the middle as it does, endangers the historic setting of all three. This site should be part of the Newbattle Strategic Green Space.

6 REPRESENTATIONS

- 6.1 One representation has been received objecting to the application on the basis that there is no infrastructure to support this development.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017, adopted in November 2017. The following policies are relevant to the proposal:

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 **Policy 5 (HOUSING LAND)** requires Local Development Plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing requirements for each period.
- 7.3 **Policy 7 (MAINTAINING A FIVE YEAR HOUSING LAND SUPPLY)** states that sites for Greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying each of the following criteria: (a) The development will be in keeping with the character of the settlement and local area; (b) The development will not undermine Green Belt objectives; and (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

Midlothian Local Development Plan 2017 (MLDP)

- 7.4 Policy **STRAT3 Strategic Housing Land Allocations** states that strategic land allocations identified in the plan will be supported provided they accord with all other policies. The development strategy supports the provision of an indicative 360 housing units on the site (Hs11).
- 7.5 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.6 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned

justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.

- 7.7 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.
- 7.9 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.10 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that Plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan.
- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.
- 7.13 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.14 Policy **ENV2: Midlothian Green Networks** supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the Midlothian Green Network.
- 7.15 Policy **ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.
- 7.16 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high

risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run off rates are not greater than in the site's pre-development condition, and to avoid any deterioration of water quality.

- 7.17 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate local flooding and to enhance biodiversity and the environmental.
- 7.18 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.
- 7.19 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.20 Policy **ENV19: Conservation Areas** states that development will not be permitted within or adjacent to conservation areas where it would have any adverse effect on its character or appearance.
- 7.21 Policy **ENV22: Listed Buildings** does not permit development which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.
- 7.22 Policy **ENV23: Scheduled Monuments** states that development which could have an adverse effect on a scheduled monument, or the integrity of its setting, will not be permitted.
- 7.23 Policy **ENV24: Other Important Archaeological or Historic Sites** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting.
- 7.24 Policy **ENV25: Site Assessment, Evaluation and Recording** requires that where development 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 likely impact of the proposal on the archaeological resource.
- 7.25 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.

- 7.26 Policy **IMP1: New Development** seeks to ensure that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.
- 7.27 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.
- 7.28 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development. Policy DEV5: Sustainability in New Development sets out the requirements for development with regards to sustainability principles.

National Policy

- 7.29 The **SPP (Scottish Planning Policy)** sets out Government guidance for housing. All proposals should respect the scale, form and density of their surroundings and enhance the character and amenity of the locality. The individual and cumulative effects of infill must be sustainable in relation to the social and economic infrastructure of a place, and must not lead to over-development.
- 7.30 The SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to be considered high quality, as such a development should be; distinctive; safe and pleasant; welcoming; adaptable; resource efficient; and, easy to move around and beyond. The aims of the SPP are developed within the local plan and local development plan policies.
- 7.31 The SPP states that design is a material consideration in determining planning applications and that planning permission may be refused and the refusal defended at appeal or local review solely on design grounds.

- 7.32 The SPP supports the Scottish Government's aspiration to create a low carbon economy by increasing the supply of energy and heat from renewable technologies and to reduce emissions and energy use. Part of this includes a requirement to guide development to appropriate locations.
- 7.33 The SPP notes that "high quality electronic communications infrastructure is an essential component of economic growth across Scotland". It goes on to state that "Planning Authorities should support the expansion of the electronic communications network, including telecommunications, broadband and digital infrastructure, through the development plan and development management decisions, taking into account the economic and social implications of not having full coverage or capacity in an area".
- 7.34 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.
- 7.35 **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.
- 7.36 The Scottish Government's Policy on **Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

8 PLANNING ISSUES

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

The Principle of Development

- 8.2 The application site is part of a site allocated for housing (site Hs11) in the MLDP and is located within the built-up area of Bonnyrigg, where there is a presumption in favour of appropriate residential development. The indicative number of units allocated for site Hs11 in the MLDP is 360.
- 8.3 The planning application is accompanied by a masterplan layout plan which includes the whole of site Hs11, including the land which is the subject of a separate detailed planning application (18/00740/DPP). The indicative layout, the subject of this current application, stands to be considered in relation to the masterplan layout. The indicative 73 dwellings proposed in this planning application, combined with the developer's aspirations for the remainder of site Hs11 of 247 dwellings will result in an overall development of 320 dwellings.

The Layout and Form of Development

8.4 The application is for planning permission in principle. This means that the detailed layout, form and design of the development would be subject to further applications (matters specified in conditions) and assessment if the proposal is granted planning permission. In this case conditions would be imposed requiring the following details to be submitted by way of an application:

- layout, form and design of any proposed buildings;
- proposed materials to be used in the construction of the dwellinghouses, ground surfaces and ancillary structures – including those to be used in the area of improved quality;
- details of landscaping and boundary treatments;
- percent for art;
- sustainable urban drainage systems;
- details of road, access and transportation infrastructure;
- sustainability and biodiversity details;
- archaeology mitigation details;
- the provision of broadband infrastructure; and
- ground conditions/mitigation of coal mining legacy.

8.5 The applicant has however submitted a masterplan setting out an indicative layout for the site which fits with the surrounding proposed development (18/00740/DPP) of which it will be developed as an integral part of, and is dependent on for road, footpath and cycle path connections, the provision of open space, sustainable urban drainage, a landscape framework and wider biodiversity enhancement.

Affordable Housing

8.6 The applicant is proposing a total of 80 affordable housing units across site Hs11, 25% of the total 320 residential units. 73 units are part of this application and 7 units in the associated planning application (18/00740/DPP). This volume of provision complies with the MLDP and is acceptable. The indicative layout and form of the units are compatible with the Council's housing aspirations to meet local need.

Archaeology/Ground conditions

8.7 The proposed development is in close proximity to known archaeology assets and as such the programme of archaeological works recommended by the Council's Archaeological Advisor can be secured by a condition imposed on a grant of planning permission. Subject to these controls the archaeological value of the site will be adequately assessed and the impact on any identified archaeological resource mitigated.

- 8.8 Mitigation against concerns regarding ground conditions and contamination of the site and/or previous mineral workings can be secured by a condition imposed on a grant of planning permission and by the Council's Building Standards service as part of the building warrant process.

Energy Efficiency and Carbon Reduction

- 8.9 In order for the Government's renewable energy and heat demand targets to be met, it is important that all types of new development consider the role they play in using heat from renewable sources. Paragraph 154 of SPP states that the planning system should support the transitional change to a low carbon economy including deriving *"11% of heat demand from renewable sources by 2020"* and supporting *"the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity – and the development of heat networks"*. MLDP policy NRG6 states that community heating within new developments should be supported where technically and financially feasible. It remains to be demonstrated by the applicant that the proposed development does not offer the potential for a new district heating network to be created within the site. Therefore, it should be made a condition of a grant of planning permission that a feasibility study for the provision of a community heating system for the new development undertaken by a suitably qualified engineer commissioned by the applicant be submitted for the approval of the planning authority.

Ecology

- 8.10 The Biodiversity Management Plan submitted with the application (it also covers the main site considered under application 18/00740/DPP) considers evidence of protected species on the site and makes provision for bat and bird boxes and the use of appropriate planting to enhance biodiversity within the site. It also makes a commitment towards biodiversity provision as demonstrated at the show home for the wider site - this is a good initiative to supporting/promoting biodiversity on the site. A condition relating to the need for an updated species surveys will be required to ensure safeguards for any potential protected species are in place should surveys be out of date before development commences. Implementation of the Biodiversity Management Plan can be secured by condition on a grant of planning permission.

Developer Contributions

- 8.11 If the Council is minded to grant planning permission for the development it will be necessary for the applicant to enter into a Section 75 planning obligation in respect of the following matters:

- the provision of affordable housing equal to, or greater than 25% of the total number of residential units across site Hs11 as a whole;
- a financial contribution towards education provision;
- a financial contribution towards community facilities (which could include the provision/upgrading of sports pitches);
- a financial contribution towards public transport/Borders Rail;
- a financial contribution towards the Council's A7 urbanisation scheme;
- maintenance of open space; and
- a financial contribution towards the promotion of roads orders to secure safe routes to school.

8.12 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:

- necessary to make the proposed development acceptable in planning terms (paragraph 15)
- serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
- relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)
- fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)
- be reasonable in all other respects

The requirements set out for the proposed Planning Obligation meet the above tests.

Other matters raised by representors and consultees

8.13 The concerns raised about the existing capacity of general practice in Midlothian and the impact of new house building on health and care services is a matter would need to be addressed by the Midlothian Health and Social Care Partnership through the provision of sufficient health service capacity. That can involve liaison with the Council as planning authority but it is not, on its own, a sufficient basis in itself on which to resist or delay the application.

8.14 Regarding matters raised by representors and consultees and not already addressed in this report:

- The site is allocated in the adopted local development plan and there is no requirement for the implementation of the development to be delayed;
- The Council's Economic Development Service supports and promotes new and existing businesses with the ambition of

creating jobs. Furthermore, construction is an important part of the job market and employees approximately 3,000 people in Midlothian, equating to 9.5% of the local workforce (this is significantly higher than the Scottish national average of 5.6%);

- The proposed development makes provision for linkages to the wider footway and cycleway network including the unclassified road to the east and onward route to the Eskbank Rail Station;
- Provision is made within the site for landscaping along the eastern boundary, integrating the site into the wider landscape and providing a rural edge to the site which integrates into the neighbouring countryside;
- The provision of additional education capacity is met by way of developer contributions and from central funding (towards early years provision). The Council ensures there are the required education services;
- The proposed development does not lead to a physical coalescence to another settlement and will be seen as part of Bonnyrigg and in time will be integrated into that community. The physical boundary of the settlement will be the Dalhousie Burn and the landscape buffer along this corridor;
- Community facilities are provided across Bonnyrigg, including at the Lasswade High School Hub;
- Broadband provision will be secured by a condition on the grant of planning permission; and
- Details of construction access arrangements will be secured by a condition on the grant of planning permission.

9 RECOMMENDATION

9.1 That planning permission be granted for the following reason:

The proposed development site is allocated in the Midlothian Local Development Plan 2017. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies, subject to securing developer contributions and subject to appropriate conditions. The presumption for development is not outweighed by any other material considerations.

Subject to:

- i) the prior signing of a legal agreement to secure:
- the provision of affordable housing equal to, or greater than 25% of the total number of residential units across site Hs11 as a whole;
 - a financial contribution towards education provision;
 - a financial contribution towards community facilities (which could include the provision/upgrading of sports pitches);
 - a financial contribution towards public transport/Borders Rail;

- a financial contribution towards the Council's A7 urbanisation scheme;
- maintenance of open space; and
- a financial contribution towards the promotion of roads orders to secure safe routes to school.

The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.

ii) the following conditions:

1. No more than 73 residential units shall be erected on the site unless otherwise agreed by way of a planning application. The following principles set out in the proposed indicative masterplan (drawing ref: 17187(PL)002F) are approved:
 - a. The vehicular points of access;
 - b. The landscape framework;
 - c. The siting of the open space, play area and SUDS basin;
 - d. The primary street configuration; and,
 - e. The housing mix.

The heights, detailed layout and appearance of buildings are indicative only and are therefore not approved and are subject to matters specified in conditions application/s.

Reason: *The application has been assessed on the basis of a maximum of 73 dwellings being built on the site. Any additional dwellings would have a further impact on local infrastructure, in particular education provision, and additional mitigation measures may be required. Any such measures would need further assessment by way of a planning application.*

2. Development shall not begin until an application for approval of matters specified in conditions regarding the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of affordable housing, the provision of open space, children's play provision, structural landscaping, SUDS provision and transportation infrastructure. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

Reasons: *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.*

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 the

site access, roads, footpaths, cycle ways and transportation movements 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, footways and cycle ways in relation to a fixed datum;
- ii the proposed vehicular, cycle and pedestrian accesses into the site;
- iii the proposed roads (including turning facilities), footpaths and cycle ways including suitable walking and cycling routes linking the new housing with the local primary school and the rest of Bonnyrigg;
- iv proposed visibility splays, traffic calming measures, road crossing, lighting and signage;
- v proposed car parking arrangements;
- vi proposed cycle parking/storage facilities; and
- vii a programme for completion for the construction of access, roads, footpaths, cycle paths and associated 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 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.*

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 a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
 - i existing and finished ground levels and floor levels for all buildings and roads in relation to a fixed datum;
 - 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 (to include 7 pieces of equipment);
- xi proposed cycle parking facilities; and
- xii proposed area of improved quality (minimum of 20% of the proposed dwellings, hard surfaces and boundary treatments).

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 DEV2, DEV5, DEV6, DEV7 and DEV9 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

5. 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 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 (20% of the proposed dwellings hard surfaces and boundary treatments). Development shall thereafter be carried out using the approved materials 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 DEV2, DEV5 and DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

6. Development shall not begin until an application for approval of matters specified in conditions for 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.*

7. Development shall not begin until an application for approval of matters specified, 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 DEV6 and IMP1 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

8. Development shall not begin until an application for approval of matters specified in conditions for a programme of archaeological works (field evaluation by trial trenching) has been carried out at the site by a professional archaeologist in accordance with details submitted to and approved in writing by the planning authority. The area to be investigated shall be no less than 8% of the total site area.

Reason: *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with policy ENV25 of the Midlothian Local Development Plan 2017.*

9. Development shall not begin until an application for approval of matters specified in conditions setting out details, including a timetable of implementation, of high speed fibre broadband has

been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each dwellinghouse. The delivery of high speed fibre broadband shall be implemented as per the approved details.

Reason: *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure.*

10. Development shall not begin until an application for approval of matters specified in conditions for the provision and use of electric vehicle charging stations throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

Reason: *To ensure the development accords with the requirements of policy TRAN5 of the Midlothian Local Development Plan 2017.*

11. Development shall not begin until an application for approval of matters specified in conditions for a scheme setting out the scope and feasibility of a community heating scheme for the development hereby approved and; if practicable, other neighbouring developments/sites, in accordance with policy NRG6 of the Midlothian Local Development Plan, shall be submitted for the prior written approval of the planning authority.
12. No dwellinghouse on the site shall be occupied until a community heating scheme for the site and; if practicable, other neighbouring developments/sites, is approved in writing by the planning authority. The approved scheme shall be implemented in accordance with a phasing scheme also to be agreed in writing in advance by the Planning Authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

Reason for conditions 11 and 12: *To ensure the provision of a community heating system for the site to accord with the requirements of policy NRG6 of Midlothian Local Development Plan 2017 and in order to promote sustainable development.*

13. No building shall have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the planning authority.

Reason: *Under-building exceeding this height is likely to have a materially adverse effect on the appearance of a building.*

14. Development shall not begin until an application for approval of matters specified in conditions for a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:
- i. details of a construction access;
 - ii. signage for construction traffic, pedestrians and other users of the site;
 - iii. controls on the arrival and departure times for construction vehicles, delivery vehicles and for site workers (to avoid school arrival/departure times);
 - iv. details of piling methods (if employed);
 - v. details of any earthworks;
 - vi. control of emissions strategy;
 - vii. a dust management plan strategy;
 - viii. waste management and disposal of material strategy;
 - ix. a community liaison representative will be identified to deal with the provision of information on the development to the local community and to deal with any complaints regarding construction on the site;
 - x. prevention of mud/debris being deposited on the public highway;
 - xi. material and hazardous material storage and removal; and
 - xii. controls on construction, engineering and any other operations (to take place between 0700 to 1900hrs Monday to Friday and 0800 to 1300hrs on Saturdays).

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

Reason: *In order to control the construction activity on the site, ensure environmental impact during the construction period is acceptable and to ensure appropriate mitigation is in place.*

15. The Biodiversity Management Plan submitted as part of the planning application is approved. The Management Actions in part 2 shall be implemented and the related Management Action Progress Record (part 3) shall be maintained and submitted to the Planning Authority for inspection by the planning authority and they shall be submitted annually to the planning authority following the commencement on the site. A schedule showing the provision of all of the actions to 'foster and maintain biodiversity' identified in the Management Action progress record shall be submitted to the planning authority within 6 months of the commencement of development on the site. Thereafter the provision shall be made in accordance with the approved schedule. Planting proposals for the site submitted in relation to condition 2 shall make specific provision for the biodiversity matters set out in the Biodiversity Management Plan. The details for fencing and boundary treatments submitted in relation to

condition 3 shall pay cognisance to the Biodiversity Management Plan. The show home shall make provision for all of the details identified in the Biodiversity Management Plan. The development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

Reason: *To ensure the development accords with the requirements of policy DEV5 of the Proposed Midlothian Local Development Plan 2017.*

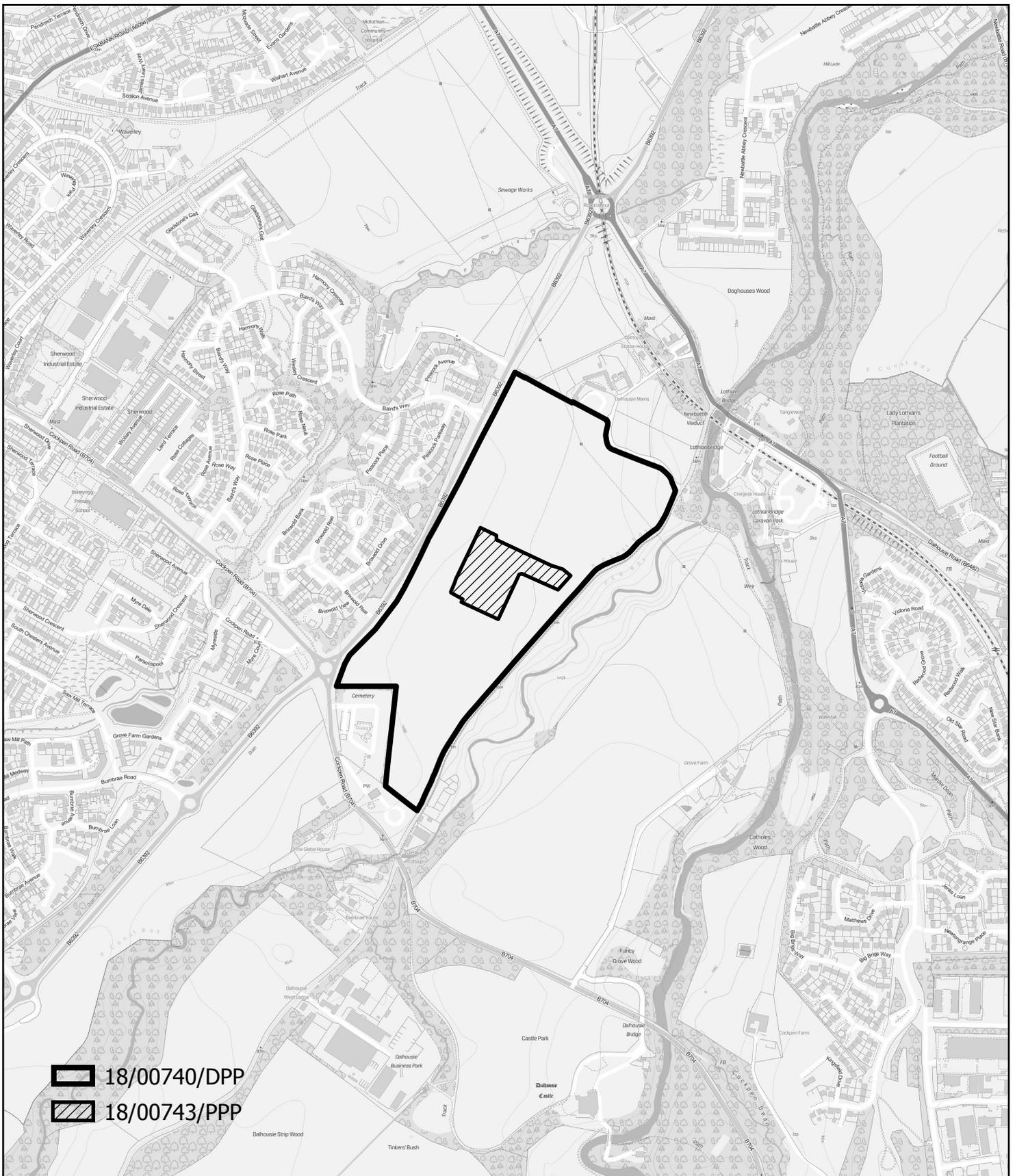
16. If development has not commenced on site within one year of the ecological survey information being carried out a further ecological assessment of the site shall be carried out and a report on it shall be submitted for the prior inspection and approval of the planning authority. The scope of the assessment shall be agreed in advance in writing by the planning authority. The recommendations made within the new ecological assessment shall be implemented in full.

Reason: *In the interests of safeguarding biodiversity, including European Protected Species and because the initial survey is now considered to be out of date and it requires to be updated.*

Dr Mary Smith
Director of Education, Communities and Economy

Date: 2 May 2019

Application No: 18/00740/DPP
Applicant: Grange Estates (Newbattle) Ltd
Agent:
Validation Date: 27 September 2018
Contact Person: Joyce Learmonth
Tel No: 0131 271 3311
Background Papers: 17/00399/SCR, 17/00402/PAC and 18/00740/DPP



**Education, Economy
& Communities**
 Midlothian Council
 Fairfield House
 8 Lothian Road
 Dalkeith
 EH22 3AA

Erection of 248 dwellings; formation of access roads and car parking; SUDs features and associated works (18/00740/DPP) and application for Planning Permission in Principle for residential development (18/00743/DPP) at Site Hs11 Dalhousie South, Bonnyrigg

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File Nos. 18/00740/DPP and 18/00743/PPP

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SECTION 42 APPLICATION 19/00221/S42 TO REMOVE CONDITION 7, REQUIRING ENHANCED PUBLIC TRANSPORT FACILITIES, IMPOSED ON A GRANT OF PLANNING PERMISSION (17/00951/PPP) FOR A RETAIL UNIT AT SOUTRA MAINS FARM, BLACKSHIELS, FALA, PATHHEAD

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 At its meeting in February 2018 the Committee granted planning permission 17/00951/PPP for the erection of a retail unit at Soutra Mains Farm, Pathhead subject to conditions. This section 42 application proposes to remove condition 7 which seeks improved public transport facilities adjacent to the A68 trunk road to ensure that there are safe public transport facilities to serve the approved retail unit. There have been no letters of representation and there have been consultation responses from Transport Scotland and the Council's Policy and Road Safety Manager.**
- 1.2 The relevant development plan policies are policies 3 and 8 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and Policies TRC2, RD1, ENV6, ENV7 and IMP1 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.3 The recommendation is to refuse planning permission.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The application site comprises a rectangular area of agricultural land at Soutra Mains Farm, measuring 0.44 hectares, which currently accommodates a large agricultural shed.
- 2.2 The collection of buildings at Soutra Mains Farm includes four holiday cottages, a single storey cafe building, two farm houses and agricultural buildings. The holiday cottages and cafe are relatively recent additions (2014) to the group.
- 2.3 Access and egress at the application site is taken via the existing new vehicle access road taken from the A68. This access was formed as part of the holiday cottage and café development.

3 PROPOSAL

- 3.1 The application, made under Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006 (hereafter referred to as the Act), is to remove the requirement to enhance public transport facilities.
- 3.2 A Section 42 application, is in itself a planning application - a particular kind of planning application for development without complying with a condition/s previously imposed on an earlier grant of planning permission. A grant of planning permission under Section 42 results in an entirely new planning permission which will supersede the original permission if implemented. Therefore if planning permission is granted for this application it will supersede planning consent 17/00951/PPP if implemented. It will therefore be a planning permission for a retail unit.
- 3.3 In this case, the applicant is requesting the removal of a planning condition which was attached to the previously approved planning application 17/00951/PPP, which sought improvements to public transport facilities adjacent to the A68. The planning condition was imposed in order to ensure that there would be safe public transport facilities to serve the retail facility which had been approved by Planning Committee.
- 3.4 Condition 7 of planning application 17/00951/PPP states:

Prior to the commencement of development, an application for approval of matters specified in conditions for improved public transport facilities adjacent to A68 trunk road are to be submitted to and approved in writing by the Planning Authority. Unless otherwise agreed in writing with the Planning Authority prior to the commencement of development the application shall include siting, design and external appearance of a bus shelter at both northern and southern side of the A68 trunk road.; structures for the display of bus timetable information; and details of all hard surfacing and kerbing of vehicle laybys to be formed. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority prior to the occupation of the retail unit hereby approved.

Reason: To ensure that there are safe public transport facilities to serve the retail unit.

- 3.5 The applicant has submitted a statement in support of their application to remove the condition.

4 BACKGROUND

- 4.1 Outline planning permission, 08/00159/OUT, for the erection of holiday cottages, coffee shop, parking area and new access road at Soutra

was approved in May 2010. Permission was granted subject to a number of conditions, including a limit on the number of holiday cottages to four. The coffee shop was allowed as being ancillary to the main use of the site as holiday accommodation.

4.2 A detailed planning application 10/00538/DPP for the erection of a coffee/gift shop and four holiday lodges was refused in December 2010 for the following reasons:

1. *It has not been demonstrated that the proposed retail use has a requirement for a countryside location and it is not of a scale appropriate to its position in the countryside and area of great landscape value; for these reasons the proposal does not comply with the terms of policy RP1 of the Midlothian Local Plan.*
2. *The proposal does not comply with the terms of policy ECON8 of the Midlothian Local Plan as it primarily comprises a retail development of an inappropriate scale in the countryside.*
3. *The scale, form and design of the proposed development will have an adverse impact on the character and appearance of the landscape, which forms part of the area of great landscape value, and which convey a level of development inappropriate to the confines of this site; and is therefore contrary to the terms of policies RP6 and RP7 of the Midlothian Local Plan.*
4. *The proposed tourist accommodation dwellings have not been designed to enhance the area of great landscape value and results in buildings that are out of character with the rural setting ;and as such do not comply with the terms of policies DP1 and ECON7 of the Midlothian Local Plan.5. The increased level of traffic generated by the retail use would lead to an increased level of traffic leaving and entering the trunk road which may be detrimental to the safety of other road users.*

4.3 Application 11/00199/MSD to discharge the conditions of the original 2008 application was approved. However, it was only possible to discharge some of the conditions as information had not been submitted in connection with some of the outstanding conditions.

4.4 Application 12/00067/MSD was submitted to address the remaining outstanding matters relating to the 2008 and 2011 applications. However, insufficient information was submitted and a further grant of permission was issued, but not all the conditions were discharged.

4.5 Application 13/00274/MSD was submitted in order to discharge the outstanding matters from the 2008, 2011 and 2012 applications. This application was submitted with the same information as had been submitted previously. The planning authority refused the planning

application due to not being able to assess the proposal given the lack of information submitted by the applicant.

4.6 Planning application 13/00370/DPP for the erection of four retail units (part retrospective) was refused in September 2013 for the following reasons:

1. *The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the Edinburgh and the Lothians Structure Plan (ELSP) policy ENV3 and adopted Midlothian Local Plan (MLP) policies RP1 and ECON8.*
2. *As the application site is in the countryside it is not in one of the locations specified in the ELSP policy RET1 - Sequential approach to the location of retail and commercial leisure development, as being potentially suitable for retail developments. Accordingly, the proposed development is contrary to ELSP policy RET1 and the adopted MLP policy SHOP5.*
3. *It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead.*
4. *It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.*

4.7 The applicant appealed the refusal of planning application 13/00370/DPP to the Local Review Body (LRB). The LRB dismissed the review request and upheld the decision to refuse planning permission on the following grounds:

1. *The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the adopted Midlothian Local Plan (2008) policies RP1, SHOP5 and ECON8;*
2. *It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead; and*

3. *It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.*
- 4.8 Planning application 14/00293/DPP for the erection of four retail units (part retrospective) was refused by Midlothian Council's Planning Committee in September 2014 for the following reasons:
1. *The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the adopted Midlothian Local Plan (2008) policies RP1, SHOP5 and ECON8.*
 2. *As the application site is in a remote countryside location it is not in one of the acceptable types of locations, as specified in the sequential town centre first approach identified in the Scottish Planning Policy. As no sequential test has been submitted for assessment it has not been demonstrated, to the satisfaction of the Planning Authority, that the site is appropriate for the proposed use and that there are no other more sustainable or suitable sites which could accommodate the development more appropriately. Accordingly, the proposed development is contrary to the SPP, policy 3 of the Strategic Development Plan and policy SHOP5 of the adopted Midlothian Local Plan.*
 3. *It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead.*
 4. *It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.*
- 4.9 This applicant appealed against the Planning Committee's decision to refuse planning application 14/00293/DPP. The application was also refused at appeal by the Reporter on the 15 December 2014.
- 4.10 Application 14/00542/MSC to discharge the conditions of the original 2008 application was approved in September 2014.
- 4.11 Pre-application advice was provided in December 2016 with regards to a development proposal seeking to erect a new building to incorporate a visitor centre comprising open retail space/retail units and a tourism facility. Overall, it was advised that it was unlikely that the development proposal would be supported.

4.12 Planning application 17/00641/PPP for planning permission in principle for the erection of retail unit was refused by the Committee at its meeting of 14 November 2017 for the following reasons:

1. *The proposed retail development would comprise of a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the adopted Midlothian Local Development Plan (2017) policies TRC2 and RD1.*
2. *As the application site is in a remote countryside location it is not in one of the acceptable locations, as specified in the sequential town centre first approach identified in the Scottish Planning Policy (SPP). As no sequential test has been submitted for assessment it has not been demonstrated, to the satisfaction of the Planning Authority, that the site is appropriate for the proposed use and that there are no other more sustainable or suitable sites which could accommodate the development more appropriately. Accordingly, the proposed development is contrary to the SPP, policy 3 of the Strategic Development Plan and policy TRC2 of the adopted Midlothian Local Development Plan (2017).*
3. *It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead.*
4. *It has not been demonstrated to the satisfaction of the Planning Authority that the required visibility splays (215 metres in each direction) can be achieved.*
5. *The indicative information submitted shows a building which, on account of its scale, form, design and materials will not be compatible to its location or to existing nearby buildings.*

4.13 Planning application 17/00951/PPP for planning permission in principle for the erection of retail unit was approved by the Planning Committee at its meeting of 20 February 2018 for the following reason:

The benefits of the proposed development, include support for a local business, the provision of local jobs and the provision of a local facility, are significant material considerations which outweigh the policies in the Midlothian Local Development Plan 2017 and national planning policy which seek to restrict non countryside based developments in the countryside and to promote the principle of 'town centres first'.

- 4.14 Application 18/00693/MSC was submitted in order to discharge the outstanding matters from application 17/00951/PPP. This application is currently still pending consideration.
- 4.15 The application has been called to Planning Committee for consideration by Councillor Smail in order to discuss public transport access potential.

5 CONSULTATIONS

- 5.1 **Transport Scotland** does not object to the application.
- 5.2 The Council's **Policy and Road Safety Manager** advised that following consideration of the information provided by the applicant, it is considered that the formalisation of bus stops at this location is clearly deliverable. No evidence has been submitted from the developer or from Transport Scotland to the contrary.

6 REPRESENTATIONS

- 6.1 No representations were received.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP), adopted in November 2017. The following policies are relevant to the proposal:

Edinburgh and South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 The Strategic Development Plan sets out some key aims, three of which are:
- Integrate land use and sustainable modes of transport, reduce the need to travel and cut carbon emissions by steering new development to the most sustainable locations;
 - Conserve and enhance the natural and built environment; and
 - Promote the development of urban brownfield land for appropriate uses.
- 7.3 **Policy 3** (Town Centres and Retail) aims to promote a sequential approach to the selection of locations for retail and commercial leisure proposals.
- 7.4 **Policy 8** (Transportation) seeks to ensure that new development minimises the generation of additional car traffic. Midlothian Local Development Plan (MLDP)

Midlothian Local Development Plan 2017

- 7.5 Policy **TRC2: Location of New Retail and Commercial Leisure Facilities** is relevant to the siting of new retail and commercial leisure facilities. The policy and the role of centres are defined in the network of centres which give support to development in town centres, to Straiton where alternatives are not available in a town centre, and to a new out of centre location that is supported in the southern A7 corridor (Redheugh). Policy TCR2 also supports retail development (up to 1000sqm gross floor area) at local centres (these are identified in the network of centres). The policy also allows for new local centres to come forward serving housing developments where these are not served adequately by existing centres. There is no support for retail development in the countryside.
- 7.6 Policy **RD1: Development in the Countryside** sets out where appropriate development would be acceptable in the countryside subject to defined criteria. The policy states that proposals will not be permissible if they are of a primarily retail nature.
- 7.7 Policy **ENV6: Special Landscape Areas** states that development proposals will only be permitted where they incorporate high standards of siting and design and where they will not have significant adverse effect on the special landscape qualities of the area.
- 7.8 Policy **ENV7: 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.
- 7.9 Policy **IMP1: New Development** requires that planning conditions will be applied, and developer contributions sought, in relation to new developments in order to ensure that appropriate provision is made for essential and necessary infrastructure. This policy also requires developers to provide for connections to all forms of public transport services (including financial support for services), bus stops and shelters, rail stations and associated car parks.

National policy

- 7.10 **The Scottish Planning Policy (SPP)** promotes a town centre first principle, which considers the health and vibrancy of town centres. The SPP promotes the use of the sequential town centre first approach, outlining the following order of preference for commercial development proposals:
- town centre (including local centres);
 - edge of town centre;
 - other commercial centres identified in the development plan; and

- out-of-centre locations that are, or can be made easily accessible by a choice of transport modes..

7.11 Scottish Government advice **Circular 4/1998 (The use of conditions in planning permissions)** sets out six tests which planning conditions must comply with:

- Necessary;
- Relevant to planning;
- Relevant to the development to be permitted;
- Enforceable;
- Precise; and
- Reasonable in all other respects.

8 PLANNING ISSUES

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

The Principle of Development

8.2 Planning application 17/00951/PPP for the erection of a retail unit at Soutra Mains Farm was presented to the Committee at its meeting in February 2018 for determination. The Committee granted planning permission for the reason set out in paragraph 4.13 of this report subject to conditions and a legal agreement (or equivalent) requiring appropriate developer contributions for community benefit or a community project and/or improvements to the existing public transport facilities.

8.3 Although a Section 42 application is a new planning application in law the Act states *“on such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted”*. The principle of retail development is established by this grant of planning permission and cannot be reassessed as part of the consideration of this application.

Current public transport situation

8.4 There is currently a ‘hail and ride’ bus service which operates near the application site adjacent to the A68. Bus services will often use hail and ride as a means of operating a remote bus stop or stops in rural locations. There is no fixed pole/flag or bus stop. Passengers are required to pick a safe place to wait and then hail the bus when it is in sight. The driver will then stop so that the passenger can board.

Planning Committee consideration of previous application

- 8.5 During consideration of the original planning application by the Committee the potential for improvements to the public transport facilities were discussed. It was suggested that in approving the scheme the site could be used to facilitate the no. 51/52 bus service with an off-road stop, with improvements to the drop off service. One elected member advised that the creation of a separate drop off area within the curtilage of the development would create a considerable advantage, as an inter-change for residents of the area. It was suggested that this would be made part of the permission should it be granted consent.

Post Committee agreement

- 8.6 Subsequent to the Committee's decision on application 17/00951/PPP agreement was reached between the planning authority and the applicant that improvements to public transport facilities should be secured. Condition 7 of the planning decision notice contains the final wording agreed between the planning authority and applicant which would secure the Planning Committee's aspirations for improved public transport facilities in the area.
- 8.7 Despite previously agreeing to the wording of condition 7 the applicant has now applied to have this condition removed so that development can be carried out without any contributions to, or improvement of, the public transport in the area.

The applicant's position

- 8.8 The applicant has questioned whether condition 7 complies with the tests set out by the Scottish Government with regards to a valid planning condition.
- 8.9 In addition, the applicant states that the requirements of condition 7 are more onerous than what was sought by the Committee when originally approving the retail unit.
- 8.10 The applicant states that the condition requires the applicant to carry out work on land that is outwith their control and will result in an adverse impact on road and pedestrian safety, particularly in terms of buses stopping on the A68, vehicles requiring to stop/pass stationary buses safely if there is no layby, obstruction of the visibility splays of the application site and pedestrians crossing the A68. The applicant states that pedestrians are already currently required to cross the A68 to utilise the existing 'hail and ride' service.
- 8.11 The applicant raises the following questions in their supporting statement:

1. *Is it preferable that people can use buses without crossing the A68?*
2. *Is the Roads Manager satisfied if people do have to cross the A68?*
3. *If so, then why is "hail and ride" not satisfactory here, when it has "worked smoothly for many years" everywhere else?*
4. *If bus stops are indeed required, do they have to be in lay-bys?*
5. *The stops (whether in a layby or not) will be in the visibility splays - that is surely unacceptable?*

Assessment of condition 7 against tests for conditions

- 8.12 Planning conditions must satisfy the tests set out within circular 4/1998. The circular states that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. The circular sets out six tests, namely that a condition shall only be imposed where it is:
- necessary;
 - relevant to planning;
 - relevant to the development permitted;
 - enforceable;
 - precise; and,
 - reasonable in all other respects.
- 8.13 Whilst each planning application must be considered on its own individual merits, the Council must reasonably consider the potential impact one decision has on future considerations. A core objective of the Council's protection of countryside policy is to protect the characteristics of the countryside. To ensure the benefits of the countryside are safeguarded and only sustainable development is supported it is important that strong controls are maintained. Whilst the retail unit was granted planning permission in principle, contrary to policy, this was subject to the requirement for improvements to the existing public transport facilities in the interest of sustainable development.
- 8.14 Planning application 17/00951/PPP was considered acceptable, by the Committee, on the basis that developer contributions (or equivalent) would be required for community benefit or improvements to the existing public transport facilities. It was clear that the applicant's proposal would result in an out-of-town retail facility, potentially giving rise to more unsustainable vehicle journeys, particularly by private car, than would have been the case had the development been proposed in a more sustainable location. For this reason, and in order to secure a more sustainable form of development, the planning authority considered that it would be appropriate to seek improvements to the local public transport facilities. These improvements would encourage more visitors to make use of more sustainable forms of transport to reach the proposed retail facility and would make the existing service safer.

- 8.15 It is clear that both national and local planning policies require new developments to be sustainable. In order to offset the potential for increased unsustainable car journeys, as a result of the proposed development, there is a clear need for improved and safer public transport in the area. The current arrangements will not encourage greater use of public transport and require to be augmented and formalised. Policy IMP1 of the MLDP states that where development gives rise to a need appropriate provision will be made for essential infrastructure improvements and connections to all forms of public transport services, bus stops and shelters.
- 8.16 It is therefore considered that condition 7 secures infrastructure necessary to support the development and, as a result, is necessary, relevant to planning, relevant to the development permitted and is reasonable in all other respects.
- 8.17 The remaining tests relate to whether the condition is enforceable and precise. The wording of the condition requires that, *'prior to the commencement of development, an application of matters specified in conditions for improved public transport facilities adjacent to the A68 trunk road are to be submitted to and approved in writing by the Planning Authority'*. Should the condition not be discharged prior to the commencement of development then the applicant would be in breach of the condition and enforcement action could be taken.
- 8.18 The condition then goes on to state that, *'unless otherwise agreed in writing with the planning authority prior to the commencement of development the application shall include siting, design and external appearance of a bus shelter at both northern and southern side of the A68 trunk road; structures for the display of bus timetable information; and details of all hard surfacing and kerbing of vehicle laybys to be formed.'* Not only is the wording of the condition precise and clear in terms of setting out what is required from the applicant, it is also flexible in terms of allowing the applicant to submit an alternative proposal to satisfy the condition.
- 8.19 Finally, in terms of the tests, the condition states that *'Development shall thereafter be carried out using the materials or such alternatives as may be agreed in writing with the Planning Authority prior to the occupation of the retail unit hereby approved'*. Should the development required by condition 7 not be completed as agreed prior to the occupation of the retail unit then the applicant would be in breach of the planning consent and enforcement action could be taken. The condition is therefore considered to be precise and enforceable.
- 8.20 Therefore, it is concluded that condition 7 meets all of the six tests set out within Circular 4/1998 (The use of conditions in planning permissions). The removal of condition 7 would result in the erection of a retail unit within the countryside without any improvements to public transport facilities as requested by the Committee.

Further assessment

- 8.21 Beyond the assessment of condition 7 against the tests for conditions it is necessary to consider the applicant's complaints regarding the condition, which has resulted in this application to have it removed. As well as the current S42 application the applicant has also submitted an application (18/00693/MS) to discharge the planning conditions attached to application 17/00951/PPP. To date the applicant has submitted insufficient information as part of the MS application to have condition 7 discharged.
- 8.22 The applicant has failed to produce sufficient evidence to demonstrate that appropriate efforts have been made in order to investigate the various options which could result in the discharge of condition 7. The planning authority would have expected the applicant to provide evidence that they have considered the following:
- The development gives rise to a requirement to improve public transport facilities/services;
 - The existing hail and ride facility is not appropriate to support the proposed development;
 - Formalised bus stops and bus shelters are required;
 - If formalised bus stops are to be provided Transport Scotland have indicated that laybys on the A68 will be required;
 - The applicant should therefore have investigated delivery of formalised bus laybys adjacent to the road or investigated another alternative scheme for improving public transport facilities;
 - As an alternative scheme bus stops could be provided within the application site;
 - Should the applicant propose to accommodate bus stops within the application site the planning authority would have expected the applicant to make approaches to the local bus companies to ensure that they would be willing to bring buses into the site. It should also be demonstrated, by way of an autotrack, that a bus could negotiate a route through the site.
- 8.23 The applicant does not appear to have done any of the above. In addition, the applicant has offered no other alternatives to demonstrate support of local public transport or schemes to improve the sustainability of their development.
- 8.24 No details have been submitted to the planning authority to demonstrate that the formation of a bus stop at either side of the A68 will result in significant road safety implications.
- 8.25 The applicant states that the condition requires bus stops on both sides of the A68, on land over which neither the applicant nor the Council have control, and that the requirement for a bus shelter on the north and south side of the trunk road requires significant input from a number of land owners. It is unclear from the submission if the

applicant has attempted to consider locations for bus stops and or laybys and whether the applicant has attempted to ascertain who owns the land or if any negotiations have been attempted with the land owner(s). It has not been demonstrated to the satisfaction of the planning authority that the applicant is unable to form bus shelters and laybys on either side of the A68 trunk road due to issues surrounding land ownership. Furthermore, it is noted that the condition is written in such a way that would allow for alternative solutions on land within the applicants ownership to be considered.

Summary

- 8.26 In summary, condition 7 has been imposed on the development at the request of the Committee, with the support of adopted planning policy, with the wording agreed between applicant and planning authority, in order to ensure that appropriate public transport improvements are secured in the interests of sustainable development and visitor safety. The condition complies with the necessary tests for conditions. While the applicant has indicated their dissatisfaction with condition 7 they have failed to propose a suitable alternative which would either support public transport or improve the development's sustainable credentials. As such, there is no overriding reason to agree to the removal of condition 7.
- 8.27 Should Committee agree to the removal of condition 7 it must be noted that the other conditions attached to planning permission 17/00951/PPP have yet to be discharged and should therefore be attached to any new grant of planning permission.

9 RECOMMENDATION

- 9.1 That planning permission be refused for the following reasons:
- 1. Permission 17/00951/PPP was approved on the basis that developer contributions (or equivalent) would be required for community benefit and/or improvements to the existing public transport facilities. The removal of condition 7 would result in the erection of a retail unit within the countryside without any improvements to the existing public transport facilities, which would be contrary to policy IMP1 of the Midlothian Local Development Plan 2017.*
 - 2. It has not been demonstrated to the satisfaction of the planning authority that condition 7 fails to meet all of the six tests set out within Circular4/1998 (The use of conditions in planning applications). Condition 7 meets all of the six tests set out within Circular 4/1998. Furthermore, the condition is flexible so as to allow for reasonable alternative proposals for improvements to the existing public transport facilities to be considered by the local planning authority.*

3. *It has not been demonstrated to the satisfaction of the local planning authority that the requirements of condition 7 will result in significant adverse road and pedestrian safety implications.*
4. *It has not been demonstrated to the satisfaction of the local planning authority that the applicant is unable to resolve condition 7 due to land ownership disputes.*

Mary Smith
Director, Education, Communities and Economy

Date: 2 May 2019

Application No: 19/00221/S42

Applicant: Mr George Russell

Agent: Suzanne McIntosh

Validation Date: 15 March 2019

Contact Person: Whitney Lindsay

Tel No: 0131 271 3315

Background Papers: 08/00159/OUT, 10/00538/DPP, 11/00199/MSC, 12/00067/MSC, 13/00274/MSC, 13/00370/DPP, 14/00293/DPP, 14/00542/MSC, 17/00641/PPP, 17/00951/PPP and 18/00693/MSC.

