

Notice of meeting and agenda



Planning Committee

Venue: Council Chambers - PLEASE NOTE THAT THIS IS A SPECIAL MEETING OF THE PLANNING COMMITTEE,

Date: Tuesday, 05 December 2017

Time: 14:00

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Further Information:

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

Audio Recording Notice: Please note that this meeting will be recorded. The recording will be publicly available following the meeting. The Council will comply with its statutory obligations under the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002.

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 Declarations 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 Public Reports

Applications for Planning Permission Considered for the First Time – Reports by Head of Communities and Economy.

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| 4.1 | Application For Planning Permission in Principle for Residential Development, Erection of Primary School and Mixed Use Development at Land at Cauldcoats, Millerhill, Dalkeith 14/00910/PPP | 3 - 36 |
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| 4.2 | Section 42 Application to Extend the Time Permitted for the Submission of Applications for Matters Specified in Conditions Imposed on a Grant of Outline Planning Permission (09/00354/OUT) for Residential Development and Classes 4, 5 and 6 Economic Development at Land between Loanhead Road And Edgefield Industrial Estate, Loanhead 17/00273/S42. | 37 - 58 |
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5 Private Reports

No private reports to be discussed at this special meeting.

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



**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE
14/00910/PPP FOR RESIDENTIAL DEVELOPMENT, ERECTION OF
PRIMARY SCHOOL AND MIXED USE DEVELOPMENT AT LAND AT
CAULDCOATS, MILLERHILL, DALKEITH**

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1** The application is for planning permission in principle for residential development, the erection of a primary school and for mixed use development. A development framework (masterplan) has been submitted with the application setting out an indicative layout in two phases. There have been two representations and consultation responses from Scottish Natural Heritage, Scottish Water, Scottish Environment Protection Agency, Historic Environment Scotland, the Coal Authority, the City of Edinburgh Council, the Council's Archaeological Advisor, the Council's Head of Education, The Council's Policy and Roads Safety Manager and the Council's Environmental Health Manager.
- 1.2** The relevant development plan policies are policies 5, 7, 12 and 13 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT3, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV18, ENV23, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.
- 1.3** This application is accompanied by an Environmental Statement (ES) submitted in terms of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. The ES has been considered in relation to this planning application, the results of which demonstrate that any adverse environmental impacts which may arise can be mitigated.
- 1.4** The recommendation is to grant planning permission subject to conditions and the applicant entering into a Planning Obligation to secure contributions towards necessary infrastructure and the provision of affordable housing.

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is located on the northern boundary of Midlothian with the land to the north being within the City of Edinburgh Council area. The site is approximately 31.2 hectares and is predominantly in agricultural use. The former Niddry Bing is located to the north west of the site and includes land both within and outwith the boundary of the site.
- 2.1 The majority of the site is rolling countryside which slopes up to the south. However, there are some significant changes in levels in the north west of the site reflecting the former use of this part of the site as the Niddry Bing. The site is bounded to the north by Fort Kinnaird Retail Park and by vacant land. Planning permission for housing development has been granted on the vacant land by City of Edinburgh Council. Land to the east of the site is identified in the Shawfair Masterplan for business and industrial development. Immediately to the east of the site is Whitehill Road which serves Fort Kinnaird Retail Park and the Zero Waste site at Millerhill. The Zero Waste site houses the anaerobic digestion plant and the recycling and energy recovery centre, the latter is currently under construction. There is a C class road bounding the site to the south and partially to the east with agricultural land beyond, including Cauldcoats Farm and Steading buildings. The site is bounded to the west by the A6106. There are a number of commercial uses and residential properties to the south west of the site, some of these properties are within the site boundary, whereas others are outwith the site, but surrounded by it. To the west is the A6106 with proposed allotments and Hunter's Hall Public Park beyond.
- 2.3 A small watercourse, the Magdalene Burn, runs along part of the northern boundary of the site flowing from west to east.
- 2.4 There is a public footpath link to the west of the site which links the site to the Edinburgh Royal Infirmary and Little France.

3 PROPOSAL

- 3.1 The application is for planning permission in principle, however, the applicant has stated that they were applying for the erection of 'up to 650 houses' with a primary vehicular access from The Wisp and a secondary access from Whitehill Road. The proposed development also includes ancillary mixed uses including; class 1 (Shops), class 2 (Financial, professional and other services), class 3 (Food and drink) and class 4 (Business).
- 3.1 The submitted masterplan (Development Framework) shows development in two phases, phase one on the northern and western part of the site as allocated in the Midlothian Local Development Plan 2017 for residential development and phase two on the southern and eastern part of the site, safeguarded for longer-term residential development.

- 3.2 The main road through the site connects The Wisp to the west with Whitehill Road to the north east of the site. This tree lined road is to be traffic calmed to reduce speeds through the development.
- 3.3 A site for a primary school is shown fronting the main access road and is to the north west of the site. Playing fields are indicated to the rear of the school site.
- 3.4 Commercial units are indicatively shown on the ground floor of a number of units in the centre of the site, close to the main through road.
- 3.5 The masterplan shows a grid like layout with dwellinghouses fronting onto roads, areas of open space, a sustainable urban drainage system, a road network and pedestrian and cycle links. The masterplan also includes proposed woodland planting outwith the site to the south.
- 3.6 The application is accompanied by an environmental statement which has been submitted under the terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. It should be noted that new Regulations came into force this year, but the environmental statement stands to be considered in relation to the 2011 Regulations as it was submitted prior to the new regulations coming into effect.
- 3.8 The applicant has submitted with the application an environmental statement (including a non technical summary), a design and access statement, a planning statement and a pre-application consultation report. Contained within the environmental statement are various submissions relating to drainage, transport and travel impacts, ground conditions and habitat surveys.

4 BACKGROUND

- 4.1 The applicant carried out a pre-application consultation (14/00553/PAC) for residential development, the erection of a primary school and mixed use development in July - September 2014.
- 4.2 An Environmental Impact Assessment Screening Opinion request for residential development of 1,200 units and mixed use development was submitted in 2014 (14/00245/SCR). The Council's decision was that an Environmental Impact Assessment was not required in relation to the planning application.
- 4.3 The site is within the outline planning application (02/00660/OUT) area for the Shawfair development.

5 CONSULTATIONS

- 5.1 **Scottish Natural Heritage (SNH)** advise that the site, and the areas immediately around it, are strategically critical to achieving a coherent

green network and key to enabling sustainable economic growth in this part of the city region. This site sits close to the nexus of Midlothian, East Lothian, and City of Edinburgh Councils and as such a coherent green network must be put in place, spanning the South East Edinburgh Strategic Development Area and onwards through East and Midlothian. This coherent green network would conform to the ambitions of the Central Scotland Green Network (CSGN) and with Scottish Planning Policy guidance: “Maximising the Benefits of Green Infrastructure”.

- 5.2 The proposal itself will have a range of impacts on the landscape character and visual amenity of the area. These impacts could be reduced through good design and careful implementation, particularly in landscape terms, including the creation of well-designed edges to the development and provision of high quality open spaces.
- 5.3 Land reclamation works for the derelict part of the site (the former Niddry Bing) will be important to deliver an appropriate landscape setting and green infrastructure on the site. In this regard SNH advise Midlothian Council that there should be a clear understanding of the measures to be undertaken to restore ground conditions and a commitment to provide an appropriate medium for successful plant establishment and growth.
- 5.4 If this application is approved SNH recommend that the Council secures further detailed design information on the specific nature of land reclamation, green infrastructure delivery and strategic green network connectivity on the site. SNH also highlight that while the current layout is broadly acceptable, beneficial changes to the layout and design could be sought, particularly to the site edges.
- 5.5 Bearing in mind that the city may grow further in areas around and to the south of this site, retention of the important open views in this location and better integration of paths and other boundary treatments is recommended. Along the edges to the principal roads it is suggested that careful consideration and refinement of the landscape design would also be beneficial to provide a well-integrated solution that includes robust planting, SUDS and path provision.
- 5.6 SNH consider that the indicative quantum and general layout principles are appropriate and therefore they should be secured if the development is to be consented. Further information should be required including the restoration measures for derelict land, public access arrangements, planting specifications and earthworks and the establishment and long term maintenance of the SUDS and landscape framework. These matters should be secured if the proposal is to be consented.
- 5.7 SNH support the conclusion in the ES in relation to invasive non-native species (INNS) in that the presence of Japanese knotweed, giant

hogweed and Himalayan balsam is the key ecological risk on the site. SNH supports the report's recommendation that an INNS management plan should be put in place. SEPA recommend that the Council secures such a management plan by condition.

- 5.8 It appears unlikely that protected species bat and/or badger licenses will be required. However, if construction does not commence within 12 months of the date of the undertaken bat/badger survey then it is recommended that an additional pre-construction bat/badger survey is carried out.
- 5.9 Finally in relation to breeding birds, SNH welcome the commitment to avoid vegetation clearance during the breeding season and recommend that the Council secures this commitment by condition.
- 5.10 **Scottish Water** has no objection to the application. Due to the size of the proposed development it is necessary for Scottish Water to assess the impact on existing infrastructure by way of a Development Impact Assessment application to be submitted by the applicants.
- 5.11 **Scottish Environment Protection Agency (SEPA)** have no objection on flood risk grounds provided SEPA are provided with additional information at the detailed application stage that demonstrates any flood risk to the development can be mitigated and the development will not increase the risk of flooding elsewhere. Should SEPA's flood risk concerns not be addressed at the detailed design stage they may object to the application.
- 5.12 SEPA also request conditions to be attached regarding surface water drainage and the provision of an environmental management plan (EMP).
- 5.13 SEPA is satisfied that potential impacts on groundwater can be mitigated by an appropriate risk assessment for the proposed stabilisation of mine workings to be undertaken prior to work/activity starting on site. Notwithstanding this it is strongly recommended that the applicants contact SEPA to discuss any proposed grouting of mine workings for the stabilisation of land prior to construction.
- 5.14 The pouring of grout below the water table is a controlled activity under General Binding Rule (GBR) 16 of the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR). GBR 16 includes a requirement that no material coming into contact with groundwater shall cause pollution of the water environment. SEPA considers that an assessment should be undertaken to assess whether the use of Pulverised Fuel Ash grout will meet the requirements of GBR 16. If the activity causes pollution, SEPA may take enforcement action in accordance with the regulations. SEPA therefore recommends that the assessment be undertaken in line with the guidance document:

Stabilising mine workings with PFA grouts. Environmental code of practice. 2nd Edition, BRE Report 509.

- 5.15 **Historic Environment Scotland** does not object to the application.
- 5.16 **The Coal Authority** has no objection and advises that it concurs with the recommendations of the Preliminary Geo-Environmental Desk Study Report (August 2013, prepared by AMEC Environment & Infrastructure UK Limited); that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. The Coal Authority recommends that a planning condition is imposed requiring further site investigation works prior to the commencement of development.
- 5.17 In the event that the site investigations confirm the need for remedial works to treat the mine entries/areas of shallow mine workings to ensure the safety and stability of the development, this should also be conditioned to ensure that the details of any proposed remedial works and/or foundations are submitted for approval and implemented accordingly.
- 5.18 **The City of Edinburgh Council** advises that it raises no objection to this application. It is requested that Midlothian Council takes account of the cross-boundary issues raised when considering the application and attach appropriate conditions or legal agreements to address them. It further requests that the Council ensures the applicant makes provision for the introduction of robust air quality mitigation to address emissions arising from the development and to ensure journeys by private car are minimised.
- 5.19 **The Council's Archaeology Advisor** states there are known sites within the development area and potential for unknown prehistoric or medieval remains. A condition is requested for a programme of Works (Evaluation) which will record any upstanding historical remains and determine whether the development will disturb any buried archaeological deposits. If deposits are identified there may be a requirement for further work or mitigation.
- 5.20 The Council's **Head of Education** advises a developer contribution will be required for additional primary school capacity either through an extension to Danderhall Primary School or the provision of a new primary school in the wider Shawfair area to mitigate the impact of the proposed development. In relation to primary denominational provision, St David's RC primary has insufficient spare capacity for the development and as such developer contributions will be required for additional denominational primary capacity.

- 5.21 A developer contribution will also be required for additional secondary school capacity including the new high school to be built at Shawfair and towards St David's High School.
- 5.22 The **Council's Policy and Roads Safety Manager** has no objection in principle, but recommends that conditions are attached as follows:
1. Details of the proposed western and eastern vehicle access to the site should be submitted for approval.
 2. Details of the proposed mitigation measures listed in section 7.8.2 of the Transport Assessment should be submitted for approval.
 3. The indicative development framework layout shows a new pedestrian link along the northern side of Cauldcoats Farm Road (U46). This public road provides a well used vehicle link between Millerhill Road and Whitehill Road and providing access to the Kinnaird Retail Park. The existing route does not have any separate pedestrian facilities with sections of the road being of substandard width and unable to safely accommodate the flow of two-way traffic. As this route would form the boundary of the development and carry additional traffic, the substandard sections should be increased in width to a minimum of 6m to allow the safe passage of vehicles. The proposed new remote pedestrian link along the development boundary would provide a suitable pedestrian route.
 4. The existing unlit pedestrian footway alongside Millerhill Road leading from the development to Newton Village should be upgraded to a 2.5m (nominal width) cycleway/ footpath with street lighting being installed. This would provide a safe walking / cycling route linking local settlements and providing a link to the access road leading to the new Shawfair Railway Station. It is envisaged that this upgrading work could be achieved by reducing the width of Millerhill Road with all the works being contained within the existing highway boundary.
 5. To provide suitable traffic management and pedestrian crossing facilities on The Wisp the existing Wisp/Millerhill Road junction should be converted to a traffic signal controlled junction and details of the design should be submitted for approval.
 6. Details of the proposed SUDs within the site should be submitted for approval.
 7. As proposed in the developers Travel Plan Framework (Transport Assessment - Appendix B) the developer should provide a financial contribution to improved public transport access in the local area. This could include extending the Council 'Ring n Go' taxi service operating in the area. The developer should therefore enter into a legal agreement with the Council to provide a sum of money to extend access to public transport services in the area. This could include

providing a transport link from the development to Danderhall and its public transport links.

In addition to the stated conditions the following is required:

- The developer should provide appropriate financial contributions to the various transportation measures identified in the Midlothian Local Development Plan.
- As the development will require changes to the existing speed limits on roads surrounding this site the developer should enter into a S75 agreement (or similar legal agreement) to provide a financial contribution to the costs involved in drafting and promoting these Traffic Regulation Orders (TROs).

- 5.23 The Council's **Environmental Health Manager** has no objection in principal to the proposed development. However there are a number of issues which need addressing in the detailed site layout.
- 5.24 One of the main concerns relates to the impact of road traffic noise, particularly from future HGV refuse vehicle movements on Whitehill Road, associated with the proposed waste treatment plant. No cognisance appears to have been taken of the proposed waste treatment plant. This needs to be taken into account in the detailed site design, layout and orientation of proposed noise sensitive uses and in the design of any site bunding/barriers.
- 5.25 In relation to the detailed site layout, further consideration should be given to the impact from existing neighbouring commercial uses (including the building merchants at The Wisp and garages to the north of the site) and the new commercial, business and leisure uses being created by this development on existing and proposed noise-sensitive uses. Further information is also required in relation to the body work repairs and car valeting service at nearby garages in terms of amenity levels in the gardens of residential properties.

6 REPRESENTATIONS

- 6.1 Two representations have been received and make the following points:
- the development infringes on the green belt and that the loss of such green areas is unacceptable;
 - concern about the amount of traffic and the condition of existing roads and footpaths;
 - concern about the condition of the land with its history of former mine workings, flooding in the locality and the safety of developing the site;
 - the major retail led mixed use development represents an investment of approximately £850 million. Given the scale of the commercial floorspace of the proposal and its location, it has the potential to be used as a further extension to the Fort Kinnaird

Retail Park, and the resulting adverse impacts on the protected network of centres within the city region;

- concerns are expressed that the scale of the retail proposals are disproportionate to the size of residential scheme proposed and that the provision of the centre is potentially unnecessary given the proximity of the retail park and other services within the vicinity. Paragraph 3.5.7 of the adopted Midlothian Local Plan (2008) directly relates to this point, where it notes that proposals for neighbourhood style facilities should not exceed 1,000sqm. It is therefore clear that the proposals fail to accord with policies SHOP5 and SHOP7 of the development plan;
- the planning application has not been supported by a full retail impact assessment. National policy within SPP establishes at paragraph 71, that proposals for commercial floorspace over 2,500sqm should be supported by such a document to assess the potential impact of new proposals on the vitality and viability on the existing network of centres. It is therefore clear that the submission of such a document should be requested from the applicants prior to the determination of the proposals. This is considered even more important given the close proximity to Fort Kinnaird Retail Park;
- based on the current information available with the planning application it is apparent that it is contrary to the statutory development plan, comprising both SESplan and the Midlothian Local Plan 2008 and should therefore be refused on this basis; and
- if the Council decide to approve the development a condition should be used to control the scale and form of the commercial floorspace. It is suggested that the maximum size and amalgam of units is limited, to ensure the commercial uses are proportionate to only fulfil a neighbourhood centre function.

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). 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.

- 7.4 **Policy 12 (GREEN BELTS)** requires Local Development Plans to define and maintain Green Belts around Edinburgh whilst ensuring that the strategic growth requirements of the Strategic Development Plan can be accommodated. Local Development Plans should define the types of development appropriate within Green Belts.
- 7.5 **Policy 13 (OTHER COUNTRYSIDE DESIGNATIONS)** requires Local Development Plans to review and justify additions or deletions to other countryside designations fulfilling a similar function to those of the Green Belt as appropriate. Opportunities for contributing to the Green Network proposals should also be identified.

Midlothian Local Development Plan 2017 (MLDP)

- 7.6 Policy **STRAT3** 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 350 housing units on the site (Hs0) to 2024, with a further 200 units safeguarded for the longer term up (beyond 2024).
- 7.7 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.
- 7.8 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.
- 7.9 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.10 Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.

- 7.11 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.12 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.
- 7.13 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.14 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area, including the A701 realignment.
- 7.15 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.
- 7.16 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.17 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*.
- 7.18 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.
- 7.19 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-developed condition, and to avoid any deterioration of water quality.

- 7.20 **Policy ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environmental.
- 7.21 **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.
- 7.22 **Policy ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.23 **Policy ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.
- 7.24 **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.
- 7.25 **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.
- 7.26 **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.
- 7.27 **Policy NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.28 **Policy IMP1: New Development.** This policy ensures 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.

- 7.29 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.
- 7.30 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

National Policy

- 7.31 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.
- 7.32 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.
- 7.33 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*.
- 7.34 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.

- 7.35 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”.*
- 7.36 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.
- 7.37 **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.
- 7.38 **The Scottish Government’s Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

8 ENVIRONMENTAL STATEMENT

- 8.1 The planning application is accompanied by an Environmental Statement (ES). The Council determined prior to the submission of the planning application that an environmental statement was not required in relation to the proposal. However, the applicant still decided to submit an ES and as a consequence the Council has to consider the submission in relation to the EIA regulations.

Background

- 8.2 The application is described as being a residential led, mixed use development. The ES states that EIA is a procedure to assess the likely significant effects of a proposed development on the environment. The ES identifies the significance of each environmental effect. The significance reflects the relationship between the sensitivity, importance or value of the affected receptor (such as people or wildlife) and the actual change taking place to the environment (i.e. the magnitude or severity of an effect).
- 8.3 The construction programme indicates a five year build programme for phase 1 and 2, based on three house builders being active at any one time, each building 35 units a year.

Socio-Economics

- 8.4 The following topics have been considered as part of the assessment:

- changes in population numbers and structure;
 - changes in housing requirements;
 - changes in local expenditure;
 - changes in employment requirements;
 - treatment of open space provision; and
 - demands on healthcare and education provision.
- 8.5 During the construction period it is indicated that 137 (full time equivalent) jobs will be created, with further indirect employment and economic benefits being experienced. The development is therefore considered to have a temporary minor beneficial effect during the construction period.
- 8.6 The applicant advises that the proposal has the potential to introduce 147 jobs in the mixed use elements of the development, however it should be noted that these elements are significantly reduced in size as the masterplan has changed since its initial inception. The development proposes to introduce 485 private residential units and 165 affordable units. This will generate approximately an additional £1.7 million per annum in new Council Tax Receipts. However, this additional population has the potential to place increased pressure on local education and health facilities within the vicinity of the development. To alleviate some of this pressure a site for a primary school has been made available as part of the development. Further financial contributions will be provided towards the improvement of local schools.

Landscape and Visual

- 8.7 The ES has included an assessment of the likely effects of the development on landscape character and features and the visual amenity of the site from surrounding public and private viewpoints during the construction and on completion. The assessment also considers the likely night time effect of the predicted light levels on night time visibility.
- 8.8 During the construction phase of the works the character of the site will fundamentally change from the existing agricultural character to one where construction machinery and operations will dominate the site.
- 8.9 The assessment sees significant change impacting areas in close proximity to the site. The development will introduce longer term effects to areas experiencing a change in land use from existing agricultural land to a residential urban character. Within the wider landscape this sensitivity is reduced through the presence of the proposed green networks and landscaping. The ES identifies proposed mitigation, which will reduce the visual impact of the development on the surrounding landscape and will include remediation of the Niddry Bing.

Cultural Heritage

- 8.10 The ES has included an assessment of the effect of the development on archaeology and built heritage during construction and on completion.
- 8.11 Four nationally or regionally important sites were identified within 1km of the site, but any affect upon these monuments by the development will be negligible. In relation to the completed development mitigation for on-site archaeology and heritage includes preservation by excavation and recording. For all sites, both on site and within 1 and 2 km, there are no expected impacts on the setting or appreciation of any historic environment receptors. It is considered that there are no cumulative effects associated with the development. There are no significant adverse effects remaining after mitigation and thus no cumulative effects. The larger area around the site is already heavily urbanised and developed and the proposed development will not alter the character of the landscape or setting of any of the identified historic environment receptors.

Transport and Access

- 8.12 During construction the large number of HGVs movements will be required to avoid residential areas where possible. Routing agreements and a Construction Traffic Management Plan (CTMP) can be required in order to mitigate potential effects on residential amenity. The increase in HGV traffic on the A720 and the A1 are not considered to be significant and with mitigation the impact on The Wisp will be negligible.
- 8.13 The effect of the completed development on driver delay, safety, pedestrian delay, amenity and fear and intimidation before mitigation is negligible to moderately adverse. Following mitigation, which includes a new left turn off The Wisp and new walking routes, effects are negligible to minor adverse. The development will provide a new cycling strategy and public transport enhancements by increasing frequency and providing new routes. Following this, effects on cycling and public transport will be negligible. The development was shown to increase traffic flows under the significance thresholds on 7 of the 9 links within the study area and as such the effects would be of negligible significance on these links. On the remaining two links the residual effects were between negligible and minor adverse but not significant, when considering the walking, cycling and public transport mitigation improvements which will be implemented as part of the development.

Air Quality

- 8.14 Published guidance defines construction sites as low, medium or high risk for construction impacts depending on the size of site and scale of

construction activity proposed. The site is considered to have a medium to high risk, depending on which construction activity is being undertaken. The significance of effects is, at worst, moderate adverse, however, with mitigation this is reduced to negligible. This is also the case for the significance of dust soiling and particulate matter. Adopting the following mitigation measures for construction traffic will reduce the impact of the construction activities to an acceptable level:

- all vehicles to switch off engines when not in use;
- effective vehicle cleaning and specific wheel washing on leaving the site;
- all loads entering and leaving the site shall be covered;
- no site runoff water or mud;
- minimise movement of construction traffic around site; and
- hard surfacing and effective cleaning of haul routes; and
- use of appropriate speed limits around the site.

8.15 The operational phase assessment has used the levels of traffic likely to be produced by the development to model the likely effects of traffic emissions on air quality. The change in predicted nitrogen dioxide concentrations at existing receptors following completion of the development and committed developments is considered imperceptible, small or medium, depending on the location of the modelled receptor. At the majority of modelled receptors, the significance of this change is considered negligible. However, at certain receptors the significance of the change is considered slight adverse. This is also the case when assessing the impact of the development alone, regardless of whether other committed developments are considered.

8.16 The cumulative effects from traffic emissions have been taken into account and the effect on local concentrations of nitrogen dioxide and particulate matter will be insignificant.

Noise and Vibration

8.17 The site has been assessed for its suitability for development in terms of the current noise and vibration environment. The general noise climate at the site was dominated by road traffic adjacent to the A6106. It is predicted that existing local residents at Cauldcoats Farm and the Cottages along the southern periphery of the site and future residents of the development will be affected by noise disruptions.

8.18 During construction there would be some noise effects on existing residents in the cottages that lie adjacent to the site and the farm house to the south of the site. These will be mitigated by the use of best techniques to reduce noise from construction and will be detailed in a construction management plan which will have to be subject to approval by Midlothian Council's Environmental Health Manager.

- 8.19 Noise levels have been predicted for future residents on the site and on neighbours of the development. For future residents the predicted noise levels inside dwellings are likely to be well below the World Health Organisation's (WHO) peak noise criterion inside bedrooms. Noise levels are likely to be acceptable inside all dwellings provided all windows on exposed elevations are fitted with good quality double glazing. Ambient noise levels will not increase significantly for those neighbouring the development and it is concluded that the impact on existing users of the site will be negligible.
- 8.20 Due to the localised nature of noise impacts it is not considered likely that there would be any cumulative impacts connected with the development. Due to the small increase in traffic as a result of this development, it is unlikely that any cumulative impacts will occur as a result of this development interacting with others.

Ecology and Nature Conservation

- 8.21 An assessment has been undertaken with regard the likely effects the development will have on the environment with respect to ecology and nature conservation. The assessment has been undertaken in accordance with guidance from the Institute of Ecology and Environmental Management (IEEM) and has been informed by the following surveys:
- ecological survey;
 - bat roosting and activity surveys;
 - bat roosting potential survey;
 - bat activity surveys; and
 - badger survey.
- 8.22 The construction of the development will result in direct adverse impacts upon some of the habitats within the site as a result of direct habitat loss. These impacts are direct and permanent, however, there are no special habitats of importance on the site and the current habitat survey has not identified any habitats of conservation importance. Some disturbances may affect breeding birds, badgers and bats, however, these are likely to be localised and of negligible significance. Areas of invasive species may spread during construction having a moderate adverse effect on habitats and representing a potential ecological risk.
- 8.23 A number of mitigation measures will be implemented during construction which will lead to a significant local increase in native biodiversity at a local level. The scope for habitat creation will be embraced along with promoting wildlife corridors across the site and increasing diversity of insect life. Habitats will also be enhanced and replacement linear features such as hedgerows will benefit habitat connectivity which would provide beneficial effects for bats and badgers as well as invertebrates. No vegetation will be cleared as part

of the construction phase during the bird breeding season and replacement and maintenance of hedgerows would allow for the easy transit of badgers across the site as well as other wildlife interests.

- 8.24 Most of the ecological impacts are likely to stem from construction activities, however, some minor adverse effects could result from local lighting, domestic animals and noise. There is no evidence that the development will adversely affect bat populations. Given active management of the species through the provision of bat boxes and sensitive lighting, the site may have a minor beneficial effect on local bat populations.
- 8.25 When mitigation measures are considered the development is considered to have a minor beneficial effect on the site's biodiversity by encouraging occupation by native species and eradicating invasive species from the site.

Water Resources & Flood Risk

- 8.26 An assessment has been undertaken of the likely significant effects of the development on the environment with respect to water quality, surface water drainage and flood risk. Key issues related to the development are impacts on surface runoff rates, effects on stream flows and flood risk, impacts on ponds and the potential release of sediment and other contaminants during construction. The Flood Risk Assessment (FRA) has also been included as part of the ES.
- 8.27 The development has the potential to increase surface water runoff, sediment and other pollution associated with the construction activities. The estimated impact on the water environment during the construction phase of the development will be local and reversible once the construction activities are complete. However, adopting best practice will reduce the impact on the water environment to minimum. No long term impact on the water environment is predicted due to the construction activities.
- 8.28 Once the development is in place there will be an increase in hard surface areas (i.e. driveways, roads, paths, roof-tops etc.). Following completion of development there will be a significant increase of impermeable surfaces which will contribute to water runoff and pollution associated with traffic and other human activities. The additional flows which will be generated by the development will need to be managed on-site by way of a sustainable urban drainage system (SUDS). The development will have a drainage system collecting surface water runoff from hard standing/surface areas.
- 8.29 Scottish Water has indicated there is currently sufficient capacity to meet the water supply and wastewater demands from the development. However, a Drainage Impact Assessment and Water Impact Assessment will be required in due course to assess the

requirement for any upgrades to local and trunk mains/sewers. Following this mitigation, the development will have a negligible to minor adverse impact. Cumulative effects of the development in combination with other nearby proposed schemes on water resources and flood risk are considered to be negligible.

Ground Conditions

- 8.30 An assessment has been undertaken of the likely significant effects of the development on the environment with respect to ground conditions and contamination. Published geological records indicate that superficial deposits beneath the site date back to 2 million years ago when the local environment was dominated by ice age conditions. The groundwater body beneath the site lies within a Drinking Water Protection Zone and the Lothian and Borders Nitrate Vulnerable Zone. There are two historical waste disposal sites within the site boundary and four others within 500 metres of the site boundary. Invasive plants were observed at the site including Japanese Knotweed and Giant Hogweed.
- 8.31 Effects during the construction phase of development mainly refer to the mobilisation of contaminative soils and spillages of fuels from construction plant. These are considered moderate adverse in the west of the site and minor adverse or negligible across the rest of the site. Ground working may also affect the local hydrology due to changes in bedrock and groundwater as a result of mine consolidation works.
- 8.32 The consideration of all construction phase risks are reduced to negligible by the adoption of appropriate mitigation measures. Mitigation measures mainly refer to the implementation of a construction management plan during construction. The adoption of a site specific re-use strategy will result in waste generation reduced to minor significance.
- 8.33 Following completion of the development, the site will generally have a moderate beneficial to negligible impact as the works will be designed and implemented to mitigate the effects of former industrial land uses at Niddrie Bing. There will be a loss of agricultural soils, of which there is no economically viable mitigation measure to reduce this impact. As the operation of the site does not involve any land workings or activities that may mobilise contaminants, impacts on land contamination, land stability, surface water and groundwater are estimated to be negligible across the site. Through site investigation, risk assessment and a remediation strategy, the effects on the development will be minor to moderate beneficial. There is potential for the surrounding area to experience a cumulative improvement to the local land conditions due to the remediation of former coal sites.

9 PLANNING ISSUES

- 9.1 The main issue to be determined is whether the proposal accords with the development plan, unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

The Principle of Development

- 9.2 The northern and western part of the site is allocated for housing in the MLDP and as such there is a presumption in favour of appropriate development including housing, the provision of a site for a school and ancillary mixed use development such as a neighbourhood centre.
- 9.3 The site allocation, Hs0, is for an indicative 350 dwellings. The southern and eastern part of the site which is safeguarded for longer-term residential development is identified for a possible further 200 dwellings. The safeguarded land shows potential longer term development opportunities, but is not allocated for development in the MLDP.

Layout and Design

- 9.4 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;
 - provision of open space and play areas/facilities (which would be the provision for the whole site);
 - percent for art (which would be the provision for the whole site);
 - sustainable urban drainage systems;
 - details of road, access and transportation infrastructure;
 - sustainability and biodiversity details;
 - archaeology mitigation details;
 - the provision of broadband infrastructure;
 - ground conditions/mitigation of coal mining legacy; and
 - noise and air quality mitigation
- 9.5 The applicants have however submitted a masterplan (Development Framework) setting out an indicative layout for the site, both the allocated site and the safeguarded land. The masterplan shows an

indicative 650 residential units. The masterplan gives an indication to the form the development will take, but should not be seen as a binding commitment to the specified number of units, which exceeds the 350 (plus 200 on the safeguarded land) allocated in the MLDP.

- 9.6 The masterplan includes the provision of a site for a school, identifies the main vehicular and pedestrian accesses, a main through road, green networks across the north of the site and running north to south.
- 9.7 The masterplan indicates the allocated site as phase 1 (indicative allocation for 350 units) and the safeguarded area as phase 2 (200 units). No phasing is indicated for the provision of landscaping, footpaths/cycleways or SUDs provision and as such a more detailed phasing plan will be required by condition.
- 9.8 The original masterplan showed a more extensive area of land for the mixed use elements of the proposal and these were located at the eastern extent of the site. Given that this site is allocated for housing, the applicant amended the proposals to show a significantly reduced area for the mixed use development and this is now located more centrally within the site.
- 9.9 Structure planting shown to the southern edge of the site has been located outwith the site boundary, but on land which is within the ownership of the applicant. This seeks to address concerns regarding the relationship between dwellings and tree planting in close proximity, where the trees are on higher ground than the houses and are located to the south of the dwellings. There was a concern about overshadowing and potential pressure from future householders to have trees felled. Allowing the tree planting to be on the other side of the public road along with careful planting to the north of the road, should alleviate these concerns.
- 9.10 The Masterplan shows the housing in a grid like street pattern with houses facing onto roads and open/green space. The primary route through the site is defined by an avenue of tree planting, which would provide an attractive route through the development.

Access and Transportation Issues

- 9.11 Access to the site is shown as being onto the Wisp/A6106 and onto Whitehill Road. In addition, the A6106 and the Wisp junction is to be improved by the installation of traffic lights.
- 9.12 The applicant proposes a number of provisions to encourage travel other than by private car including the incorporation of footpaths and cycleways and making developer contributions towards public transport. In addition the development will be required to provide electric car charging points.

Developer Contributions

9.13 Site Hs0 (Cauldcoats) is allocated for housing in the MLDP with an indicative unit capacity of 350 units. This application is for planning permission for up to 650 residential units, but this figure includes the 200 houses on the safeguarded area. The consent needs to be clear that planning permission is granted for the 350 units as a first phase of development. If the Council is minded to grant planning permission in principle for the development it will be necessary for the applicants to enter into a Section 75 Planning Obligation in respect of the following matters:

- Education provision – primary and secondary both denominational and non-denominational, including the reservation of land for a potential primary school on the site;
- Affordable housing (25% of the total number of units);
- Borders Rail;
- A720 Sheriffhall roundabout improvement;
- Public transport;
- Drafting and promotion of Traffic Regulation Orders;
- Maintenance of open space, play provision and SUDs.

Borders Rail

9.14 The site is in the A7/A68 Borders Rail corridor and is specifically identified in the MLDP as being required to contribute towards the Borders Rail. As a consequence the applicant would be required to contribute towards the Borders Rail line.

Affordable Housing

9.15 In accordance with MLDP policy DEV3, sites of 50 units and over (or larger than 1.6 ha in size), are subject to a requirement for 25% of the units to be affordable. In the case of a site of 350 units this would equate to 88 units.

9.16 Affordable Housing by definition is to be 'housing of a reasonable quality that is affordable to people on modest incomes (Supplementary Planning Guidance (SPG) Affordable Housing Adopted 6 March 2012, paragraph 3.1).

9.17 The location and specification of the affordable housing units within the development would be subject to the agreement of the Council as Local Housing and Planning Authority, and in accordance with the permitted plans for the site.

9.18 The developer would be required to enter into an agreement with the Council or a Registered Social Landlord to construct and develop the 88 affordable units in accordance with plans and specifications agreed by Midlothian Council. The preferred means of delivery for this site is

the transfer of land to the Council to enable it to provide social rented housing.

Open Space Maintenance

- 9.19 The responsibility for the maintenance of the open space (including any children's play area and SUDS) shall be the developers/owners and provision would be made in the deeds of sale of all housing units to contribute to the ongoing maintenance of these areas through a regular 'factoring' charge. The developer would demonstrate to the satisfaction of the Council how the area would be maintained in perpetuity.

10 RECOMMENDATION

- 10.1 It is recommended that planning permission be granted for the following reasons

The proposed development site is identified as being part of the Council's safeguarded/committed housing land supply within the Midlothian Local Development Plan 2017 and as such there is a presumption in favour of the proposed development. This presumption in favour of development is not outweighed by any other material considerations. The Environmental Assessment submitted in relation to the planning application has been considered as part of the assessment and it is concluded that the environmental effect of the development is acceptable given the various mitigation measures that are detailed in the Environmental Assessment.

Subject to

- i) the prior signing of a legal agreement to secure the provision of affordable housing and contributions towards: education provision; children's play provision; open space maintenance; Borders Rail; and, the payment of necessary roads orders; and
- ii) the following conditions:
 - 1. This planning approval is for the first phase of development identified on drawing reference number 14008(PL)003A and titled 'Indicative Development Framework Phase1'. The number of dwelling units approved for this site is limited to 350, unless otherwise agreed in writing by the planning authority. The proposed Indicative Development Framework submitted as part of this planning application is not approved as the Masterplan for the site. Development shall not commence until an application for approval of matters specified in condition regarding an overall Masterplan for the site has been submitted to and approved in writing by the planning authority.

Reason: *The application has been assessed on the basis of a maximum of 350 dwellings being built on the site as allocated in the Midlothian Local Development Plan 2017. 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 and economic/commercial phase of the development, the provision of affordable housing, the provision of open space, structural landscaping, SUDS provision, transportation infrastructure and percent for art. 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.*

3. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works 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/industrial buildings 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 (in the residential areas);
- xi proposed cycle parking facilities; and
- xii proposed area of improved quality (minimum of 20% of the proposed dwellings across the whole site).

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.*

4. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential/industrial 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 total number of proposed dwellings across the whole site). 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.*

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 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 a programme for completion for the construction of access, roads, footpaths and cycle paths;

- ii existing and finished ground levels for all roads, footways and cycle ways in relation to a fixed datum;
- 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 Shawfair;
- iv proposed visibility splays, traffic calming measures, lighting and signage;
- v proposed construction traffic access and haulage routes;
- vi proposed car parking arrangements;
- vii the proposed mitigation measures listed in section 7.8.2 of the Transport Assessment;
- viii the widening of the substandard sections of the Cauldcoats Farm Road (U46) to a minimum of 6 metres and the provision of a remote footway;
- ix widening and lighting of footway (to a 2.5 nominal width) of the existing unlit pedestrian footway alongside Millerhill Road leading from the development to Newton Village; and
- x a traffic controlled junction for The Wisp/Millerhill Road junction providing suitable traffic management and pedestrian crossing facilities.

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.*

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/commercial 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 in conditions, including a timetable of implementation, of 'Percent for Art' has 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 should be no less than 7% of the total site area with an additional 2% contingency should significant archaeological remains be encountered.

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/commercial building. 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 a scheme of sustainability/biodiversity for the site, including the provision of house bricks and boxes for bats and swifts throughout the

development, a programme of ecological surveys (repeat survey work for bats and badgers no more than 12 months in advance of the commencement of development on the site) and management proposals for Invasive Non Native Species 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 DEV5 of the Midlothian Local Development Plan 2017.*

11. 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.*

12. 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.
13. No dwellinghouse/commercial building 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 12 and 13: *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.*

14. 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.

15. 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. signage for the construction traffic, pedestrians and other users of the site;
 - ii. controls on the arrival and departure times for the construction vehicles and for site workers;
 - iii. details of piling methods (if employed);
 - iv. details of earthworks;
 - v. control of emissions strategy;
 - vi. a dust management plan strategy;
 - vii. waste management and disposal of material strategy;
 - viii. 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;
 - ix. prevention of mud/debris being deposited on the public highway; and
 - x. material and hazardous material storage and removal.

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 in compliance with the Environmental Statement submitted with this planning application.

16. Development shall not begin until an application for approval of matters specified in conditions assessing the likely effects of road traffic noise (including the traffic to the Anaerobic Digestion Plant and the Recycling and Energy Recovery Centre at Millerhill) and of noise from the nearby commercial premises (to the south west of the site, to the north of the site, and to the opposite side of The Wisp) on the amenity of the future occupants of the houses has been submitted to and approved in writing by the planning authority. Any noise mitigation measures necessary to ensure compliance with the following criteria:
- i. 50 dB LAeq(16hr) for daytime external garden amenity;
 - ii. 35 dB LAeq(16hr) for daytime internal living apartment; and,
 - iii. 30 dB LAeq(8 hour) for night time internal living apartment (excluding fixed plant controlled by NR25 or NR20 if tonal).

The night time sleep disturbance criteria shall be that contained in the WHO Night Noise Guidelines for Europe, LA_{max} of 42 dB(A).

Any recommended noise mitigation measures shall be implemented prior to the occupation of the dwellinghouses.

Reason: *In the interests of safeguarding the residential amenity of the future occupants of the houses.*

17. Development shall not begin until an application for approval of matters specified in conditions assessing flood risk and its mitigation 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 address the outstanding concerns highlighted by SEPA in relation to Flood Risk and to ensure flood risk to the development can be mitigated and the development will not increase the risk of flooding elsewhere.*

18. Prior to the commencement of development on the site a risk assessment for the proposed stabilisation of mine workings with Pulverised Fuel Ash (PFA) grout is to be submitted to and approved in writing by the planning authority, in consultation with SEPA. Thereafter any mitigation required to prevent the pollution of ground water associated with proposals to grout with PFA, shall be implemented at the site.

Reason: *To ensure any grouting does not cause unacceptable environmental impact by means of pollution of ground water.*

19. The mixed use development shall have a floor space of no more than 200 square meters and will comprise a mix of classes 1, 2 or 3, as defined in The Town and Country Planning (Use Classes) (Scotland) Order 1997 and any subsequent replacement order. Planning permission is not granted for non residential uses outwith the stated use classes.

Reason: *To define the terms of the consent and to ensure the proposal is acceptable in terms of the Midlothian Local Development Plan 2017.*

20. Construction, engineering, site delivery and any other operations shall only take place between 0800 to 1900hrs Monday to Friday and 0800 to 1300hrs on Saturdays. Any amendment of these hours shall be agreed in writing with the planning authority prior to work taking place outwith the hours stated.

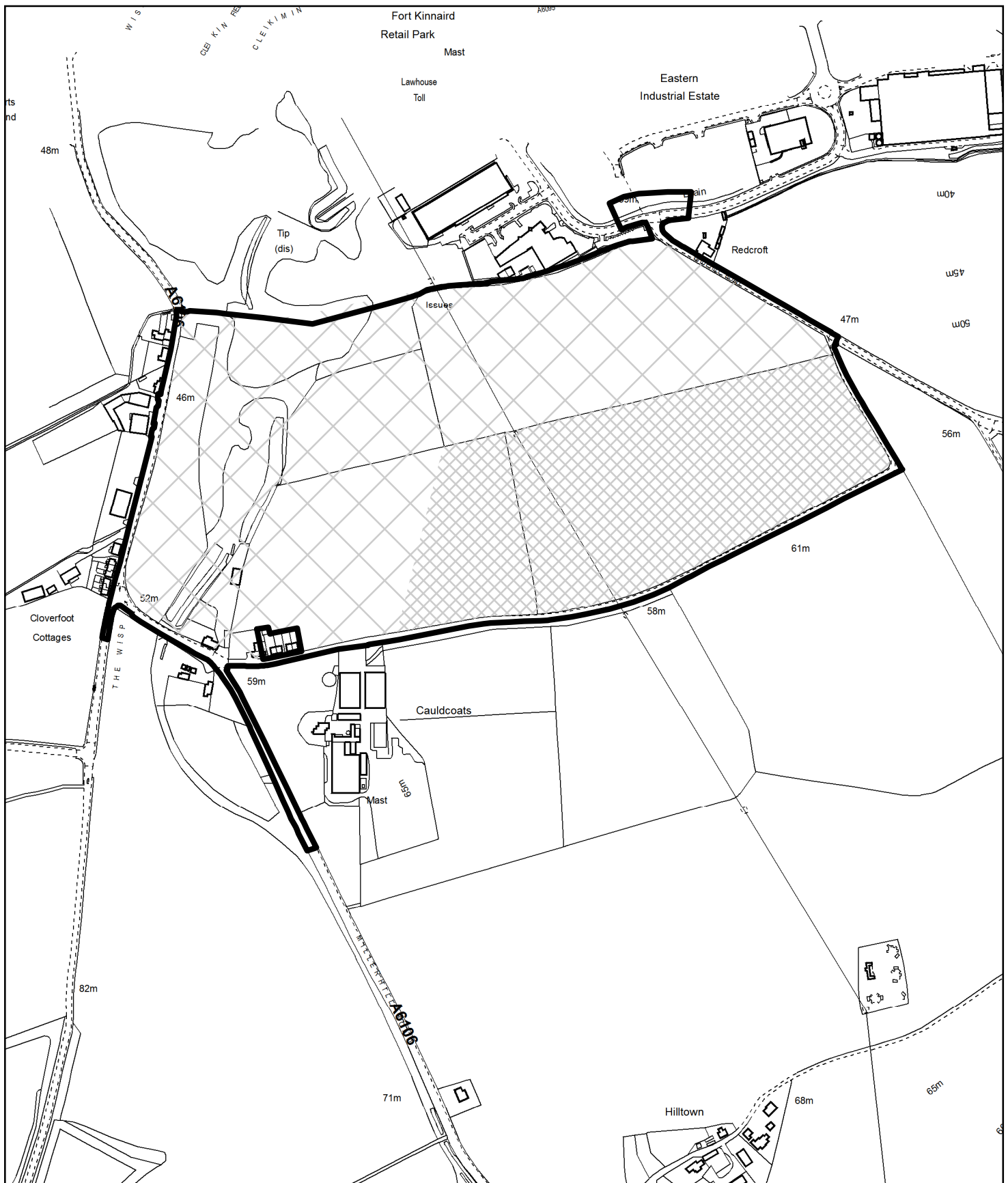
21. Construction, engineering, site delivery and any other operations shall comply with following noise level: 70 dB $L_{Aeq(12hr)}$ (façade), with the best practicable means (BPM) at all times in accordance with BS5228 guidance. All fixed plant/machinery noise shall comply with the following:
Night time (22:00 – 07:00 hrs) NR25 (internal, open window)
Day time (07:00 - 22:00 hrs) - NR30 (internal, open window)
22. Commercial/industrial/leisure noise affecting residential use (existing or proposed) when rated in accordance with BS 4142: 2014, shall be less than +5dB above an agreed representative L_{A90} .

Reason for conditions 20 and 22: To ensure noise assessment criteria are appropriate to protect residential amenity.

Ian Johnson
Head of Communities and Economy

Date: 28 November 2017

Application No: 14/00910/PPP (Available online)
Applicant: Paladine Ventures (Cauldcoats Farm) Ltd
Agent: Rick Finc
Validation Date: 15 August 2017
Contact Person: Joyce Learmonth
Tel No: 0131 271 3311
Background Papers:



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
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Dalkeith
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Land At Cauldcoats, Dalkeith



Planning Application Extent



STRAT3 - Strategic Housing Land Allocation



STRAT3 - Longer Term Housing Safeguarding

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SECTION 42 APPLICATION (17/00273/S42) TO EXTEND THE TIME PERMITTED FOR THE SUBMISSION OF APPLICATIONS FOR MATTERS SPECIFIED IN CONDITIONS IMPOSED ON A GRANT OF OUTLINE PLANNING PERMISSION (09/00354/OUT) FOR RESIDENTIAL DEVELOPMENT AND CLASSES 4, 5 AND 6 ECONOMIC DEVELOPMENT AT LAND BETWEEN LOANHEAD ROAD AND EDGEFIELD INDUSTRIAL ESTATE, LOANHEAD.

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 In April 2013 outline planning permission 09/00354/OUT was granted for residential development and class 4, 5 and 6 business and industrial uses on land between Loanhead Road and Edgefield Industrial Estate (Ashgrove). This application seeks planning permission to extend the time permitted for the submission of applications for Matters Specified in Conditions imposed on permission 09/00354/OUT as condition 1. There have been no representations. Consultation responses have been received from the Scottish Environment Protection Agency (SEPA), the Council's Archaeological Advisor, the Coal Authority and the Council's Head of Education.**
- 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 STRAT1, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV19, 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 contributions towards necessary infrastructure and the provision of affordable housing.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The application site is approximately 23.5 hectares. It is on the east side of the B702, Loanhead Road, to the south of Straiton Pond local nature reserve. To the west is Straiton Retail Park, to the south west are residential properties, to the south east is Edgefield Industrial Estate and to the east across a dismantled railway is Eldin Industrial Estate. There is a burn crossing the site. The southern/south eastern**

part of the site has predominantly been built-out with dwellings being occupied, the northern/north western part of the site is under construction, the central part of the site which was the grounds of the former Ashgrove House remains undeveloped and the eastern part of the site, allocated for economic uses, remains undeveloped.

- 2.2 The site comprises housing site H12 and employment site E6 (business/industrial site), allocated in the 2008 Midlothian Local Plan with continued commitment in the Midlothian Local Development Plan 2017 as housing site h54 and employment site e33. Part of the economic allocation E6/e33 was subsequently granted planning permission for residential development.

3 PROPOSAL

- 3.1 The application, made under Section 42 of the Town and Country Planning (Scotland) Act 1997, is to extend the time permitted for the submission of applications for matters specified in conditions imposed on a grant of planning permission (09/00354/OUT).
- 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 replace the planning consent 09/00354/OUT.
- 3.3 The application is accompanied by:
- a supporting statement;
 - a wildlife/ecology report;
 - a report on an archaeological assessment;
 - a transportation report addendum;
 - a flood risk assessment; and
 - a report on a tree survey.
- 3.4 Condition 1 of outline planning permission 09/00354/OUT states:

“The development hereby permitted shall be begun within five years from the date of this permission, or within two years from the date of approval by the planning authority of the last application for Matters Specified in Condition to be approved. Applications for approval of Matters Specified in Condition shall be made to the planning authority within three years from the date of this permission. Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing.”

- 3.5 The proposed replacement condition is:

“The development hereby permitted shall be begun within five years from the date of this permission, or within two years from the date of approval by the planning authority of the last application for Matters Specified in Condition to be approved. Applications for approval of Matters Specified in Condition shall be made to the planning authority within five years from the date of this permission. Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing.”

- 3.6 It is anticipated that a further matters specified in condition application would be submitted for 92 dwellings on the central part of the site, which was the grounds of the former Ashgrove House, if this Section 42 application is approved.

4 BACKGROUND

- 4.1 In July 2004 detailed planning permission 03/00862/FUL was granted for the construction of a relief road to link the B702/Straiton Retail Park roundabout junction with Edgefield Road (via Edgefield Industrial Estate). The relief road has been constructed.
- 4.2 Outline planning permission 09/00354/OUT for residential development and classes 4, 5 and 6 economic development was granted in April 2013.
- 4.3 Planning permission 11/00414/PPP for residential development (area 1 of previously allocated land, part of e33, for economic development) land adjacent to Loanhead Road, Loanhead, was granted in April 2013.
- 4.4 Planning permission 11/00415/PPP for residential development (area 2 of previously allocated land, part of e33, for economic development) land adjacent to Loanhead Road, Loanhead, was granted in April 2013.
- 4.5 Planning permission 13/00804/MSC for the erection of 115 dwellinghouses; formation of associated roads and car parking; formation of sustainable urban drainage systems (SUDS) features; and associated works (approval of matters specified in conditions 3, 4, and 5 of planning permission 09/00354/OUT) on land south west of Ashgrove House, Ashgrove House Road, Loanhead was granted in March 2014.
- 4.6 Planning permission 15/00754/MSC for the erection of 90 dwellinghouses; formation of access roads; and associated works (approval of matters specified in conditions 3, 4 and 5 of planning permission 09/00354/OUT) on land between Loanhead Road and

Edgefield Industrial Estate was granted in February 2016. The development approved is currently under construction.

- 4.7 Planning permission 15/00974/MSC for the erection of 92 dwellinghouses; formation of access roads and associated works (approval of matters specified in conditions 3, 4 and 5 of planning permission 09/00354/OUT) was withdrawn by the applicant in August 2016. This application was a joint application between the applicant and the identified house builder. However the house builder decided not to proceed with the project and as applicant and agent formally withdrew the application.
- 4.8 A Section 42 application 16/00800/S42 to extend the time permitted for the submission of applications for matters specified in conditions imposed on a grant of outline planning permission ref.09/00354/OUT was validated on 11 November 2016 and subsequently withdrawn on 7 April 2017.

5 CONSULTATIONS

- 5.1 In respect of the current application the **Scottish Environment Protection Agency (SEPA)** confirm that they have no objection to the application on the proviso that previous conditions as requested by SEPA (consultation response on application 09/00354/OUT) are imposed on any new grant of planning permission. With regards to flooding SEPA state that they have reviewed the flood risk assessments (FRA) (May 2016 and December 2016) submitted by the applicant and advise the FRA may require updating to take into account any updated methodology, policy/guidance, or alterations to the area as the individual phases of development come forward. The applicant should be made aware of this requirement.
- 5.2 SEPA's recommended conditions are as follows:
- i. measures are incorporated in the site layout to store, segregate, collect and manage waste. The developer should prepare a site waste management plan (SWMP) to identify how much waste will be produced, how this can be minimised and what might be done with the waste;
 - ii. prior to the commencement of development on the site a detailed documented construction method statement for the site is agreed by the planning authority, in consultation with SEPA. This method statement must address the temporary measures proposed to deal with surface water run-off during construction prior to the operation of the final SUDS;
 - iii. details of the proposed finalised SUDS which should provide sufficient attenuation so that the development would not cause or exacerbate flooding within the receiving catchment;
 - iv. the incorporation into the development of on-site zero and low carbon equipment in accordance with Government Policy and guidance aimed at reducing carbon emissions in new development published as Scottish Planning Policy 6: Renewable Energy (SPP6)

and Planning Advice Note 84: Reducing Carbon Emissions in New Development (PAN84).

- 5.3 The Council's **Archaeological Advisor** has advised that a previous archaeological recommendation letter (31/08/2009) written in relation to the original outline planning permission (09/00354/OUT) recommended a Programme of Works (Archive Assessment, 7% evaluation and a Historic Building Recording for Ashgrove/Mayshade House (if appropriate)). The current Section 42 application includes an archaeological desk-based assessment and walkover field survey report, undertaken by AOC Archaeology. The report indicated a change in the baseline condition for some heritage sites present within the proposed development area (namely Ashgrove House and its associated garden/estate Mayshade Estate) following a fire and subsequent demolition. Several elements associated with the house grounds (e.g. a sundial and glass house) were recorded in the report as being upstanding features. As a result of the updated information the Archaeological Advisor advises of a requirement for a change to the original recommended Programme of Archaeological Works condition that is necessary with the gardens to the application. The revised recommended Programme of Archaeological works is as follows: (i) a more detailed walkover field survey; (ii) a 7% trial trench evaluation; and, (ii) the protection and preservation prior to and during construction phase of the recorded remains of the sundial (former listed) associated with the house, including the incorporation of the sundial into the proposed development design layout.
- 5.4 The **Coal Authority** informs that the application site falls within the defined Development High Risk Area. The Coal Authority records indicate that within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this application. Their information indicates that underground coal mining has taken place beneath the site at shallow depth and the zone of influence of a recorded off-site mine entry encroaches into the site. Thick coal seams outcrop across the site which may have been worked in the past and historic unrecorded underground coal mining is also likely to have taken place beneath the site at shallow depth. The Coal Authority **objects** to this planning application, as the required Coal Mining Risk Assessment Report, or equivalent, has not been submitted as part of the application.
- 5.5 The Council's **Head of Education** advises that based on an estimated development of 92 dwellings there would arise a demand for the following number of pupils:
- | | |
|--------------------|----|
| • Primary Pupils | 29 |
| • Secondary Pupils | 21 |
- 5.6 The site lies within the following school catchment areas:
- | | |
|------------------------------|-----------------------------------|
| Non-denominational primary - | Loanhead/Paradykes Primary School |
| Denominational primary - | St Margaret's RC Primary School |

Non-denominational secondary - Lasswade High School
Denominational secondary - St David's RC High School

- 5.7 The new **Paradykes Primary School** has been built with additional capacity to provide for pupils coming forward from this development. Therefore a contribution will be required towards the costs of providing this additional capacity.
- 5.9 **St Margaret's RC Primary School** is at or near capacity from committed developments in the Loanhead/Roslin area. An extension may be required and a developer contribution would be required towards the cost of any extension.
- 5.10 A developer contribution will be required towards the cost of additional non-denominational secondary school provision. A further contribution will be required towards secondary denominational provision at St David's High School.
- 5.11 The **Midlothian Health and Social Care Partnership** were consulted on the application but have made no comment.
- 5.12 The **Loanhead & District Community Council (CC)** were notified of the application but have made no comment.

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). 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)

- 7.5 Policy **STRAT 1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, facilities and affordable housing, including sites in the established housing land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.
- 7.6 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.
- 7.7 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.
- 7.8 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.9 Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.
- 7.10 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.11 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.
- 7.12 Policy **ECON1: Existing Employment Locations** seeks to safeguard those sites allocated for economic land uses.
- 7.13 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.

- 7.14 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area, including the A701 realignment.
- 7.15 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.
- 7.16 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.17 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*.
- 7.18 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.
- 7.19 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-developed condition, and to avoid any deterioration of water quality.
- 7.20 **Policy ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environmental.
- 7.21 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.

- 7.22 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.23 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.
- 7.24 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.
- 7.25 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.
- 7.26 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.27 Policy **IMP1: New Development**. This policy ensures 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.
- 7.28 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.
- 7.29 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

National Policy

- 7.30 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.
- 7.31 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.
- 7.32 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*.
- 7.33 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.
- 7.34 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"*.
- 7.35 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.
- 7.36 **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.
- 7.37 **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 issue to be determined is whether the proposal accords with the development plan, unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

The Principle of Development

- 8.2 The site is allocated for housing and economic development uses and is located within the built up area of Loanhead where there is a presumption in favour of appropriate development. The principle of residential development on this site was first established by its allocation for housing (170 units) and economic development (10 hectares) within the now superseded 2008 Midlothian Local Plan.
- 8.3 The subsequent grant of planning permission in principle (09/00354/OUT) for housing and economic land uses on the allocated housing/economic site and the grant of planning permission in principle for housing, an indicative 98 units, on part of the economic land allocation (4.3 hectares) reaffirmed the principle of residential development across the application site.
- 8.4 The MLDP continues the commitment to residential development and economic uses, but revises the number of units to 268 (the original 170 allocation plus the additional 98 units) on site h54 and 5.7 hectares of economic land on site e33.

Number of Residential Units

- 8.5 The residential development is split into three development areas running from north west to south east. The south east plot has permission for 115 residential units and is substantially complete with most units being occupied. The north west plot has permission for 90 residential units and is under construction with many units being complete and occupied. This gives a total of 205 units with detailed permission.
- 8.6 The central part of the site is without a detailed permission (matters specified in conditions (MSC)) and as the original planning permission in principle (previously called outline planning permission) has lapsed a MSC application cannot be submitted for the layout and design detail. As a consequence the applicant is seeking to extend the time period to submit MSC application/s to complete the site. This approach is acceptable in principle.
- 8.7 Discussions with the applicant and reference to a previously submitted and withdrawn application (15/00974/MSC) for the central development area indicates that a further 92 residential units are proposed. This will bring the total for the site up to 297, 29 units above the figure identified in the MLDP and anticipated in the original planning application

(09/00354/OUT) and the changes to the economic land allocation (11/00414/PPP and 11/00415/PPP). Application 09/00354/OUT did not set a limit on the number of residential units. The increase in unit numbers can be considered acceptable subject to the detailed layout and form of development being of good design and the development being mitigated in terms of its impact on education provision and other infrastructure.

Layout and Design

8.8 Although the application is a Section 42 application it is in effect a planning application 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 (which would be the provision for the whole site);
- details of landscaping and boundary treatments;
- provision of open space and play areas/facilities (which would be the provision for the whole site);
- percent for art (which would be the provision for the whole site);
- sustainable urban drainage systems;
- details of road, access and transportation infrastructure;
- sustainability and biodiversity details;
- archaeology mitigation details; and
- the provision of broadband infrastructure.

8.9 The development strategy across the whole site, which was agreed with the applicants as part of the determination of the details for the north west and south east development areas, was one which would see the delivery of the site's open space, play areas/facilities, area of improved quality and percent for art being implemented in the central development area.

Ground Conditions

8.10 The application is not accompanied by a coal mining risk assessment and as such it has not been demonstrated that residential development can safely take place on the site. There is an outstanding objection from the Coal Authority and as a consequence the Council cannot issue a planning permission until this issue is addressed and the objection withdrawn. A coal mining legacy is not unusual on a development site in Midlothian. It is usually mitigated by the applicant demonstrating what measures they will take to address any risk identified in a coal mining risk assessment. This is an outstanding

issue which could be resolved by the applicant. The risk was mitigated on the north west and south east development areas.

Requirement for a new Planning Obligation

- 8.11 In April 2013 the Council granted planning permission in principle (09/00354/OUT) for residential development and economic land uses. The indicative number of units envisaged from the allocated site was 170. At the same time the Council granted planning permission in principle (11/00414/PPP and 11/00415/PPP) for residential development on allocated economic land to improve the viability of the whole scheme, in particular to deliver the relief road connecting the B702/Loanhead Road to Edgefield Road. Consequently the number of dwellings was going to be higher than the allocated 170; based on the applicants submission it was anticipated to be 268 residential units (hence the number set in the MLDP).
- 8.12 The grant of planning permission was subject to a Section 75 legal agreement (S75) to secure developer contributions towards primary education, secondary education and road improvement contributions. Neither the grant of planning permission nor the S75 was capped in terms of unit numbers which could be delivered, although the quantum of contributions was fixed irrespective of the actual number of units. For example, the primary education contribution was fixed at £1,000,000, subject to indexation. The contributions were predicated on 268 units being delivered, though as noted above neither the planning permission nor the S75 agreement prevented a higher number being delivered.
- 8.13 Although the application is a 'Section 42 application' it is a planning application which has to be assessed in accordance with Section 37(2) of the Town and Country Planning (Scotland) Act (1997), which states "in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations".
- 8.14 The appropriate procedural requirements are set out in Circular 3/2013: Development Management Procedures which confirms that a Section 42 is a new permission and that if permission is granted it should be subject to the conclusion of any appropriate planning obligation to secure developer contributions.
- 8.15 Although the MLDP was adopted after the original grant of planning permission for the site (09/00354/OUT) it does form the basis of the assessment of the current application. The settlement statement in the MLDP in relation to the site (with an indicative capacity of 268) identifies that "this development will require additional capacity to be provided for primary and secondary education for which developer contributions will be sought. Furthermore, Appendix 1E of the MLDP identifies the requirements for new developer funded recreational and community facilities to meet deficiencies exacerbated by additional

housing. The Council's Supplementary Planning Guidance (2012) on developer contributions is also specific about contributions towards leisure facilities being required from this site. SESplan and the MLDP identifies that the realignment of the A701 is a key strategic project to be funded by developer contributions from sites in the A701 corridor. This site is in the A701 corridor. Policy DEV 3 requires that a 25% affordable housing provision is made from residential development sites. On this basis it is appropriate to require developer contributions for the proposed residential development.

- 8.16 The S75 Heads of Terms which has been provided to the applicants is reflective of the above development plan requirements. What is being sought is only that which would arise from this planning permission and which has not already been provided for through the original grant of planning permission and S75. The applicant has agreed to make the required developer contribution to mitigate the impact of the additional 29 units (above the 268 units covered by the earlier agreement) with regard education provision, affordable housing and leisure.
- 8.17 The applicant has put forward a case that a contribution should not be made towards the A701 on the basis that the original permission and associated developer contribution negotiations were completed prior to the Council's commitment to the realignment of the A701 and as such the continued viability of the site is predicated on this consistency of approach. On the basis that there is a desire by all parties to see the residential component of the site progress to completion and that there is agreement over the contributions referenced above it is proposed to support the application on this basis.

9 RECOMMENDATION

- 9.1 It is recommended that planning permission be granted for the following reasons:

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

Subject to:

- i) the applicants submitting a coal mining risk assessment demonstrating that they can mitigate the risk from the coal mining legacy to the satisfaction of the Coal Authority and as such securing the removal of the outstanding objection from the Coal Authority, prior to planning permission being issued.
- ii) the prior signing of a legal agreement to secure contributions towards education provision, affordable housing and leisure facilities. The legal agreement shall be concluded within six

months. If the agreement is not concluded timeously the application will be refused.

iii) the following conditions:

1. No more than 297 dwellings shall be erected on the site.

Reason: *The application has been assessed on the basis of a maximum of 297 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 and economic/industrial phase of the development, the provision of affordable housing, the provision of open space, structural landscaping, SUDS provision, transportation infrastructure and percent for art. 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.*

3. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works 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/industrial buildings 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 (in the residential areas);
- xi proposed cycle parking facilities; and
- xii proposed area of improved quality (minimum of 20% (60 dwellinghouse) of the total number of proposed dwellings (297 dwellinghouses) across the whole site).

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.*

4. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential/industrial 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 total number of proposed dwellings across the whole site). 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.*

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 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 a programme for completion for the construction of access, roads, footpaths and cycle paths;
- ii existing and finished ground levels for all roads, footways and cycle ways in relation to a fixed datum;
- 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 Loanhead;
- iv proposed visibility splays, traffic calming measures, lighting and signage;
- v proposed construction traffic access and haulage routes; and
- vi proposed car parking arrangements.

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.*

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/commercial 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 in conditions, including a timetable of implementation, of 'Percent for Art' has 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 should be no less than 7% of the total site area with an additional 2% contingency should significant archaeological remains be encountered.

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/commercial building. 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 a scheme of sustainability/biodiversity for the site, including the provision of house bricks and boxes for bats and swifts 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 DEV5 of the Midlothian Local Development Plan 2017.*

11. 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.*

12. 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.
13. No dwellinghouse/commercial building 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.

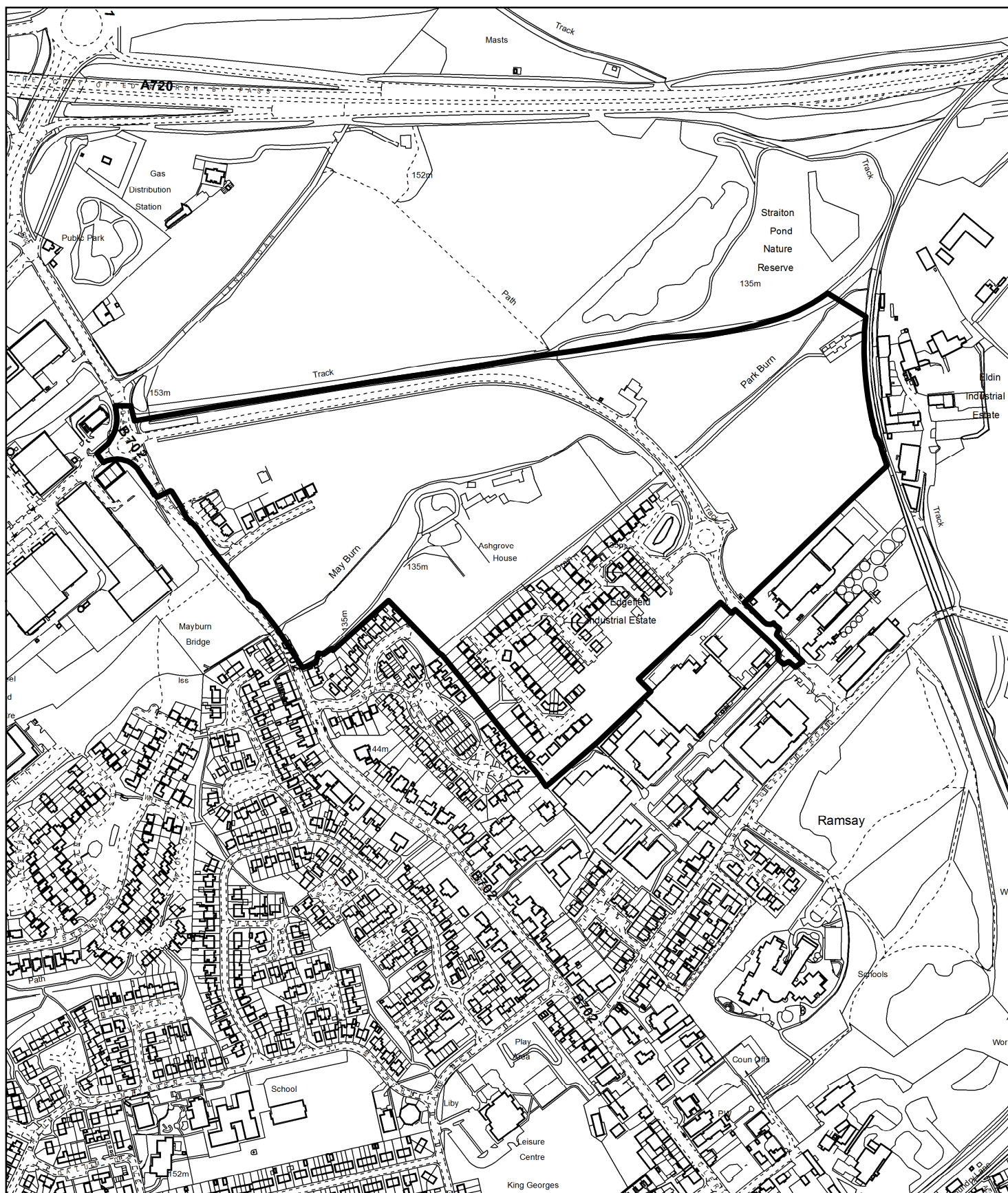
Reason for conditions 12 and 13: *To ensure the provision of a community heating system for the site to accord with the requirements of policy NRG6 of Midlothian Local Development Plan 2017 and in order to promote sustainable development.*

14. 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.*

Ian Johnson
Head of Communities and Economy

Date: 28 November 2017
Application No: 17/00273/S42
Applicant(s): Straiton Park Ltd, The Captain's House, 2 William
Burn Gardens, Rosewell, EH24 9ET
Validation Date: 7 April 2017
Contact Person: Adam Thomson
Tel No: 0131 271 3346
Background Papers: Planning Applications 03/00862/FUL,
03/00862/FUL, 09/00354/OUT, 11/00414/PPP,
11/00415/PPP, 13/00804/MSC, 15/00754/MSC,
15/00974/MSC and 16/00800/S42.



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

Land between Loanhead Road and Edgefield Industrial Estate,
Loanhead

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