



SECTION 42 APPLICATION (18/00406/S42) TO REMOVE CONDITION 6, FOR THE PRIOR APPROVAL OF THE DETAILS REGARDING THE CROSSING OVER THE PITTRENDREICH BURN, IMPOSED ON A GRANT OF PLANNING PERMISSION IN PRINCIPLE (16/00712/PPP) FOR RESIDENTIAL DEVELOPMENT ON LAND NORTH OF DALHOUSIE DAIRY, BONNYRIGG.

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 In February 2018 planning permission in principle 16/00712/PPP was granted on appeal for residential development on land north of Dalhousie Dairy, Bonnyrigg subject to a planning obligation securing developer contributions and conditions. This application seeks to remove condition 6, which requires the prior approval of the details regarding a road and pedestrian crossing over the Pittendreich Burn connecting the southern part of the site with the northern part. There have been no representations received and no consultations were required.**
- 1.2 The relevant development plan policies are policies 5 and 7 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT3, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV23, ENV24, ENV25, NRG3, NRG4, 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 site comprises 16.2 hectares of agricultural land split between two parcels bisected by the Pittendreich Burn and embankments. Both parcels of land are generally level although the Pittendreich Burn sits in a deep cutting. The site is currently undeveloped greenfield land.**

- 2.2 The application site is located north of Dalhousie Dairy and to the immediate north-east of the built up area of the settlement of Bonnyrigg. The Pittendreich Burn and steep embankments run from west to east through the site and splits the site into two development areas. A National Cycle Route 1 (NCR1) runs along an embankment to the north of the site with an existing housing development beyond to the north-west. A green belt corridor which accommodates overhead pylons running from north to south, bounds the site to the east, beyond which is the A7. The southern section of the site has frontage onto the B6392 to the south-east. The existing Dalhousie housing development bounds the site to the south-west.
- 2.3 The existing built form of the Dalhousie housing development to the west comprises a mixture of two-storey detached, semi-detached and terraced houses. An existing pedestrian underpass provides access from the housing development to the north into the site. There is an existing ramp up to NCR1.
- 2.4 The site is identified in the Midlothian Local Development Plan 2017 as an allocated housing site (Hs10).

3 PROPOSAL

- 3.1 The application, made under Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006 (hereafter referred to as the Act), is to remove condition 6 of planning permission 16/00712/PPP.
- 3.2 A Section 42 application, is in itself a planning application - a particular kind of planning application for development without complying with a condition/s previously imposed on an earlier grant of planning permission. A grant of planning permission under Section 42 results in an entirely new planning permission which will supersede the original permission if implemented. Therefore, if planning permission is granted for this application it will supersede the planning consent 16/00712/PPP if implemented. It will therefore be a planning permission in principle for the residential development of the site.
- 3.3 Although a Section 42 application is a new planning application in law the Act states *“on such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted”*. The principle, layout and form of development are not subject to assessment. However, as a new planning application it shall be subject to a new/amended legal agreement to secure developer contributions.
- 3.4 Condition 6 of planning permission in principle 16/00712/PPP states:

“Development shall not begin until an application for approval of matters specified in conditions for a road and pedestrian crossing over the Pittendreich Burn connecting the southern part of the application site

with the northern part of the application site has been granted by the planning authority.”

4 BACKGROUND

- 4.1 The applicant carried out a pre-application consultation (16/00161/PAC) for the site. A report on the pre-application consultation was reported to the Committee at its meeting of 19 April 2016. There was general agreement by Members that vehicular access to the wider Hs10 site should be taken from the B6392 and across the Pittendreich Burn rather than through the existing residential estate at Dalhousie.
- 4.2 An environmental impact assessment (EIA) screening opinion request, 15/00626/SCR, for a proposed residential development for the whole of site Hs10 was submitted 24 July 2015. The applicant was advised that an EIA was not required under schedule 2 of the EIA Regulations.
- 4.3 In February 2017 the Committee resolved to grant detailed planning permission (16/00855/DPP) for the erection of 28 houses and associated works on the southern part of site Hs10 subject to conditions and a planning obligation securing developer contributions.
- 4.4 In February 2018 planning permission in principle 16/00712/PPP was granted on appeal for residential development on land north of Dalhousie Dairy, Bonnyrigg subject to a planning obligation securing developer contributions and conditions.
- 4.5 Planning application 17/00298/PPP for planning permission in principle for residential development on land north of Dalhousie Dairy, Bonnyrigg was withdrawn. This application was submitted for consideration whilst application 16/00712/PPP was being considered by a Scottish Government Reporter – following the Reporter’s decision to grant permission the application was withdrawn.
- 4.6 Planning application 17/00611/DPP for the formation of access road; embankment culvert and associated works to alter ground levels at land at Pittendreich Burn, Bonnyrigg was granted permission in April 2018. This application was submitted for consideration whilst application 16/00712/PPP was being considered by a Scottish Government Reporter. This application effectively duplicates condition 6 of planning application 16/00712/PPP.

5. CONSULTATIONS:

- 5.1 No consultations were required.

6. REPRESENTATIONS:

- 6.1 No representations have been 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:

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 (MLDP)

- 7.4 Policy **STRAT3: Strategic Housing Land Allocations** states that strategic land allocations identified in the plan will be supported provided they accord with all other policies. The development strategy supports the provision of an indicative 300 housing units on the site (Hs10).
- 7.5 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.6 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP.
- 7.7 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.
- 7.9 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.10 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that Plan and seeks an

appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan.

- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area, including the A701 realignment.
- 7.13 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.
- 7.14 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.15 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*.
- 7.16 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.
- 7.17 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.
- 7.18 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.
- 7.19 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.

- 7.20 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.21 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.
- 7.22 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.
- 7.23 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.
- 7.24 Policy **NRG3 Energy Use and Low & Zero-Carbon Generating Technology** requires that each new building shall incorporate low and/or zero-carbon generating technology projected to contribute an extra percentage reduction in greenhouse gas emissions beyond the emissions standard to which the building is subject under the Building Regulations. Policy **NRG4: Interpretation of Policy NRG3** interprets Policy NRG3.
- 7.25 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.26 Policy **IMP1: New Development**. 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.
- 7.27 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be

used to secure the appropriate developer funding and ensure the proper phasing of development.

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

National Policy

- 7.29 The **SPP (Scottish Planning Policy)** sets out Government guidance for housing. All proposals should respect the scale, form and density of their surroundings and enhance the character and amenity of the locality. The individual and cumulative effects of infill must be sustainable in relation to the social and economic infrastructure of a place, and must not lead to over-development.

- 7.30 The SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to be considered high quality, as such a development should be; distinctive; safe and pleasant; welcoming; adaptable; resource efficient; and, easy to move around and beyond. The aims of the SPP are developed within the local plan and local development plan policies.

- 7.31 The SPP states that *design is a material consideration in determining planning applications* and that *planning permission may be refused and the refusal defended at appeal or local review solely on design grounds*.

- 7.32 The SPP supports the Scottish Government's aspiration to create a low carbon economy by increasing the supply of energy and heat from renewable technologies and to reduce emissions and energy use. Part of this includes a requirement to guide development to appropriate locations.

- 7.33 The SPP notes that "high quality electronic communications infrastructure is an essential component of economic growth across Scotland". It goes on to state that

"Planning Authorities should support the expansion of the electronic communications network, including telecommunications, broadband and digital infrastructure, through the development plan and development management decisions, taking into account the economic and social implications of not having full coverage or capacity in an area".

- 7.34 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.

- 7.35 **Designing Places, A Policy Statement for Scotland** sets out the six key qualities which are at the heart of good design namely identity, safe and pleasant environment, ease of movement, a sense of welcome, adaptability and good use of resources.

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

8 PLANNING ISSUES

- 8.1 The main issue to be determined is whether the proposal accords with the development plan, unless material planning considerations indicate otherwise.

The Principle of Development

- 8.2 The site is allocated for housing and is located within the built up area of Bonnyrigg where there is a presumption in favour of appropriate development. The subsequent grant of planning permission in principle (16/00712/PPP) for housing reaffirmed the principle of residential development across the application site.

The Removal of Condition 6

- 8.3 Application 16/00712/PPP includes condition 6 which states:

"Development shall not begin until an application for approval of matters specified in conditions for a road and pedestrian crossing over the Pittendreich Burn connecting the southern part of the application site with the northern part of the application site has been granted by the planning authority."

- 8.4 The Planning Statement submitted in support of the application describes the proposal as being either the removal of condition 6 of planning permission in principle 16/00712/PPP or the variation of condition 6 to state that no dwelling shall be occupied on any area north of the Pittendreich Burn prior to the construction of a road and pedestrian crossing over the Pittendreich Burn. However, following clarification from the applicant the application stands to be determined on the basis of the description of the proposal as described and certified on the application form, which is for the removal of condition 6.

- 8.5 In April 2018 the Council granted planning permission (17/00611/DPP) for the formation of access road; embankment culvert and associated works to alter ground levels at land at Pittendreich Burn, Bonnyrigg subject to conditions. Condition 1 states:

"Only construction vehicles and delivery vehicles associated with the pre-construction works specified in the supporting document titled "Assessment of Working Procedures for Burn Crossing Construction" and associated with the construction of the concrete culvert hereby approved and additionally vehicles associated with the early provision of structural landscaping shall access the site via Bairds Way, Harmony Crescent and Gladstone Gait. There shall be no variation therefrom unless with the prior written approval of the Planning Authority."

- 8.6 The details of the crossing have been approved by way of application 17/00611/DPP, which duplicates the requirement of condition 6 of planning permission 16/00712/PPP. Application 17/00611/DPP regarding the Pittendreich Burn crossing was submitted whilst application 16/00712/PPP for residential development was being considered by the Scottish Government Reporter.
- 8.7 Planning permission 16/00712/PPP for residential development also includes a condition limiting the use of Baird's Way, Harmony Crescent and Gladstone Gait to construction vehicles associated with the crossing works and the provision of structural landscaping. Condition 7 states:
- “Construction vehicle access to/from the part of the site located to the north of the Pittendreich Burn shall only be via the new road crossing formed within the site over the Pittendreich Burn, except for such access as is required in connection with the initial pre-construction enabling works related to the burn crossing and early provision of structural landscaping. This crossing shall also be made available for residential access to houses built to the north of the Pittendreich Burn, from the date of first occupation of any of those houses.”*
- 8.8 The access limitations imposed by condition 7 of planning permission 16/00712/PPP and condition 1 of planning permission 17/00611/DPP are not undermined by the removal of condition 6 of planning permission 16/00712/PPP.

Requirement for a new Planning Obligation

- 8.9 The 16/00712/PPP grant of planning permission was subject to a planning obligation to secure developer contributions towards primary education, secondary education, the Borders Railway, the A7 urbanisation, maintenance of open space and the provision of affordable housing. It is proposed to require an amended legal agreement to ensure the agreed financial position is protected. This can be achieved by way of a new agreement or by way of a separate application to modify the existing agreement.
- 8.10 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”.
- 8.11 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.

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 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 prior signing of a legal agreement to secure contributions towards primary education, secondary education, the Borders Railway, the A7 urbanisation, maintenance of open space and the provision of affordable housing. The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.
- ii) the following conditions (which are those previously imposed by the Reporter, with the exception of those conditions relating to the design of the crossing):
 1. Development shall not begin until an application for approval of matters specified in conditions regarding the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of affordable housing, the provision of open space, structural landscaping, SUDS provision and transportation infrastructure including the new road and pedestrian crossing over the Pittendreich Burn. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

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

2. As soon as possible after each of the phases of the development approved under condition 1 above is completed (except for the last or final phase, in respect of which notice shall be given under section 27B(1) of the Town and Country Planning (Scotland) Act 1997), the person who has completed any phase shall give written notice of the completion of that phase to the planning authority.

Reason: To accord with section 27B(2) of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. Development shall not begin on an individual phase of development (identified in compliance with condition 1) 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, roads, footpaths and cycleways in relation to a fixed datum;
 - ii. existing trees, landscaping features and vegetation to be retained, removed, protected during development and in the case of damage, restored;
 - iii. proposed new planting in communal areas and open space, including trees, shrubs, hedging and grassed areas;
 - iv. location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
 - v. schedule of plants to comprise species, plant sizes and proposed numbers/density;
 - vi. programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses on adjoining plots being 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, where this is included within the particular phase;
 - xi. proposed cycle parking facilities; and
 - xii. proposed area of improved quality (minimum of 20% of the proposed dwellings), where this is included within the particular phase.

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. 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 Policy DEV7 of the Midlothian Local Development Plan (LDP) and national planning guidance and advice.

4. Development shall not begin on an individual phase of development (identified in compliance with condition 1) until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential units and other structures has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. These samples will also include those proposed in the area of improved quality. 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 national planning guidance and advice.

5. Development shall not begin on any individual phase of development (identified in compliance with condition 1) until an application for approval of matters specified in conditions for the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
 - i. existing and finished ground levels for all roads (including turning facilities), parking areas, footways and cycle ways including (unless otherwise agreed by the planning authority) a new link facilitating eastbound movement from the north-eastern corner of the site onto National Cycle Route 1, all in relation to a fixed datum;
 - ii. the proposed upgrading of the existing vehicle access from the B6392, including details of associated localised road widening of the B6392 to form a dedicated right turn lane into the site entrance and the formation of a pedestrian crossing island on the access road;
 - iii. proposed visibility splays, traffic calming measures, lighting and signage;
 - iv. the upgrading of the current public transport infrastructure at the existing bus stops adjacent to the site entrance on the B6392 including the introduction of a signal controlled pedestrian crossing point linking the two bus stops, the relocation of stops to accommodate the crossing and the provision of a new bus shelter at the eastbound bus stop;

- v. except for over the short bridge section on the approach to the A7, the increasing in width to a minimum of 2.5m of the existing section of 2m wide public footway leading eastwards from the site entrance to the A7;
- vi. measures to close-off the vehicle/ pedestrian access to the proposed burn crossing to be put in place until the burn crossing is completed and the development on the northern part of burn is ready to commence;
- vii. a programme for completion for the construction of access, roads, footpaths and cycle paths;
- viii. proposed haulage routes for construction vehicles; and
- ix. 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 neighbouring residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

6. Construction vehicle access to/from the part of the site located to the north of the Pittendreich Burn shall only be via the new road crossing formed within the site over the Pittendreich Burn the subject of planning permission 17/00611/DPP or a different future planning permission, except for such access as is required in connection with initial pre- construction enabling works related to the burn crossing and the early provision of structural landscaping. This crossing shall also be made available for residential access to houses built to the north of the Pittendreich Burn, from the date of first occupation of any of those houses.

Reason: *In the interests of road safety and the residential amenity of existing neighbouring residences.*

7. Development shall not begin until a scheme to deal with any contamination of the site and/ or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/ or previous mineral workings and include:
 - i. the nature, extent and types of contamination and/ or previous mineral workings on the site;
 - ii. measures to treat or remove any 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 any contamination and/ or previous mineral workings encountered during construction work; and,
- iv. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, any necessary measures to decontaminate the site, as described in the agreed scheme, shall be fully implemented as approved by the planning authority.

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

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

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

9. Development shall not begin until a programme of archaeological works (metal detector survey and evaluation) and scheme of investigation has been submitted to and approved in writing in by the planning authority. The approved programme of works shall be carried out by a professional archaeologist prior to any construction works, demolition or pre-commencement ground works taking place unless otherwise agreed in writing by the planning authority.

Reason: *To ensure this development does not result in the unnecessary loss of buried archaeological material in accordance with Policy ENV25 of the Midlothian LDP.*

10. Prior to works commencing on site a report on an assessment of the likely effects of road traffic noise on the amenity of the future occupants of the houses shall be undertaken by an acoustic specialist to identify 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.

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

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

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

11. Prior to the commencement of the development a sustainability/biodiversity scheme for the site, incorporating a programme of ecological works, action programme and timetable, shall be submitted to and approved in writing by the planning authority. The actions set out in the programme shall be undertaken in accordance with the agreed timetable.

Reason: *In the interests of safeguarding biodiversity.*

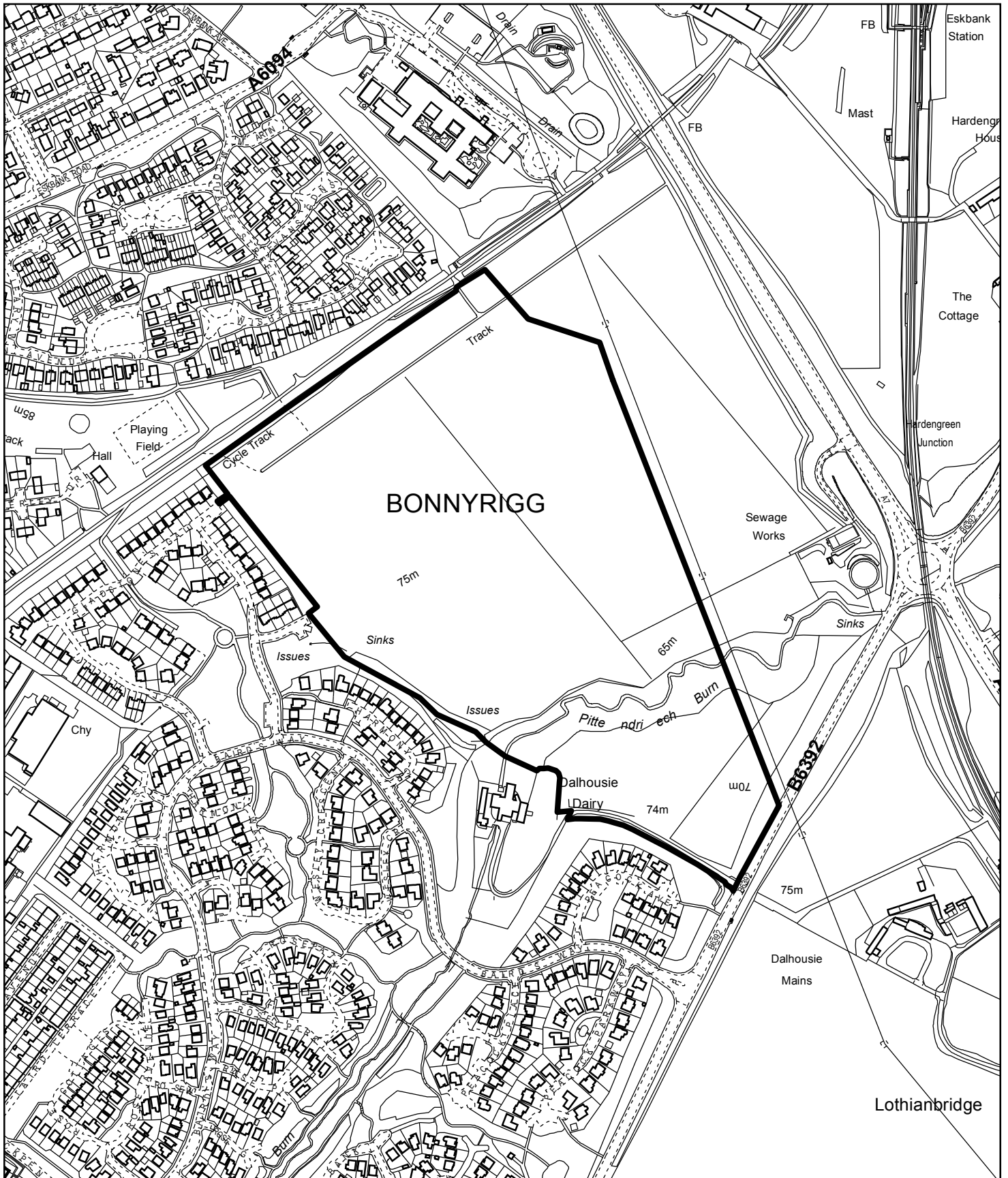
12. Prior to the commencement of development, the scope of a report, and a subsequent substantive report, on the technical feasibility and financial viability of the operation of a community heating scheme and the installation of low and zero carbon generating technology for the development hereby approved (linked if practicable with other neighbouring developments/ sites), in accordance with MLDP Policies NRG3, NRG4 and NRG6, shall be submitted for the prior written approval of the planning authority. Should the planning authority conclude, on the basis of this report, that a scheme is technically feasible and financially viable, no dwellinghouses on the site shall be occupied until a community heating scheme, and/ or low and zero carbon generating technology for the site, (linked if practicable with other neighbouring developments/ sites), is approved in writing by the planning authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

The approved scheme shall be implemented in accordance with a phasing scheme also to be agreed in writing in advance by the planning authority.

Reason: *To ensure opportunities for the provision of a community heating system and low and zero carbon generating technologies for the site are fully explored to accord with the requirements of Midlothian LDP Policies NRG3, NRG4 and NRG6, and in order to promote sustainable development.*

Ian Johnson
Head of Communities and Economy

Date: 16 August 2018
Application No: 18/00406/S42
Applicant: Grange Estates (Newbattle) Ltd, Westerwood House, Royston Road
Validation Date: 12 June 2018
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Tel No: 0131 271 3346
Background Papers: 15/00626/SCR, 16/00161/PAC, 16/00712/PPP, 16/00855/DPP, 17/00611/DPP



**Education, Economy
& Communities**
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Land North Of Dalhousie Dairy, Bonnyrigg

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