



Midlothian

~~PLANNING COMMITTEE~~
~~TUESDAY 20 NOVEMBER 2018~~
~~ITEM NO 5.5~~

Application A

APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE (17/00980/PPP) FOR RESIDENTIAL DEVELOPMENT UP TO 280 DWELLINGS; COMMERCIAL DEVELOPMENT FOR USE CLASSES 1, 2, 3 AND/OR 4 WITH A FLOORSACE OF UP TO 250SQM AND ASSOCIATED WORKS AT LAND AT ROSSLYNLEE, ROSLIN.

Application B

APPLICATION FOR DETAILED PLANNING PERMISSION (17/01001/DPP) FOR THE ALTERATIONS AND CONVERSION OF FORMER HOSPITAL AND EXISTING BUILDINGS TO FORM 72 DWELLINGS; ERECTION OF 24 NEW DWELLINGHOUSES AND ASSOCIATED WORKS AT THE FORMER ROSSLYNLEE HOSPITAL, ROSLIN.

Application C

APPLICATION FOR LISTED BUILDING CONSENT (18/00061/LBC) INTERNAL AND EXTERNAL ALTERATIONS TO THE FORMER ROSSLYNLEE HOSPITAL AND ASSOCIATED LISTED BUDILINGS TO FORM 69 DWELLINGS AND AN OFFICE INCLUDING; DEMOLITION OF THE FORMER BOILERHOUSE, OUTBUILDINGS AND ALTERATIONS TO EXISTING WINDOW AND DOOR OPENINGS AND ASSOCIATED WORKS AT THE FORMER ROSSLYNLEE HOSPITAL, ROSLIN.

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATIONS AND RECOMMENDED DECISION

- 1.1 The applications are for the conversion of the former Rosslynlee Hospital into residential accommodation and for planning permission in principle for residential and commercial development on land adjacent to the grounds of the former hospital.**
- 1.2 Application A is for planning permission in principle for residential development of up to 280 dwellings; commercial development for use classes 1, 2, 3 and/or 4 with a floorspace of up to 250sqm and associated works at land at Rosslynlee, Roslin.**

- 1.3 Application B is for detailed planning permission for alterations and conversion of former hospital and existing buildings to form 72 dwellings; erection of 24 new dwellinghouses and associated works at the former Rosslynlee Hospital, Roslin.**
- 1.4 Application C is for Listed Building Consent for Internal and external alterations to the former Rosslynlee Hospital and associated listed buildings to form 68 dwellings and an office including; demolition of the boiler house, outbuildings and elements of the main building, alterations to existing window and door openings and associated works at the former Rosslynlee Hospital, Roslin.**
- 1.5 There have been 18 representations and consultation responses from the Coal Authority, Scottish Water, the Scottish Environment Protection Agency (SEPA), The Wildlife Information Centre, the Council's Head of Education, the Council's Policy and Roads Safety Manager, the Council's Environmental Health Manager, Rosewell and District Community Council and Roslin and Bilston Community Council**
- 1.6 The relevant development plan policies are policies 5, 7, 8 and 11 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan), and policies STRAT4, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN5, IT1, TCR2, ENV2, ENV7, ENV9, ENV10, ENV11, ENV22, ENV23, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.**
- 1.7 The recommendation is to refuse planning permission and listed building consent for the three stated applications on the basis that; the proposed development will have a detrimental impact on highway safety, the applicant will not make the required developer contribution to mitigate the impact the development will have on the local infrastructure and the applications do not deliver the required level of affordable housing as set out in the development plan.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is at Rosslynlee, a rural part of Midlothian between Rosewell and Penicuik. At its heart is the Category C listed former Rosslynlee Hospital and its associated buildings (a number of which are also Category C listed). The hospital site is surrounded by farmland including two fields which are the subject of Application A. The application sites are accessible by an unclassified road (Firth Road/Farm Road) connecting to the B7026 (heading towards Auchendinny/Howgate) or unclassified roads connecting to the A6094 (heading towards Rosewell) or the B7003 (heading towards Roslin). The former hospital is within a landscape comprising tree belts and woodlands.**

- 2.2 The hospital was listed as a Category C Listed Building in 1998. It closed as an NHS medical facility in 2010 and has remained redundant since its closure. To the north of the site is the former Edinburgh to Peebles railway line which closed in 1967. Rosslynlee Hospital had its own station until passenger trains ceased in 1962.
- 2.3 The hospital complex comprises an array of buildings - the original stone buildings being designed by Robert Lambie Moffat in 1874. Significant extensions/additions were added in 1902 (designed by Robert Rowand Anderson). It's these components which have the most architectural value. Further extensions and infills were added in the late 20th century for the function of the hospital, but have little or no architectural merit. To the southwest of the former hospital there is a large formal open space with large terraces, steeped embankments and a gentle north-facing slope. Located to the north between the former hospital and old railway line is an area of open space that was formerly a walled garden. The wall remains largely intact but the wider area is now overgrown. To the southeast along Firth Road and Farm Road there are a number of farm buildings and staff accommodation buildings associated with the hospital, these are in a poor state of repair.
- 2.4 The listed buildings on the site comprise; the principal hospital building, the morgue, the boiler-house, the entrance gate-piers, the gate lodge (Pentland House), a number of residential properties in Firth Road, the farm managers house and the cart shed.

3 PROPOSAL

- 3.1 The three applications together propose a predominantly residential led redevelopment of the former Rosslynlee Hospital and its surrounding land. Application A seeks planning permission in principle for up to 280 new dwellings in the two fields adjoining the hospital grounds (the North Field and the South field). Application B proposes the conversion of the listed hospital buildings to form 72 residential dwellings together with detailed permission for 24 dwellings in the grounds of the hospital. Application C seeks listed building consent for alterations to the listed hospital buildings and the demolition of the former boiler house and works to individual listed buildings within the hospital site.
- 3.2 In total the applications propose up to 376 dwellings. Up to 280 units in principle (the details relating to the size and form of the units does not form part of the applications) and 96 units in detail comprising:
- 1 x 1 bed house;
 - 8 x 2 bed houses;
 - 32 x 3 bed houses;
 - 21 x 4 bed houses;
 - 8 x 5 bed houses;
 - 1 x 1 bed apartment;

- 11 x 2 bed apartments; and
- 14 x 3 bed apartments

3.3 In October 2018 amended plans and additional supporting information was submitted in respect of Applications B and C and resulted in the following changes to the original submission:

1. The omission of the previously proposed new build parcels 4 and 5 (six dwellings);
2. The retention of the previously proposed to be demolished former morgue and its conversion into two dwellings;
3. Amendments to the main hospital building arising from the retention of the morgue, resulting in the omission of one dwelling in the main building and changes to the proposed external treatment of the building;
4. The omission of the proposed removal and replacement of all windows that were not otherwise the subject of alteration;
5. Revised details of the proposed approach to the replacement of roof treatments;
6. Additional justification for the demolition of the boiler house;
7. Additional justification for the removal of the glazed link corridors; and
8. The retention of a greater number of chimneys than previously proposed.

3.4 The applicant has submitted the following documents in support of their application:

- A Design and Access Statement;
- A Flood Risk Assessment;
- A Drainage Impact Assessment (including SUDS proposals);
- Planning Statement;
- A Transport Assessment;
- Contaminated Land Assessment;
- Habitat Survey;
- Landscape and Visual Appraisal;
- Building Condition Survey;
- Archaeological Report;
- Energy Sustainability Statement; and
- Bat Survey.

4 BACKGROUND

4.1 The applicant carried out a pre application consultation (16/00267/PAC) for residential development and complementary uses in April – June 2016. The pre application consultation was reported to the Committee at its meeting of May 2016.

4.2 Planning application 16/00716/DPP and listed building consent 16/00720/LBC for the conversion of outbuildings into eight dwellings and the erection of five new build dwellinghouses was granted

permission in 2018. The proposed units granted permission are also incorporated into the current applications.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application subject to securing, by way of a condition on any grant of permission, a site investigation and appropriate remediation measures to mitigate the sites coal mining legacy.
- 5.2 **Scottish Water** does not object to the application. However, Scottish Water are unable to confirm if there is capacity to accommodate the development until the applicant makes an application to Scottish Water.
- 5.3 **The Scottish Environment Protection Agency (SEPA)** does not object to the applications subject to securing, by way of a condition on a grant of permission, drainage details and flood mitigation measures. The application site is adjacent to a small watercourse and as a result could be at risk of flooding. The applicant has provided drawings showing the existing and proposed culvert and in response SEPA advise that the route shown is acceptable subject to the realignment details being secured by condition. The new culvert shall be outwith any individual property boundary and not built on. SEPA note the Coal Authorities response to the application and therefore state it is unlikely that stabilisation of mine workings with pulverised fuel ash (PFA) grouting will be necessary. SEPA has confirmed they are satisfied with the drainage on site. The proposed SUDS and connection to Roslin Waste Water Treatment Works are acceptable. The proposed development is within 600m of an existing waste landfill site regulated by SEPA and as such consideration of the neighbouring land uses shall be considered.
- 5.4 **The Wildlife Information Centre** does not object to the applications.
- 5.5 The Council's **Head of Education** has stated that the development will result in additional pressure on primary and secondary school provision and as such a developer contribution would be required. The development lies within the following school catchment areas:
- | | |
|------------------------------|----------------------------------|
| Non-denominational primary | - Rosewell Primary School |
| Denominational primary | - St Matthew's RC Primary School |
| Non-denominational secondary | - Lasswade Community High School |
| Denominational secondary | - St David's RC High School |
- 5.6 In respect of Application A, the Council's **Policy and Road Safety Manager** objects to the application and has expressed concerns over the suitability of the site to accommodate a residential development of the scale proposed. The site is remote from any existing facilities, with no dedicated pedestrian or cycling routes linking the site to Rosewell (the nearest settlement to the development). The site also does not

have any public transport services with the nearest scheduled bus services terminating in Rosewell (over 2 miles away). The local access roads are narrow and not designed to accommodate large volumes of traffic. The main access roads leading to the site would be the narrow rural road from the Gourlaw Crossroads, which passes Gourlaw Farm, and the Kirkettle Road which joins the B7003 Roslin Glen Road. The developers Transport Assessment identified Gourlaw Crossroad as an accident problem area and has identified some alterations which would improve driver visibility at this junction. The rest of this road is narrow with no pedestrian footways and limited road verges with a section in cutting enclosed by retaining walls on both sides. This road would not be suitable to safely accommodate a major increase in traffic levels. The Kirkettle Road also has no pedestrian facilities with sections of narrow road verge and some very sharp bends. This road starts from the B7003 Roslin Glen Road which is also a rural route with difficult horizontal geometry, steep gradients and sections of reduced width. The Roslin Glen Road is signed as being unsuitable for use by long vehicles. None of the above roads have street lighting.

- 5.7 There have been a number of road injury accidents reported on the local road network during the current 3-year accident period and the introduction of a large scale housing development in the area would add to the relatively low level of traffic using these routes resulting in an increase in the potential for vehicle conflict. Also given the remoteness of the site and the lack of any scheduled public transport services or convenient walking/cycling routes it is likely that the majority of trips to and from the development would require to be made by private car.
- 5.8 This proposal does not appear to be in keeping with the Council's aims of reducing reliance on the use of the private car, increasing the use of public transport and increasing opportunities for 'active' travel.
- 5.9 In respect of Application B the scale of development would result in an increase in the current volume of traffic using the substandard local road network which does not have adequate pedestrian/cycling access and poor public transport provision. However, it could be viewed that the change of use of the former hospital building to residential use would produce a broadly similar level of traffic generation to the former hospital use, although residential use/traffic tends to be tidal with traffic during morning and evening peaks periods. Residential development also results in school and recreational trips which would not have occurred with the hospital use.
- 5.10 The Council's **Environmental Health Manager** does not object to the application subject to conditions being attached to any grant of planning permission ensuring ground contamination remediation works are undertaken.
- 5.11 The **Rosewell and District Community Council (RDCC)** has made the following comments:

- Current infrastructure will not be able to support the development;
- RDCC are against the principle of planning permission being granted for development on green fields and does not agree with the premise that planning permission is granted to financially assist developers;
- The development does not comply with the principals of sustainable living and the vision set out in the Midlothian Local Development Plan;
- The existing access to the site is not considered adequate in its current condition and improvements and/or alterations will be required to serve the development;
- There is no connection to any existing footway network;
- Developer contributions should be sought towards Midlothian's Green Network and Core Path Network;
- RDCC disagree with the applicants transport assessment;
- Concerns over high traffic levels on the local roads due to increased house building in the area;
- Concerns for the safety of cyclists on the narrow roads between Rosewell and Roslin;
- Concern over the impact of increased levels of traffic on the Roslin Glen Road, which is again showing signs of subsidence;
- Concern over increased traffic at the Gourlaw Junction (an accident blackspot);
- There are concerns that although the site is out with the Rosewell settlement boundary, it is within RDCC's boundary map, and as a result the residents will use Rosewell community facilities. RDCC therefore feel that developer contributions should be sought to support community facilities and infrastructure;
- The proposed community facilities within St Margret's (Rosslynlee Hospital) are sparse for this isolated community;
- The proposed bus service offers no benefits to Roswell community if it coincides with the times of the 49 bus service; and
- The proposed bus service could be of benefit to the elderly and less mobile residents if it continues on to the rail station as the transport plan states.

5.12 The **Roslin and Bilston Community Council (RBCC)** objects to planning application 17/00980/PPP and have made the following comments:

- The B7026 is unsuitable for use by the Rosslynlee residents;
- RBCC are concerned a through road will be maintained using the road past Firth Mains and Auchendinny Mains to the B7026;
- The schools are outwith the 2 mile walk distance, therefore a school bus would be essential, however none of the access routes to the site are suitable for a school bus;

- The cycle route from Rosslynlee to the Bush, referenced in the transport assessment, is unsafe;
- Increased use of Straiton Park and Ride would increase traffic through the Roslin Glen, Roslin village and the A701, which are already badly congested;
- Concerns regarding the lack of public transport to and from the site. RBCC question if there is capacity at Eskbank railway station, particularly during peak times;
- There is inadequate footways along the access road;
- No consideration has been given to the junctions and road beyond those immediately surrounding the site;
- There are concerns surrounding visibility at the Gourlaw/A6094 junction;
- There are no suitable roads for construction vehicles to access the site;
- Concerns surrounding the viability report and its credibility;
- RBCC are not satisfied that the proposal will reach the standards of sustainability required by planning policy - the sustainability statement provided by the applicant is inadequate; and
- Concerns about the handling of sewage from this site.

6 REPRESENTATIONS

6.1 There have been 18 objections, all of which can be viewed in full on the online planning application case file. A summary of the objections are as follows:

- The current road infrastructure will not accommodate the proposed number of dwellinghouses and associated traffic;
- There are limited plans to upgrade the roads and junctions that will serve the development - the roads and junctions are unsuitable. The roads most effected will be, the Gourlaw Junction on the A6094, the Roslin Glen B7003 and the road to the west leading to Auchendinny, the B7026;
- The development will have a detrimental impact on the condition of the already badly damaged Roslin Glen road;
- The roads surrounding the site are unsuitable for the large vehicles that will need to access the site during the construction process and thereafter;
- Due to the isolated nature of the development the future residents will be car dependent generating far higher levels of traffic;
- The proposed development represents an overdevelopment, given the site was allocated for 120-300 dwellings and the applicant is proposing 381 dwellings;
- There are equestrian properties in the local community that use the roads surrounding the application site and any increase in traffic could be potentially dangerous as the roads are not wide enough

for a car to pass a horse. This could have a detrimental effect on local livery businesses;

- The proposed development makes no provision for continued equestrian access;
- Concerns that the increased number of dogs in the area will effect sheep farmers;
- The proposed development does not make provision for extra facilities or amenities in the area;
- The proposed development would have an unacceptable impact on local services, facilities, infrastructure, GP services, schools and sewage infrastructure;
- The applicant did not adequately notify the surrounding residents;
- The applications are overwhelming, making it hard for local residents to understand the full impact the development will have;
- The proposed development goes against current environmental policy;
- The proposed development will have an adverse effect on the existing countryside and rural environment;
- The development of the green field sites (North Park and South Park) is not an appropriate way to fund the renovation of the former hospital;
- The proposed development goes against Midlothian's policies to promote the use of brownfield sites over green field sites; and
- The proposed development of green field sites will have an adverse effect on wildlife species and biodiversity.

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, adopted in November 2017. The following policies are relevant to the proposal:

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPPlan)

- 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 8 (TRANSPORTATION)** seeks to promote the development of a sustainable transport network and ensure that new development minimises the generation of additional car traffic.
- 7.5 **Policy 11 (DELIVERING THE GREEN NETWORK)** seeks to ensure that major developments in the SESplan area have a positive contribution to the creation, maintenance and enhancement of the green network.

Midlothian Local Development Plan 2017 (MLDP)

- 7.6 Policy **STRAT4: Additional Housing Development Opportunities** supports residential development on those sites identified as additional housing development opportunities in the MLDP settlement statements, provided that they comply with all other relevant MLDP policies.
- 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** requires good design and a high quality of architecture, in both the overall layout of developments and their constituent parts. The layout and design of developments are to meet listed criteria.
- 7.11 Policy **DEV7: Landscaping in New Development** requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment.
- 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 **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.
- 7.15 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.16 Policy **TCR2: Location of New Retail and Commercial Leisure Facilities** states that the Council will apply a sequential town centre first approach to the assessment of such applications. The policy does not refer to or apply to food and drink uses or hot food takeaways.
- 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 **ENV22: Listed buildings** does not permit development which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.
- 7.24 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** requires that, wherever reasonable, community heating should be supported in connection with buildings and operations requiring heat.
- 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 quality places. These are communities which are safe, socially stable and resilient.
- 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.
- 7.39 The Scottish Government policy statement **Designing Streets** emphasises that street design must consider place before movement, that street design guidance (as set out on the document) can be a material consideration in determining planning applications and that street design should be based on balanced decision-making. Of relevance in this case are the statements that:
- “On-plot parking should be designed so that the front garden is not overly dominated by the parking space.”
- “Parking within the front curtilage should generally be avoided as it breaks up the frontage, can be unsightly and restricts informal surveillance. On-plot parking may be suitable in restricted situations when integrated with other parking solutions and when considered in terms of the overall street profile.”
- 7.40 **Historic Environment Scotland Policy Statement 2016** replaces Scottish Historic Environment Policy (SHEP) for operational matters. The policy statement should be used by local authorities when considering planning applications which have an historical or cultural dimension. The policy statement was prepared in response to changes introduced by the Historic Environment Scotland Act 2014. Chapter 3: Consents and Advice; provides guidance for local authorities on the consideration of listed building consent applications. It sets out the legal and administrative requirements of the listed building consent process.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining these applications is whether the proposals comply with development plan policies unless material planning considerations indicate otherwise.

The representations and consultation responses received are material considerations.

Principle of Development

- 8.2 The Rosslynlee site is identified in the MLDP as an Additional Housing Development Opportunity, site AHs1 and as such there is a presumption in favour of residential development, if the proposal complies with development plan policies and the details of the scheme mitigate any infrastructure requirements arising from the development. Additional Housing Development Opportunity sites are seen as potential housing sites, but because of identified challenges to delivery they are not relied upon to meet the Council's housing targets in the same way that an 'allocated housing site' is.
- 8.3 The MLDP settlement statement for Rosslynlee states "The site includes the C Listed Rosslynlee Hospital which is now redundant. As a means to protect and bring the listed building back into use there is support for its conversion to residential use. There is likely to be potential for 70-80 units within the main building and associated structures. However it is recognised that there may be a requirement for complementary development to assist the funding of the conversion and there is support for some additional new build residential development. This will be in the range c.40-200 units, depending on the detailed proposals and the choice of access solution. The existing access is not considered adequate in its current condition and improvement or an alternative access will be required to serve this development. The site is not considered to meet the sustainability criteria as it is not well related to Rosewell, being some distance south of the village. As a result it is not allocated in the MLDP but identified as an additional housing development opportunity. Despite the distance from Rosewell village, the development will be expected to use Rosewell Primary school and Lasswade High School for education and leisure facilities and developer contributions to these facilities will be sought. The development will be expected to be in sympathy with the listed building and its rural location".
- 8.4 The settlement statement goes on to identify inter alia that the development of this site is specifically required to contribute towards Borders Rail, additional capacity at Rosewell Primary School, additional secondary school capacity at Lasswade High School and St David's RC High School, provide 25% affordable housing as required by policy DEV3 and community facilities in Rosewell.
- 8.5 The general principle of housing is accepted at the site subject to any proposals achieving compliance with all other development plan policies in particular; making suitable infrastructure provision including affordable housing, the development proposals being sympathetic to the host listed building and an appropriate access solution being identified. The MLDP acknowledges the potential benefits of the

suitable conversion and restoration of the listed building (Rosslynlee hospital) but this is qualified by the above requirements being met in order for the development to be acceptable in principle, i.e. the ostensible planning benefit of securing the future of the listed building does not in itself outweigh other planning considerations as outlined above.

Housing Land supply

- 8.6 The SPP (paragraph 123) states planning authorities should actively manage the housing land supply to ensure a generous supply of land for house building is maintained and there is always enough effective land for at least five years. Policy 5 of SESplan requires local development plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing required. Midlothian has an up to date adopted local plan which sets a development strategy which includes sufficient housing allocations (12,997 residential units) to meet its housing requirements (12,490 houses) for the period 2009–2024 and in doing so having an established housing land supply. The MLDP was adopted on 7 November 2017 following a local plan examination where the Reporter concluded that there is a 5-year effective housing land supply in Midlothian. The housing allocation figure (12,997 units) does not include the ‘safeguarded sites’ or ‘additional housing opportunities’ identified in the MLDP or windfall developments which provide Midlothian with sufficient generosity to meet its housing targets if an allocated housing site does not come forward. Approximately 5,000 of the required units have been constructed.
- 8.7 The Council must maintain a five year effective supply of housing land at all times which means that the sites must have a reasonable prospect of being built within the five-year period. The Council’s 2017 Housing Audit, which was agreed with Homes for Scotland (HfS) – the umbrella group which represents the house building industry, identified that there is a realistic prospect of 5,583 homes being built in the next five years in Midlothian, exceeding the 4,336 units required. This position, in terms of meeting its housing requirements, is reflected in Midlothian’s draft 2018 Housing Audit (not yet agreed with HfS).
- 8.8 Therefore whilst the principle of housing is supported at this site in order to support the suitable conversion of the listed buildings, subject to meeting the requirements of other local development plan policies, the housing proposed through the applications is not necessary in order for the Council to meet its housing targets.

Transportation and Access Issues

- 8.9 Paragraph 87 of SPP states “Planning permission should not be granted for significant travel generating uses at locations which would increase reliance on the car and where:

- Direct links to local facilities via walking and cycling networks are not available or cannot be made available;
- Access to local facilities via public transport networks would involve walking more than 400m or the transport assessment does not identify a satisfactory way of meeting sustainable transport requirements;
- Development plans and development management decisions should take account of the implications of development proposals on traffic, patterns of travel and road safety.”

- 8.10 The two planning applications together propose a total of up to 376 dwellings together with a modest amount of commercial floor space (up to 250 sq m). This is a significant travel generating use and therefore it is incumbent on the applicant to address the transportation and access challenges which arise from the development.
- 8.11 The Policy and Road Safety Manager objects to Application A and has expressed concerns over the suitability of the site to accommodate a residential development of the scale proposed. The site is remote from any existing facilities, with no dedicated pedestrian or cycling routes linking the site to Rosewell (the nearest settlement to the development). The site also does not have any public transport services with the nearest scheduled bus services terminating in Rosewell. The local access roads are narrow and not designed to accommodate large volumes of traffic. The main access roads leading to the site would be the narrow rural road from the Gourlaw Crossroads, which passes Gourlaw Farm, and the Kirkettle Road which connects the B7003 Roslin Glen Road. The applicant's transport assessment identified Gourlaw Crossroad as an accident problem area and has identified some alterations which would improve driver visibility at this junction. The rest of this road is narrow with no pedestrian footways and limited road verges with a section in cutting enclosed by retaining walls on both sides. This road would not be suitable to safely accommodate a major increase in traffic levels. The Kirkettle Road also has no pedestrian facilities with sections of narrow road verge and some very sharp bends. This road starts from the B7003 Roslin Glen Road which is also a rural route with difficult horizontal geometry, steep gradients and sections of reduced width. The Roslin Glen Road is signed as being unsuitable for use by long vehicles. None of the above roads have street lighting.
- 8.12 There have been a number of road injury accidents reported on the local road network during the current 3-year accident period and the introduction of a large scale housing development in this area would add to the relatively low level of traffic using these routes resulting in an increase in the potential for vehicle conflict. In addition, given the remoteness of the site and the lack of any scheduled public transport services or convenient walking/cycling routes it is likely that the majority of trips to and from the development would require to be made by private car. The routes are of a suitable standard to safely

accommodate the increase in traffic levels the proposed development would generate. This proposal does not appear to be in keeping with the Council's aims of reducing reliance on the use of the private car, increasing the use of public transport and increasing opportunities for 'active' travel.

- 8.13 In respect of Application B the scale of development would result in an increase in the current volume of traffic using the substandard local road network which does not have adequate pedestrian/cycling access and poor public transport provision. However, it could be viewed that the change of use of the former hospital building to residential use would produce a broadly similar level of traffic generation to the former hospital use, although residential use/traffic tends to be tidal with traffic during morning and evening peaks periods. Residential development also results in school and recreational trips which would not have occurred with the hospital use.
- 8.14 The applicant's transportation assessment promotes a package of mitigation measures which includes:
- Transportation improvements including; a contribution towards the upgrading of National Cycle Route 176 and the access to it;
 - Upgrading the road junction leading from Kirkettle Farm Road;
 - The upgrading of the current private access road leading to the site to an adoptable standard;
 - The provision of a bus service from the site (for a temporary period of time);
 - The provision of a bus turning area; and
 - Changes to nearby road speed limits.
- 8.15 Whilst the package of measures is welcome, it does not mitigate the highway safety concerns identified by the Council's Policy and Road Safety Manager or by the representors, nor does it meet the conditions set out in the SPP.
- 8.16 In relation to Application B, the proposed development achieves the Council's required car parking standards. In relation to Application A, the detailed design and layout, including provision of car parking would be a matter for a subsequent matters specified by condition application if planning permission was granted.
- 8.17 If the proposed housing scheme is granted planning permission, because of the sites remoteness, it would be necessary for the Council to provide a school bus service (for both primary and secondary) and as a consequence the development layout would need to make provision for a bus turning area. Application B does not make this provision and Application A is in principle. Any grant of permission would need to meet the requirement for a bus turning area.

Alterations to the Listed Buildings and the Impact on their Setting

- 8.18 MLDP policy ENV22 states that development will not be permitted if it would adversely affect the character or appearance of a listed building, its setting or any feature or special architectural or historic interest. Demolition will only be permitted in exceptional circumstances.
- 8.19 SPP paragraph 141 advises; "Change to a listed building should be managed to protect its special interest while enabling it to remain in active use. Where planning permission and listed building consent are sought for development to, or affecting, a listed building, special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting. Listed buildings should be protected from demolition or other work that would adversely affect it or its setting. SPP defines a listed buildings setting as "... more than the immediate surroundings of a site or a building, and may be related to the function or use of a place, or how it was intended to fit into the landscape of (or) townscape, the view from it or how it can be seen from areas around about, or areas that are important to the protection of the place, site or building".
- 8.20 It is proposed that the boiler house building be demolished as part of the redevelopment proposals. The case for the demolition is:
- Its position to the front of the main building prejudices the setting of the principal hospital building;
 - Its position prejudices the provision of an access road to a number of the proposed dwellings;
 - The building cannot be converted to a residential dwelling;
 - Its retention would adversely impact on the viability of the proposed conversion of the principal hospital buildings; and
 - It is of limited architectural merit.
- 8.21 As the building is Category C listed it is for the Council to assess the listed building implications of the proposal – this position has been confirmed by Historic Environment Scotland who has no comment. The proposed loss of the boiler house should be considered in the context of the overall proposal for the redevelopment of the hospital site. Firstly the boiler house building by reason of its functional purpose is of less significance in terms of its architectural merits when considered against the principal hospital buildings. Furthermore, its architectural significance has been further diminished by various alterations and extensions over a number of years. The form of the building does not enable conversion to residential use. Its position to the front of the hospital diminishes the sense of arrival at the main hospital buildings and also inhibits to the provision of access routes to more important elements of the hospital complex. On this basis, it is

considered that the case has been made for the demolition of the boiler house building if there were to be an acceptable scheme for planning permission for the conversion of the principal hospital buildings.

- 8.22 Further proposed alterations to the exterior and interior of the listed buildings comprise:
- The removal of internal walls;
 - The insertion of new internal walls;
 - The removal of some chimneys and parapets;
 - The removal of the 20th century additions to the principal buildings;
 - The alterations of some ground floor window opening into doorways;
 - The lowering of some ground floor windows cills;
 - The raising of upper floor levels;
 - The creation of new window openings;
 - The infilling of some existing window openings; and
 - The removal of the two glazed connecting corridors.
- 8.23 The listing of a building means that most proposed physical interventions (interior and exterior) in such a building will require listed building consent. In the House of Lords judgement in *Shimizu (UK) Ltd v Westminster City Council (1997)* it was determined that the whole building is to be treated as a listed building and therefore removal of part of a building does not constitute demolition but rather alteration unless the work is so extensive as to amount to the clearing of the whole site. Having regard to the Shimizu judgement it is evident that the proposed works to the listed buildings (other than the boiler house removal) constitute alterations not demolition.
- 8.24 There are a number of proposed works which relate to window openings. These works comprise; lowering the cills of a number of windows, the blocking up of a small number of existing windows, the creation of a small number of new window openings and the alteration of some ground floor windows to doors ways. These works, along with the reconfiguration of some internal walls, are required to facilitate the conversion of the building into dwellings and if the principle of conversion is accepted then these alterations are acceptable and can be undertaken without detriment to the historical character of the buildings.
- 8.25 The proposed works to the roof of the listed buildings includes; the removal of some parapets and some chimney stacks and the installation of roof lights (to facilitate residential accommodation in the roof space). Of the 49 chimney stacks, 40 are proposed to be retained. The need for the removals arises from the removal of internal walls which provide structural support for the chimneys. The balance between retention and removal is acceptable – the character of the buildings will be retained.

- 8.26 The removal of two glazed link corridors between the different wings of the hospital is also proposed. Whilst they form an attractive element of the hospital buildings, given their nature they do not lend themselves to conversion and their continued retention prevents the conversion of those parts of the principal buildings to which they join. Their proposed removal is acceptable in order to facilitate the overall proposals for the conversion of the hospital buildings.
- 8.27 The hospital buildings, at various times in the late 20th century, have had a number of modest functional extensions. Although now part of the listed building these additions have a detrimental impact on the character and appearance of the listed building and therefore their removal is a positive proposal.
- 8.28 The proposals include removing all the roof coverings and then re-slating of the roof reusing the original slates where possible. Any new slates shall match those lost/damaged through the re-roofing process.
- 8.29 In respect to the proposed developments impact on the setting of the listed buildings; the views of the primary elevations are protected and enhanced (by the removal of unsympathetic additions and the demolition of the boiler house), the degree of separation of the proposed new build in the North and South Fields and the retention of existing trees and woodland. The proposed new build dwellings in the Firth Road/Farm Road cluster are of a scale and form that reflect their location and proximity to the listed buildings. Furthermore, they replace buildings which previously provided staff accommodation. It is considered that the development does not impact on the setting of the listed building.

Is the Proposal Enabling Development?

- 8.30 Enabling development is not a statutory term, but was confirmed as a legitimate planning tool in 1988 when the Court of Appeal, in its landmark judgement in *R v. Westminster City Council ex parte Monahan*, upheld the validity of a planning permission authorising office development, even though contrary to the development plan, on the basis that it would provide funds to improve the Royal Opera House, Covent Garden, unobtainable by other means.
- 8.31 The principal guidance on enabling listed building development is Historic England's "Enabling Development and Historic Places". There is not an equivalent guidance note from Historic Environment Scotland. The Historic England's guidance is also seen as best practice in Scotland and identifies that in an enabling development case there are seven key principles. In an enabling case, development that is contrary to planning policy is unacceptable unless:
- a. It will not materially harm the heritage values of the place or its setting;
 - b. It avoids detrimental fragmentation of management of the place;

- c. It will secure the long-term future of the place and, where applicable, its continued use for a sympathetic purpose;
- d. It is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid;
- e. Sufficient subsidy is not available from any other source;
- f. It is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests; and
- g. The public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies.

8.32 The applicants have promoted the development as an enabling case. However, whilst the objective of the applicants is to promote residential development at Rosslynlee to support the conversion of the listed hospital buildings in order to secure their future, it is not enabling development as identified in the said guidance. This is because residential development is not contrary to planning policy because the site is identified as an Additional Housing Development Opportunity (site Ahs1). In order for development to be an enabling development the guidance specifically identifies that development provided for in a local plan by definition would not be enabling development. The application has the benefit of an allocation and cannot therefore also seek the benefit of being an 'exception to the rule' as an enabling development. The additional 'green fields', the North Field and South Field, were identified in site Ahs1 to provide the scale and opportunity for new development to fund the restoration and conversion of the listed buildings and the developments obligations in terms of infrastructure and development plan policy compliance.

8.33 It is worth noting in this context that were the proposals considered to be enabling development, the applicants would be required to demonstrate that the proposed new build housing was the minimum necessary to support the conversion of the listed buildings.

Layout and Form of Development

8.34 MLDP policy DEV 6 requires good design and a high quality of architecture in both the overall layout of development and their constituent parts. The applications proposed residential scheme is in five distinct areas:

- The conversion of the hospital buildings (Applications B and C);
- Three new build dwellings in the immediate hospital grounds (Application B), referenced in the application as Plot 3;
- Dwellings where the hospital farm and staff accommodation were historically located on Firth Road/Farm Road. This is a mixture of new build dwellings, conversion of unlisted buildings and conversion of listed buildings (Applications B and C) referenced in the applications as the Village Core;

- Residential development in principle in the field (known as North Field) adjoining the hospital (Application A); and
- Residential development in principle in the field (known as South Field) adjoining the hospital (Application A).

- 8.35 The proposed dwellings within the listed hospital buildings are acceptable and the details of the conversion have previously been discussed elsewhere in Section 8 of the report. In terms of the three new build dwellings at Plot 3 in the hospital grounds these are detached dwellings of a contemporary design. They are two storeys in height with slate pitched roofs, vertical timber cladding and smooth render construction. By means of their distance of separation from the hospital buildings and the intervening landscaping they do not have an adverse impact on the setting of the listed buildings. Their contemporary design is well articulated and detailed though the use of the materials described.
- 8.36 The dwellings at the village core follow the existing liner street pattern of Firth Road/Farm Road and as previously noted are a mixture of conversions of existing buildings and the provision of new buildings including in part, dwellings already consented through the approval of applications 16/00720/LBC and 16/00716/LBC (Parcel A of the Village Core). The village core comprises 29 dwellings, 13 in Parcel A and 16 in Parcel B:
- 1 and 2 Firth Road (Listed) converted into a single dwellinghouse;
 - 3 and 4 Firth Road (Listed) converted into two dwellinghouses;
 - The farm manger's house (Listed) converted into a single dwellinghouse;
 - The cart shed (Listed) converted into a single dwellinghouse;
 - The steading building (unlisted) converted into three dwellings; and
 - 21 new build dwellings (8 semi detached and 13 detached).
- 8.37 The new build dwellings are for the most part 1.5 storeys, albeit three of the plots are two storeys in height. As regards materials, slate pitched roofs, light coloured wet dash render walling and stone cills are proposed.
- 8.38 The renovated listed buildings are proposed to be renovated using appropriate materials such as stone and slate with timber windows. Where there are new build additions such as a single storey extension to the listed cart shed a contemporary approach is taken with the extension being a wet dash render finish.
- 8.39 The proposed new build dwellings achieve a respectful relationship with the adjoining listed buildings by reason of their positioning on Firth Road/Farm Road and their scale. The introduction on some plots of differing heights of buildings introduces an appropriate interest and variety to the street scene. The new build plots use quality materials and are well articulated.

- 8.40 In relation to the proposed development in the North and South Fields the application is in principle with all matters of detail – layout, form, design, means of access and landscaping reserved for future submission and approval in the event that planning permission is granted. Indicative layout plans have been submitted demonstrating 280 dwellings with suitably sized gardens, the retention and enhancement of landscaping, pedestrian routes and the provision of public open space. Given the sites rural location close to a complex of significant listed buildings, if development were approved it would be of particular importance to achieve a high quality of design for the proposed dwellings. This can be achieved through the imposition of conditions if the scheme were to be granted planning permission.

Landscape and Visual Impact

- 8.41 MLDP policy ENV7 states that development will not be permitted where it may have an unacceptable effect on local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New proposals will normally be required to incorporate proposals to maintain the diversity and distinctiveness of local landscapes and to enhance landscape characteristics where they have been weakened.
- 8.42 In this instance the proposed development is located in the countryside with impressive views of the Pentland Hills. By the nature of the development it would bring a degree of urbanization through the introduction of dwellings to a green field site. The applicant's visual assessment nonetheless demonstrates that with suitable landscaping and tree planting; including the retention of existing features and the dwellings in the North and South Fields being limited to two storeys, there would be a limited visual impact upon the wider landscape. The hospital buildings are a case in point; these substantial buildings in a countryside location are largely hidden until the point of actual arrival because of the comprehensive and significant surrounding landscaping.
- 8.43 The MLDP settlement statement in relation to the site advises that there will be a need to protect, retain and enhance existing woodland belts within the site (along the north western, north eastern and south western boundaries) as well as along north eastern, south eastern edges of the hospital grounds. A 10-15 metre wide hedgerow should be incorporated along the south eastern edge.
- 8.44 One of the most notable landscape features of the site is the large rear lawn which enhances the setting of the principal hospital building – this should be retained. Application B proposes enhanced landscaping of the grounds immediately adjoining the hospital buildings and new walkways. The proposed interventions (subject to conditions to secure matters of detail in the event of planning permission being granted) will

provide an appropriate backdrop to the listed hospital buildings and the overall rural setting of the site.

- 8.45 Landscaping and open space would also be provided in the North and South Fields, the details of which would be the subject of a further application if the planning permission in principle application is approved.

Proposed Commercial Uses

- 8.46 Application A proposes up to 250 sqm of floor space for either Class 1 (Shops), 2 (Financial and Professional Services), 3 (Restaurants and cafes) or 4 (Business) uses which would be located in a new build unit within the site. The limited floor space of the commercial unit would not cause harm to the vitality and viability of Midlothian's town centres or local centres and is of a scale which could be seen as supportive of the main residential development and therefore accords with MLDP policy TCR2.

Planning Obligation/Affordable Housing

- 8.47 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:
- necessary to make the proposed development acceptable in planning terms (paragraph 15);
 - serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans;
 - relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19);
 - fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23); and
 - be reasonable in all other respects.
- 8.48 The MLDP requires (policies IMP2 and IMP2) proposed residential developments to mitigate their impact on local services by funding, by way of developer contributions, the capital cost of education provision, public transport infrastructure (including Borders Rail) and community facilities and in doing so meet the demand arising from a proposed development. If the applicant is not mitigating the need arising from their development the Council in effect subsidises the development – this applies even in cases where a development is to restore a listed building.
- 8.49 MLDP policy DEV 3 sets out a requirement that allocated housing sites (including Additional Housing Development Opportunity sites) shall

provide 25% of the total number of units as affordable. An alternative offsite provision may be an option which the Council will consider. At the time of drafting the report the applicant could not demonstrate that the affordable housing requirement (up to 94 units) could be delivered.

- 8.50 The Rosewell Settlement Statement of the MLDP identifies that the development of site AhS1 is require to make developer contributions towards additional primary school capacity at Rosewell Primary School, Secondary provision at Lasswade High School (of an alternative) and St David's RC High School, the Borders Rail and Community facilities in Rosewell.
- 8.51 In relation to the Borders Rail the site is a 15 minute drive from Eskbank Station and is specifically identified in the MLDP as being located within the A7/A68/Border Rail Strategic Development Area and therefore required to contribute towards the Border Rail project. The applicant's contribution proposals would not fund the required payments towards the Borders Rail or towards any other public transport provision.
- 8.52 The application site is with the Rosewell catchment area. As regards Rosewell Primary School, the school was extended by 3 classrooms in 2012 to accommodate growth from the planned development (now constructed/under construction) set out in the now superseded 2008 Midlothian Local Plan. The school operates at capacity and as such those new sites in the Rosewell catchment area identified in the MLDP, including the application site, must fund an extension to the school to meet the required primary education demands.
- 8.53 In relation to secondary schooling the site currently sits within the catchment of Lasswade Secondary school which is at capacity (as are all of the other non-denominational secondary schools in Midlothian). Therefore a contribution would be required towards additional secondary capacity including St David's RC High School in Dalkeith. Even if there were to be a review of catchments in respect of Lasswade High school, all of the other potential alternative high schools which might serve Rosewell such as Beeslack, Penicuik or Newbattle are all at capacity. Therefore contributions towards additional secondary capacity would be required irrespective of which high school serves Rosewell.
- 8.54 Section 51 of the Education (Scotland) Act 1980, as amended, requires education authorities to make such arrangements as they consider necessary for the provision of transport to and from school. Section 42 (4) of the Education (Scotland) Act 1980 sets a statutory walking distance of 2 miles for any pupil under the age of 8, and three miles for any other pupil. Scottish Executive Education Department Circular 7/2003 states that Education Authorities have a common law duty of care for the safety of pupils under their charge and this duty extends to pupils using transport to and from school. Having regard to the stated

provision, it would be necessary for this development to contribute financially towards the provision of bus services to enable pupils to be transported to school.

- 8.55 The applicant's developer contribution proposals would fund approximately 78% of the required payments towards their education requirements.
- 8.56 The applicant's contribution proposals would not fund the required payments towards community facilities.
- 8.57 The applicant is advising there are very high costs associated with the conversion and restoration of the listed buildings and as such the residential units proposed in the planning application in principle application (on a green field site) are required to cross subsidise this work. Therefore the applicants consider that it would be only viable to contribute a partial amount (circa two thirds of the overall amount sought, additional school capacity being the single largest category of contribution) of what the Council would be seeking towards planning obligations and not meet the required affordable housing requirements.
- 8.58 To give the above some context; in relation to the provision of additional school capacity the applicant is in effect needing the Council to underwrite a seven figure sum. In relation to the Borders Rail, the Council is required to underwrite millions of pounds worth of Border Rail costs irrespective of where it recovers contributions from developers. Therefore to not recover contributions in relation to Border Rail would potentially result in the Council needing to underwrite a substantial six figure sum.
- 8.59 The applicant's case is that the development would be rendered unviable if it were required to make the full gambit of developer contributions. Furthermore the applicant is securing the future of the listed building and this should outweigh the shortfall in contributions and the provision of affordable housing.
- 8.60 Whilst there is planning benefit to securing the future of the listed hospital buildings as recognised in the MLDP this needs to be weighed by the Council against the other pertinent considerations also identified in the MLDP. Firstly, in the context of the MLDP, the proposed housing is not necessary for the Council to meet its housing supply requirements. Secondly the development is considered to lead to conditions prejudicial to highway and pedestrian safety, contrary to national planning guidance and thirdly the development falls significant short of making the necessary infrastructure requirement through developer contributions to mitigate the consequential impact of the development. Taken together any ostensible planning benefits arising from securing the future of the listed building are outweighed by the disbenefits arising from the scheme.

Ecology and Biodiversity

- 8.61 A species protection plan has been submitted; setting out the status of protected species across the site, possible adverse impacts of the development and appropriate and effective mitigation. Both planning applications have been accompanied by habitat assessments which have been assessed by the Council's ecology adviser who has raised no objection to the proposed developments.

Flooding and Drainage

- 8.62 The applicant has submitted drainage and flooding assessments which set out the provision of a sustainable urban drainage system which includes retention basins to mitigate surface water runoff. Scottish Water, SEPA and the Council's Flooding adviser have been consulted on both planning applications and are satisfied with what is proposed subject to the imposition of suitable conditions.

Residential Amenity

- 8.63 MLDP policy DEV2 requires development, within existing and future built up areas and in particular within residential areas, not to detract materially from the existing character or amenity of the area. All the proposed residential units contained within Application B would receive acceptable levels of daylight, sunlight, outlook and privacy whilst not being exposed to unacceptable levels of noise or poor air quality. The levels of amenity in Application A would be subject to a further application if planning permission in principle is granted.
- 8.64 In relation to existing residential properties, the closest are those at Firth Mains Farm, Firthwell and Auchendinny Mains, but given the distance from the proposed development there is no loss of privacy, daylight or sunlight or will they be exposed to unacceptable levels of noise.

Other Matters

- 8.65 In terms of the issue raised by objectors about an increase in the number of dogs affecting sheep farmers. This issue is addressed by other legislation, namely the Dogs (Protection of Livestock) Act 1953. If a dog worries sheep on agricultural land, the person in charge of the dog is guilty of an offence. The Act considers sheep worrying to include attacking sheep, chasing them in a way that may cause injury suffering, abortion or loss of produce or being at large (not on a lead or otherwise under close control) in a field or enclosure in which there are sheep. Furthermore under the Land Reform (Scotland) Act 2003, access rights do not allow members of the public on to land with a dog which is not under proper control.

- 8.66 One of the points of objection made a representor is that the applicant did not adequately notify surrounding residents. However, in relation to planning applications the requirement to carry out neighbour notification rests with the local planning authority, which has followed the requirements set out in the regulations.
The Condition of the Listed Buildings (Rosslynlee Hospital)
- 8.67 It is appropriate to give consideration to the scenario that the applications are refused planning permission and listed building consent. In that circumstance the applicant has the right of appeal to the Scottish Ministers. It is acknowledged that the objective of the applicant has been to secure the future of the listed buildings through bringing forward residential development. The buildings have been unoccupied for some years. The deterioration in the condition of the buildings which might anyway occur has been exacerbated by the stealing of piping and lead flashing and general vandalism such as the breaking of windows. These criminal activities have increased the incursion of wind and rain and there is now the presence of wet and dry rot in parts of the buildings.
- 8.68 The applicant has sought to put in place security measures to reduce the likelihood of vandalism and theft occurring; however on a large remote site it will be difficult to wholly exclude those with determined criminal intent. In essence the applicant's case is that the proposed development is necessary in order to safeguard the future of the listed buildings and that if the applications were to be refused there is not an alternative identified approach. The future of the listed building is a material consideration, but it is one of several important considerations for the Council, not the single overriding issue.
- 8.69 The primary responsibility for the condition and state of a listed building is the owner. Historic Environment Scotland note in their guidance "as with any asset, the owners of listed buildings are responsible for repairing and maintaining their property. However, planning authorities have powers available to them pursuant to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 which they can use to address listed buildings in a poor condition in their area. Planning authorities can carry out any urgent work needed to preserve an unoccupied listed building, or unused parts of a listed building, as long as they give the owner notice first. Planning authorities can claim the cost of urgent work back from the owner.

9 RECOMMENDATION

- 9.1 That planning permission 17/00980/PPP (Application A) for residential development, up to 280 dwellinghouses, and commercial development on land adjoining the former hospital at Rosslynlee be refused for the following reasons:

1. The development by reason of; the number of dwellings proposed and the consequent trip generation, the remote location of the site and the narrow roads of the local highway network would lead to conditions prejudicial to highway and pedestrian safety contrary to paragraph 187 of Scottish Planning Policy.
2. The application does not make the necessary provision towards essential infrastructure (developer contributions) to mitigate the impact of the proposed development and is therefore contrary to policies IMP1 and IMP2 of the Midlothian Local Development Plan 2017.
3. The applicant has not demonstrated to the satisfaction of the local planning authority that the proposed development includes the required affordable housing provision (25% of units) either by the delivery of onsite provision, a compensatory commuted sum towards off site provision or by an alternative methodology and as such the proposed development is contrary to policy DEV3 of the Midlothian Local Development Plan 2017.

9.2 That planning permission 17/01001/DPP (Application B) for the conversion and alteration of the former hospital and associated buildings to 72 dwellings and the erection of 24 new dwellinghouses at the former hospital at Rosslynlee be refused for the following reasons:

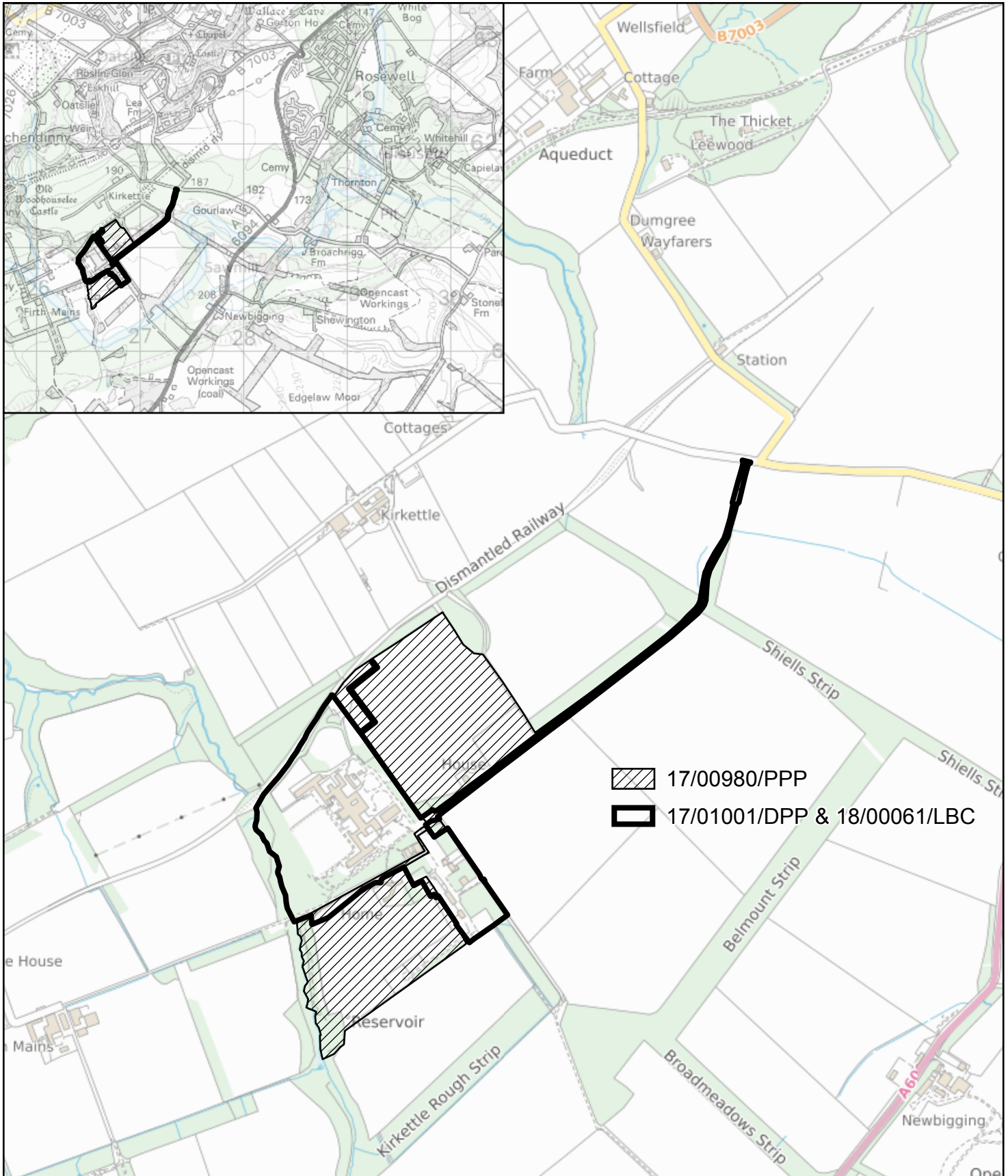
1. The application does not make the necessary provision towards essential infrastructure (developer contributions) to mitigate the impact of the proposed development and is therefore contrary to policies IMP1 and IMP2 of the Midlothian Local Development Plan 2017.
2. The applicant has not demonstrated to the satisfaction of the local planning authority that the proposed development includes the required affordable housing provision (25% of units) either by the delivery of onsite provision, a compensatory commuted sum towards off site provision or by an alternative methodology and as such the proposed development is contrary to policy DEV3 of the Midlothian Local Development Plan 2017

9.3 That listed building consent 18/00061/LBC (Application C) for the conversion and alteration of the former hospital and associated buildings to 69 dwellings and the demolition of outbuildings at the former hospital at Rosslynlee be refused for the following reason:

1. As there is not an acceptable scheme for the conversion of the listed building which makes the necessary provision towards infrastructure and affordable housing provision it is not appropriate to grant listed building consent and the scheme is thereby contrary to policy ENV22.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 8 November 2018
Application No: 17/00980/PPP, 17/01001/DPP and 18/00061/LBC
(Available online)
Applicant: Oakridge Group
Agent: Geddes Consulting
Validation Date: 13 December 2017, 10 January 2018 and
1 February 2018
Contact Person: Matthew Atkins
Tel No: 0131 271 3346
Background Papers:



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

Detailed planning application and listed building consent to convert former hospital and associated buildings to 72 dwellings together with 24 new build dwellings.

Planning permission in principle for up to 280 dwellings"

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