

Notice of meeting and agenda



Planning Committee

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

Date: Tuesday, 14 November 2017

Time: 14:00

John Blair
Director, Resources

Contact:

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Further Information:

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

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

1 Welcome, Introductions and Apologies

2 Order of Business

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

3 Declarations of Interest

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

4 Minutes of Previous Meeting

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| 4.1 | Minutes of Meeting held on 3 October 2017 – For Approval | 5 - 12 |
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5 Public Reports

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| 5.1 | Town Centers – Presentation by Head of Communities and Economy. | |
| 5.2 | Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage – Report by Head of Communities and Economy. | 13 - 18 |
| 5.3 | Appeals and Local Review Body Decisions - Report by Head of Communities and Economy. | 19 - 20 |
| | Pre-Application Reports by Head of Communities and Economy. | |
| 5.4 | Proposed Residential Development with Associated Access Roads, Open Space and Sustainable Urban Drainage (SUDS) at Site Hs19 Land West of Rosslyn Bowling Club, Roslin 17/00693/PAC. | 21 - 26 |
| 5.5 | Proposed Residential Development, Primary School, Associated Roads, Landscaping, Open Space, Footpath/Cycle Ways, Sustainable Urban Drainage (SUDS) and Infrastructure at Land South East Of Auchendinny, The Brae, Auchendinny 17/00606/PAC. | 27 - 32 |
| | Applications for Planning Permission Considered for the First Time – Reports by Head of Communities and Economy. | |
| 5.6 | Application for Planning Permission for the Erection of 554 Residential Units; Formation of Access Roads, Sustainable Urban Drainage Systems and Associated Works at Land between Deanburn and Mauricewood Road, Penicuik 17/00068/DPP. | 33 - 78 |

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| 5.7 | Application for Planning Permission for the Erection of 34 Dwellinghouses; Formation of Access Road, Car Parking, SUDS Features and Associated Works on Land South West Of Torcraik Farm, North Middleton, Gorebridge 17/00224/DPP. | 79 - 108 |
| 5.8 | Application for Planning Permission in Principle for the Erection of Retail Unit at Soutra Mains Farm, Blackshiels, Fala, Pathhead 17/00641/PPP. | 109 - 124 |

6 Private Reports

No private reports to be discussed at this meeting.

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

Minute of Meeting



Planning Committee

Date	Time	Venue
3 October 2017	2.00 pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Cassidy	Councillor Curran
Councillor Hackett	Councillor Hardie
Councillor Johnstone	Councillor Lay-Douglas
Councillor McCall	Councillor Milligan
Councillor Montgomery	Councillor Muirhead
Councillor Munro	Councillor Parry
Councillor Russell	Councillor Smaill
Councillor Winchester	

1. Apologies

Apologies received from Councillor Baird.

2. Order of Business

The order of business was confirmed as outlined in the agenda that had been circulated with the addition of a late Appeal Decision relevant to Item 5.2.

3. Declarations of interest

Councillor Hackett declared an interest in agenda item 5.6 - Application for Planning Permission for the Erection of 20 Flatted Dwellings, Formation of Car Parking and Associated Works at Land at the Former Mayfield Inn, Bogwood Road, Mayfield (17/00170/DPP) – on the grounds that he sat on the Board of the Social Housing Association who would be the owner of the property and was advised by the Councillor's Solicitor that as he has now resigned it is not a conflict, however Councillor Hackett advised the Committee that he is not comfortable being part of this discussion and would leave when this item was discussed.

4. Minutes of Previous Meetings

The Minutes of Meeting of 22 August 2017 were submitted and approved as a correct record.

5. Reports

Agenda No	Report Title	Presented by:
5.1	Major Developments: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf
Executive Summary of Report		
There was submitted report, 26 September 2017, by the Head of Communities and Economy, updating the Committee on 'major' planning applications, formal pre-application consultations by prospective applicants and the expected programme of applications due for reporting.		
Summary of Discussion		
The Planning Manager presented the Report to the Committee and responded to a question raised by Councillor Hackett with regards to identifying updates on the report.		
Decision		
(a) The Committee noted the major planning application proposals which are likely to be considered by the Committee in 2017 and 2018 and the updates for each of the applications.		

- (b) It was agreed The Planning Manager would adjust the Report to identify any new applications added to this report.

Action

The Planning Manager

Agenda No	Report Title	Presented by:
5.2	Appeal and Local Review Body Decisions	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 26 September 2017, by the Head of Communities and Economy, detailing the notices of review determined by the Local Review Body (LRB) at its meeting in August 2017.</p> <p>The Committee were advised that a late appeal decision notice from the Scottish Government, Planning and Environmental Appeals Division had been received after the Agenda was published and this was circulated to Members prior to the meeting:-</p> <ul style="list-style-type: none"> dated 2 October 2017, granting an appeal by Grange Estates (Newbattle) Ltd against the failure of Midlothian Council to give a decision for planning permission for the proposed development at the Land north of Dalhousie Dairy, Bonnyrigg (16/007/12/PPP) 		
Summary of Discussion		
<p>The Committee were advised by the Planning Manager that the Reporter issued his notice of his intention to grant planning permission subject to conditions and subject to Midlothian Council and the Applicant concluding a legal agreement to secure Developer contributions.</p> <p>Thereafter the Planning Manager and the Head of Communities and Economy responded to questions and comments raised by the Committee which included:</p> <ul style="list-style-type: none"> The proposed number of houses with no provision for a Primary School; Proposed access to the housing estate. Issues surrounding the availability of Health facilities within this area. Timescale regarding the Section75 agreement. 		
Decision		
<p>(a) The Committee noted the decisions made by the Local Review Body at its meeting in August 2017.</p> <p>(b) The Committee noted the outcome of the Appeal determined by the Scottish Ministers.</p>		
Action		
Head of Communities and Economy		

Agenda No	Report Title	Presented by:
5.3	Proposal of Application for a mixed use Development at land bounded by A7, Stobhill Road and Pentland Avenue, Gorebridge (17/00663/PAC)	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 22 September 2017, by the Head of Communities and Economy advising that a pre application consultation submitted regarding a proposed mixed use development comprising residential and commercial uses at land bounded by the A7, Stobhill Road and Pentland Avenue, Gorebridge (17/00663/PAC).</p> <p>The report advised that the pre application consultation was being reported to Committee to enable Members to express a provisional view on the proposed major development. The report outlined the proposal, identified the key development plan policies and material considerations and stated a provisional without prejudice planning view regarding the principle of development.</p>		
Summary of Discussion		
<p>The Committee, having heard from the Planning Manager, acknowledged that as these pre-application consultations can often be very vague and this could raise concerns in the Community.</p>		
Decision		
<p>(a) To note the provisional planning position set out in the report.</p> <p>(b) To note the comments made by Members.</p> <p>(c) To note that the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.</p>		
Head of Communities and Economy		

Agenda No	Report Title	Presented by:
5.4	Pre - application report regarding mixed use Development including classes 1, 2, 3, 4, 9 and 10 with associated access, car parking, open space and landscaping at land to the north of Hardengreen House, Dalkeith (17/00670/pac)	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 26 September 2017, by the Head of Communities and Economy advising that a pre application consultation had been</p>		

submitted regarding a mixed use development including classes 1, 2, 3, 4, 9 and 10 with associated access, car parking, open space and landscaping at land to the north of Hardengreen House, Dalkeith (17/00670/pac).

The report advised that the pre-application consultation is reported to Committee to enable Members to express a provisional view on the proposed major development. The report outlined the proposal, identified the key development plan policies and material considerations and stated a provisional without prejudice planning view regarding the principle of development.

Summary of Discussion

Having heard from the Planning Manager, the Committee in discussing the proposals questioned how this relates to the Council's policy in encouraging this sort of development in Town Centres; the additional traffic in this area which at present has no restrictions; the proximity of the car park to Eskbank Station and ensuring this development has adequate car parking.

Decision

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

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.5	Application for Planning Permission (17/00219/DPP) for the Partial Change of Use of Land and Buildings for Wedding Events (Part Retrospective) at 32A Damhead, Lothianburn.	Peter Arnsdorf
Executive Summary of Report		
With reference to paragraph 5.8 of the Minutes of 22 August 2017 to allow further discussion to take place regarding potential conditions, there was re-submitted report, dated 26 September 2017, by the Head of Communities and Economy concerning the above application.		
Summary of Discussion		
Having heard from the Planning Manager, who provided Members with an update on events since the August meeting, the Committee acknowledged that the application continued to generate considerable comments both in support of, and opposition to, the proposals.		

After discussion Councillor Parry moved approval of this application with the conditions as set out on pages 34 – 36. This was seconded by Councillor Russell. As an amendment Councillor Smaill moved in similar terms but with a change to condition 6 to restrict the number to 60; this was seconded by Councillor Winchester.

After a vote being taken 6 members voted for the amendment and 9 for the motion which accordingly became the decision of the Committee.

Decision

The Committee approved the application with the conditions 1 - 20 set out in 3.12 within the report.

Action

Head of Communities and Economy

With reference to Agenda item 3 Councillor Hackett, having declared an interest in 5.6 below, left the meeting at 14.44 pm, taking no part in the discussion.

Agenda No	Report Title	Presented by:
5.6	Application for Planning Permission (17/00170/DPP) for the erection of 20 flatted dwellings, formation of car parking and associated works at land at the former Mayfield Inn, Bogwood Road, Mayfield.	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 26 September 2017, by the Head of Communities and Economy advising that an application had been submitted for the erection of 20 flatted dwellings on the site of the former Mayfield Inn, Bogwood Road, Mayfield.</p> <p>The report advises that there had been two representations and consultation responses from the Council's Policy and Road Safety Manager, the Council's Education Resource Manager and the Coal Authority. The relevant development plan policies are RP20, HOUS3, HOUS4, SHOP1, IMP1, IMP2 and DP2 of the Midlothian Local Plan. Policies DEV2, DEV3, DEV6, TCR1, IMP1 and IMP2 of the Proposed Midlothian Local Development Plan 2014 (MLDP) are material considerations. The recommendation is to grant planning permission subject to conditions and securing developer contributions.</p>		
Summary of Discussion		
<p>Having heard from the Planning Manager, Councillor Smaill commented on the objection submitted by Mayfield Community Council to the application. The Chair moved to support this application noting the comments made by Mayfield Community Council.</p>		

Decision
The Committee approved the application subject to a legal agreement to secure contributions and with the conditions as set out in the recommendations in 9.1 of the report.
Action
Head of Communities and Economy

The meeting terminated at 14.50 pm.



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

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

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

2 BACKGROUND

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

3 DEVELOPMENT PLAN UPDATE

- 3.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Plan (MLP), adopted in December 2008. The Proposed Midlothian Local Development Plan 2014 (MLDP) has been subject to an examination by the Scottish Ministers and was reported to the Council at its meeting of 26 September 2017 with a timetable to adopt the plan by the end of 2017. The Council approved the modifications

proposed by the Scottish Government Reporter (with the exception of one proposed technical modification in relation to the Midlothian Science Zone) and referred the plan back to Scottish Ministers who have confirmed they are not going to intervene in the adoption of the plan. At the time of drafting this Committee report it is scheduled to report the MLDP to Council at its meeting of 7 November 2017 for adoption. As this plan is at a very advanced stage of preparation and represents the settled view of the Council it is a material consideration of significant weight in the assessment of planning applications. If the Council adopts the MLDP its policies shall supersede those in the MLP and will form the basis of the assessment of any future planning application.

4 RECOMMENDATION

- 4.1 The Committee is recommended to note the major planning application proposals which are likely to be considered by the Committee in 2018 and the updates for each of the applications.

Ian Johnson
Head of Communities and Economy

Date: 7 November 2017
Contact Person: Peter Arnsdorf, Planning Manager
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Background Papers: Planning Committee Report entitled 'Major Developments: Applications currently being assessed and other developments at Pre-Application Consultation stage' 8 June 2010.

APPENDIX A

MAJOR APPLICATIONS CURRENTLY BEING ASSESSED

Ref	Location	Proposal	Expected date of reporting to Committee	Comment
14/00910/PPP	Land at Caudcoats, Dalkeith	Application for Planning Permission in Principle for residential development, erection of a primary school and mixed use developments.	January 2018	Pre-Application Consultation (14/00553/PAC) carried out by the applicants in October/November 2014. The site is identified for an indicative 350 residential units as a phase 1 with longer term safeguarding for a phase 2.
16/00134/DPP	Land north of Oak Place, Mayfield	Erection of 169 dwellinghouses, 30 flatted dwellings and associated works	January 2018	Pre-Application Consultation (13/00522/PAC) carried out by the applicants in August/September 2013. This application has been significantly amended during its assessment and as such a new planning application is required. In the absence of an amended application being submitted the original scheme will be reported to Committee
16/00861/DPP	Land west of Seafeld Road, Bilston	Erection of 176 dwellinghouses, 36 flatted dwellings and associated works	February 2018	Pre-Application Consultation (15/00936/PAC) carried out by the applicants in November and December 2015 and January 2016.
16/00893/PPP	Land At Salter's Park, Dalkeith	Application for Planning Permission in Principle for residential development, employment uses and associated works	January 2018	Pre-Application Consultation (14/00833/PAC) carried out by the applicants in November and December 2014 and January 2015.
17/00068/DPP	Land Between Deanburn and Mauricewood Road Penicuik	Erection of 544 residential units; formation of access roads, SUDs features and associated works	November 2017	Pre-Application Consultation (15/00987/PAC) carried out by the applicants in February/March 2016. This application will supersede applications 05/00784/FUL, 06/00474/OUT and 06/00475/FUL which are for residential development across the site. The applicant will withdraw these applications as and when permission may be granted for this application. This application is reported to this meeting of the Committee.

17/00273/S42	Land between Loanhead Road and Edgefield Industrial Estate Loanhead	Section 42 application to amend condition 1 of planning permission in principle 09/00354/OUT – this would secure the delivery of 92 dwellinghouses	January 2018	Condition 1 of planning permission 09/00354/OUT relates to the time period to implement the permission and to submit subsequent Matters Specified in Conditions (MSC) applications to seek approval for the details of the scheme.
17/00298/PPP	Land north of Dalhousie Dairy Bonnyrigg	Application for Planning Permission in Principle for residential development. The site is identified for an indicative 300 residential units.	Being held in abeyance because of an appeal decision to grant planning permission for residential development on the site.	This application replaces application 16/00800/S42 Pre-Application Consultation (16/00157/PAC and 16/00161/PAC) carried out by the applicants in March/April 2016. This application is a repeat application of 16/00712/PPP, which is subject to a resolution from a Scottish Government Reporter to grant planning permission subject the conclusion of a legal agreement to secure developer contributions. The legal agreement discussion is at an advanced stage. Once concluded the current application is likely to be withdrawn.
17/00409/DPP	Land at Wellington Farm, Old Craighall Road, Millerhill	Erection of 116 residential units; formation of access roads, SUDs features and associated works	February 2018	Pre-Application Consultation (14/00415/PAC) carried out by the applicants in June - September 2014.
17/00408/DPP	Land at Old Craighall Road, Millerhill	Erection of 125 residential units; formation of access roads, SUDs features and associated works	January 2018	Pre-Application Consultation (14/00415/PAC) carried out by the applicants in June - September 2014.
17/00435/DPP	Land at Newbyres, River Gore Road, Gorebridge	Erection of 125 residential units; formation of access roads, SUDs features and associated works	January 2018	Pre-Application Consultation (13/00609/PAC) carried out by the applicants in August - November 2013.
17/00650/S42 <i>New addition to the table</i>	Land bounded By A720 Old Dalkeith Road and The Wisp Millerhill, Dalkeith	Section 42 application to amend condition 4 of planning permission 02/00660/OUT - this seeks to change the means by which the Master Plan and Design Guide for Shawfair can be amended	February 2018	Section 42 applications do not require to go through the Pre-Application Consultation process. This application would enable changes to Master Plan and Design Guide (and related addenda) to take place without the requirement of a planning application as currently set by condition 4.
17/00773/DPP <i>New addition to the table</i>	Easter Bush Campus, Bush Farm Road, Roslin	Installation of sustainable urban drainage system (SUDS) and foul water drainage system	February 2018	Pre-Application Consultation (13/00339/PAC) carried out by the applicants in May - August 2017.

APPENDIX B

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

Ref	Location	Proposal	Date of receipt of PAC	Earliest date for receipt of planning application and current position
15/00774/PAC	Site Hs14, Rosewell North, Rosewell	Residential development The site is identified for an indicative 60 residential units.	22 September 2015	15/12/15 - no application yet received. A pre-application report was reported to the November 2015 meeting of the Committee.
16/00266/PAC	Land At Rosslynlee Hospital, Roslin (Site AHs1)	Residential development The site is identified as an additional housing opportunity with an indicative 120 - 300 residential units.	08 April 2016	04/07/16 - no application yet received. A pre-application report was reported to the May 2016 meeting of the Committee.
16/00267/PAC	Land At Rosslynlee Hospital, Roslin (Site AHs1)	Residential development - change of use, alterations, extensions and partial demolition of the former hospital, including new build development. The site is identified as an additional housing opportunity with an indicative 120 – 300 units.	08 April 2016	04/07/16 - no application yet received. A pre-application report was reported to the May 2016 meeting of the Committee.
16/00830/PAC	Land east of junction with Greenhall Road Barleyknowe Road Gorebridge	Residential development This site is not allocated for housing	24 November 2016	10/02/17 - no application yet received. A pre-application report was reported to the January 2017 meeting of the Committee.
17/00296/PAC	Land to the east of Lawfield Road and to the north of Ash Grove, Mayfield	Residential development This site is not allocated for housing	19 April 2017	06/07/17 - no application yet received. A pre-application report was reported to the June 2017 meeting of the Committee.
17/00367/PAC	Site Hs12 Hopefield Farm 2 Bonnyrigg	Residential development The site is identified for an indicative 375 residential units.	9 May 2017	02/08/17 - no application yet received. A pre-application report was reported to the August 2017 meeting of the Committee.

17/00402/PAC	Site Hs11 Dalhousie South Bonnyrigg	Residential development The site is identified for an indicative 360 residential units.	19 May 2017	12/08/17 - no application yet received. A pre-application report was reported to the August 2017 meeting of the Committee.
17/00565/PAC	Land south west of Upper Dalhousie Sand Quarry, Rosewell	Extension to existing sand quarry	13 July 2017	06/10/17 - no application yet received. A pre-application report was reported to the August 2017 meeting of the Committee.
17/00606/PAC	Land south east of Auchendinny, The Brae, Auchendinny (Site Hs20)	Residential development The site is identified for an indicative 350 residential units.	27 July 2017	20/10/17 - no application yet received. A pre-application report is reported to this meeting of the Committee.
17/00663/PAC	Land bounded by A7, Stobhill Road and Pentland Avenue, Gorebridge	Mixed use development comprising residential and commercial land uses	16 August 2017	09/11/17 - A pre-application report was reported to the October 2017 meeting of the Committee.
17/00670/PAC	Land to the north of Hardengreen House, Dalkeith	Mixed use development including Class 1 (Shops); Class 2 (Financial, Professional and Other Services); Class 3 (Food and Drink); Class 4 (Business); Class 9 (Houses); and Class 10 (Non-Residential Institutions).	22 August 2017	15/11/17 - A pre-application report was reported to the October 2017 meeting of the Committee.
17/00693/PAC	Land 65M west of Rosslyn Bowling Club, Main Street, Roslin (Site Hs19)	Residential development The site forms part of (approximately 25%) a larger development site identified for an indicative 260 residential units.	30 August 2017	23/11/17 - A pre-application report is reported to this meeting of the Committee.
17/00721/PAC	Land west of Burnbrae Terrace Bonnyrigg	Mixed use development including offices, stores, garage and workshops, enterprise business units, parking and ancillary facilities	12 September 2017	06/12/17 -
17/00859/PAC <i>New addition to the table</i>	Shawfair Site F Monktonhall Colliery Road, Dalkeith	Use of land for the storage of soil (top soil and sub soil)	27 October 2017	12/01/18



APPEALS AND LOCAL REVIEW BODY DECISIONS

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 This report informs the Committee of notices of reviews determined by the Local Review Body (LRB) at its meeting in October 2017. There are no Scottish Government appeal decisions to report to the Committee.

2 BACKGROUND

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

3 PREVIOUS REVIEWS DETERMINED BY THE LRB

- 3.1 At its meeting on 10 October 2017 the LRB made the following decisions:

	Application Reference	Site Address	Proposed Development	LRB Decision
1	17/00292/DPP	13 Burnbrae Crescent, Bonnyrigg	Extension to dwellinghouse	Permission refused at LRB meeting of 10.10.2017
2	17/00420/DPP	Land to the rear of 180 Main Street, Pathhead	Erection of garage	Permission refused at LRB meeting of 10.10.2017

4 RECOMMENDATION

- 4.1 The Committee is recommended to note the decisions made by the Local Review Body at its meeting in October 2017.

Ian Johnson
Head of Communities and Economy

Date: 7 November 2017
Contact Person: Peter Arnsdorf, Planning Manager
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Background Papers: LRB procedures agreed on the 13 June 2017.



PRE - APPLICATION REPORT REGARDING RESIDENTIAL DEVELOPMENT WITH ASSOCIATED ACCESS ROADS, OPEN SPACE AND SUSTAINABLE URBAN DRAINAGE (SUDS) AT SITE Hs19 LAND 65M WEST OF ROSSLYN BOWLING CLUB, MAIN STREET, ROSLIN (17/00693/PAC)

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre-application consultation submitted regarding a proposed residential development with associated access roads, open space and sustainable urban drainage (SUDs) at land 65m west of Rosslyn Bowling Club, Main Street, Roslin. The land comprises part of site Hs19 in the Midlothian Local Development Plan (MLDP).
- 1.2 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre-application consultation for residential development with associated access roads, open space and SUDs at land 65m west of Rosslyn Bowling Club, Main Street, Roslin was submitted on 30 August 2017.
- 2.3 As part of the pre-application consultation, a public exhibition took place at Rosslyn Bowling Club on Tuesday 3 October 2017, from 3-7pm. On the conclusion of the public event the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the

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

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

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The 3.62 ha site is located on the west side of the B7003/Main Street as you leave Roslin heading north to Bilston. On the other side of the road to the east are the Rosslyn Bowling Club and the Roslin Institute. To the north, across a public footpath, is woodland straddling the Kill Burn. To the south of the site, across a public path along the disused railway line, is housing (Rosabelle Road and Marmion Avenue). To the west of the site is agricultural land.
- 3.3 No further details of the proposal have been submitted with the pre-application consultation.
- 3.4 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Plan (MLP), adopted in December 2008. The Proposed Midlothian Local Development Plan 2014 (MLDP) has been subject to an examination by the Scottish Ministers and was reported to the Council at its meeting of 26 September 2017 with a timetable to adopt the plan by the end of 2017. The Council approved the modifications proposed by the Scottish Government Reporter (with the exception of one proposed technical modification in relation to the Midlothian Science Zone) and referred the plan back to Scottish Ministers who have confirmed they are not going to intervene in the adoption of the plan. At the time of drafting this Committee report it is scheduled to report the MLDP to Council at its meeting of 7 November 2017 for adoption. As this plan is at a very advanced stage of preparation and represents the settled view of the Council it is a material consideration of significant weight. If the Council adopts the MLDP its policies shall supersede those in the MLP and will form the basis of the assessment of any future planning application.
- 3.5 The site is currently in the green belt, however the MLDP identifies the site as being the eastern third of a larger housing allocation, site Hs19 identified therein for 260 dwellings where there is a presumption in favour of residential development.
- 3.6 Development considerations identified in the MLDP relevant to this part of site Hs19 include:

- the need to develop/expand the green network in the area;
- a hedge with trees to be included along the roadside boundary;
- an avenue through the site shall include swales, trees and a path;
- the houses facing Main Street would benefit from the use of materials such as stone and slate and the use of traditional proportions in order to form a link to the existing properties in Main Street; and
- the development will require additional capacity to be provided at Roslin Primary School and for secondary education in the A701 corridor, for which developer contributions will be sought.

3.7 Road access, affordable housing and developer contributions are also significant considerations.

3.8 If an application is submitted after the adoption of the MLDP there will be a presumption in favour of residential development subject to securing developer contributions towards infrastructure including education provision and affordable housing.

4 PROCEDURES

4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.

4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.

4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

5 RECOMMENDATION

5.1 It is recommended that the Committee notes:

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

Ian Johnson
Head of Communities and Economy

Date: 7 November 2017
Contact Person: Brian Forsyth, Planning Officer
Tel No: 0131 271 3473



**Education, Economy
& Communities**
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Land 65 m West of Rosslyn Bowling Club, Main Street ,Roslin

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File No. 17/00693/PAC

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PRE - APPLICATION REPORT REGARDING RESIDENTIAL DEVELOPMENT, PRIMARY SCHOOL, ASSOCIATED ROADS, LANDSCAPING, OPEN SPACE, FOOTWAYS/CYCLE WAYS, SUSTAINABLE URBAN DRAINAGE (SUDS) AND INFRASTRUCTURE AT LAND SOUTH EAST OF AUCHENDINNY, THE BRAE, AUCHENDINNY (17/00606/PAC)

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre application consultation submitted regarding proposed residential development, primary school, associated roads, landscaping, open space, footpath/cycle ways, sustainable urban drainage (SUDs) and infrastructure at land south east of Auchendinny, The Brae, Auchendinny. This site is identified as site Hs20 in the Midlothian Local Development Plan (MLDP).
- 1.2 The pre application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre application consultation for proposed residential development, primary school, associated roads, landscaping, open space, footpath/cycle ways, sustainable urban drainage (SUDs) and infrastructure at land south east of Auchendinny, The Brae, Auchendinny was submitted on 27 July 2017.
- 2.3 As part of the pre application consultation, a two day public consultation event was held on Friday 20 October (2pm-8pm) and Saturday 21 October (11am-4pm) at the Glencorse Centre. On the

conclusion of the public event the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

- 2.4 Copies of the pre application notices have been sent by the applicant to the local elected members, to the Penicuik and District Community Council, the Glencorse Association, the Head Teacher of Glencorse Primary School and the neighbouring community councils; Roslin and Bilston and Rosewell and District.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The proposed development is situated, on agricultural land and a former the former golf driving range, to the immediate north, east and south of Auchendinny. The land comprises approximately 31.92 hectares.
- 3.3 No indicative masterplan has been submitted with the application.
- 3.4 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Plan (MLP), adopted in December 2008. The Proposed Midlothian Local Development Plan 2014 (MLDP) has been subject to an examination by the Scottish Ministers and was reported to the Council at its meeting of 26 September 2017 with a timetable to adopt the plan by the end of 2017. The Council approved the modifications proposed by the Scottish Government Reporter (with the exception of one proposed technical modification in relation to the Midlothian Science Zone) and referred the plan back to Scottish Ministers who have confirmed they are not going to intervene in the adoption of the plan. At the time of drafting this Committee report it is scheduled to report the MLDP to Council at its meeting of 7 November 2017 for adoption. As this plan is at a very advanced stage of preparation and represents the settled view of the Council it is a material consideration of significant weight. If the Council adopts the MLDP its policies shall supersede those in the MLP and will form the basis of the assessment of any future planning application.
- 3.5 The site is currently in the countryside and identified as prime agricultural land, however the MLDP identifies the central and northern part of the site as being an allocated housing site, Hs20 identified for 350 dwellings and a primary school. There is a presumption in favour of residential development and the provision of a school on this part of

the site. The southern part of the site is identified as countryside, prime agricultural land and a protected river valley where there is protection against inappropriate development including residential land uses. A small piece of the site on its eastern boundary is also identified as countryside, prime agricultural land, protected river valley and an important nature conservation site where there is protection against inappropriate development including residential land uses.

- 3.6 Development considerations identified in the MLDP relevant to housing/school part of site Hs20 include:
- provision of a new primary school, sited to relate to the new development and the wider catchment area;
 - the impact of the new development on Auchendinny and on the hamlet of Woodhouselee;
 - the need to develop/expand the green network in the area including links with the existing footpath in the middle of Auchendinny;
 - development to be restricted to the MLDP site boundary but land to the south can be utilised as open space;
 - a requirement for substantial boundary planting to minimise the impact on the North Esk Valley;
 - inclusion of appropriate links as a contribution to the green networks in the area;
 - retention and enhancement of vegetation along the boundaries including around the former driving range in the north of the site; and
 - a pedestrian tree lined avenue linking Firth Crescent to and throughout the site.
- 3.7 Road access, affordable housing and developer contributions are also significant considerations.
- 3.8 If an application is submitted after the adoption of the MLDP there will be a presumption in favour of residential development and the provision of a school, in accordance with the provisions of the MLDP, subject to securing developer contributions towards infrastructure including education provision and affordable housing.

4. PROCEDURES

- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.

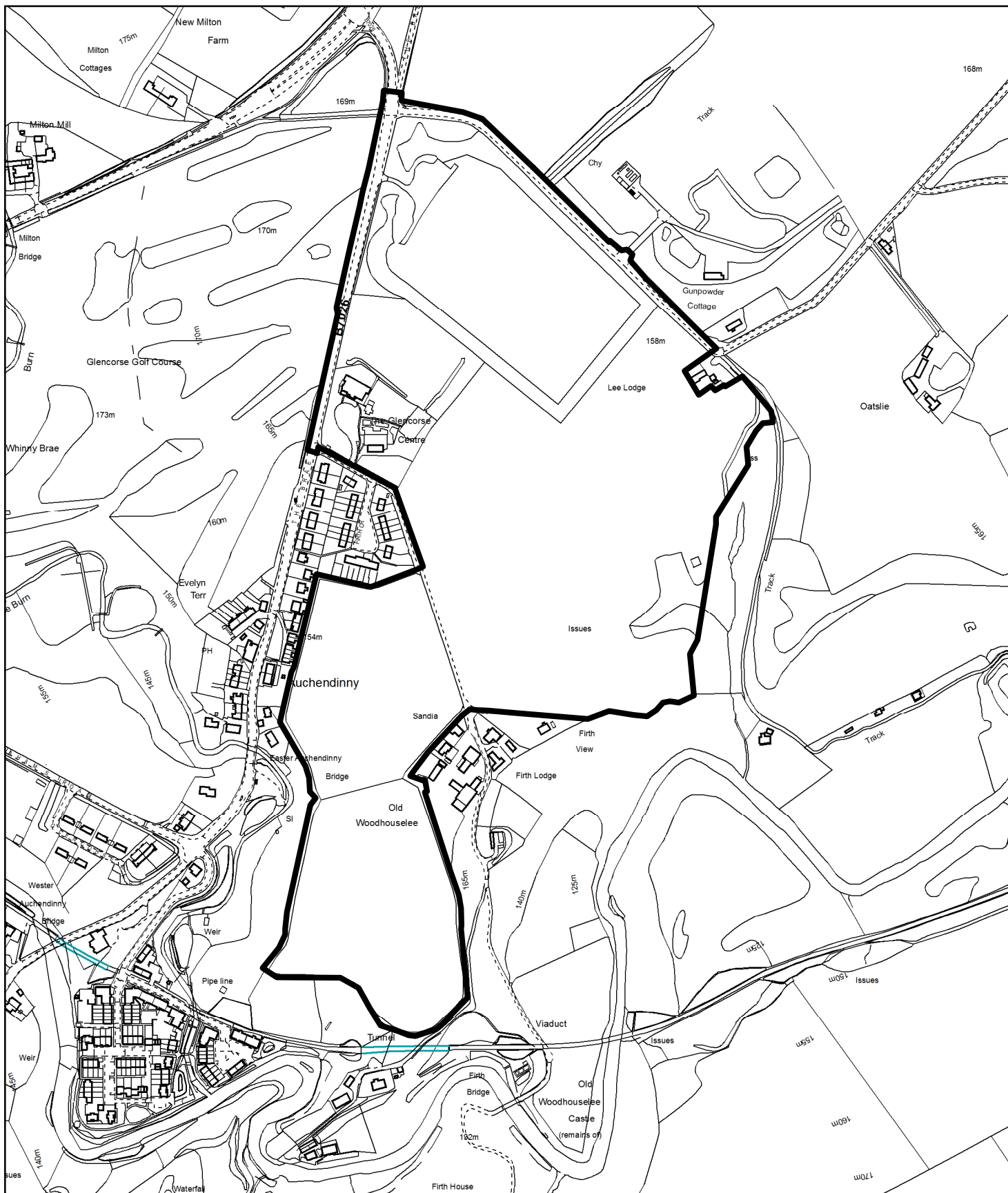
- 4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

5 RECOMMENDATION

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

Ian Johnson
Head of Communities and Economy

Date: 7 November 2017
Contact Person: Joyce Learmonth, Lead Officer Major Development and Enforcement
Tel No: 0131 271 3311



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**Land South East Of Auchendinny, The Brae, Auchendinny,
Penicuik**

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APPLICATION FOR PLANNING PERMISSION (17/00068/DPP) FOR THE ERECTION OF 544 RESIDENTIAL UNITS, FORMATION OF ACCESS ROADS, SUSTAINABLE URBAN DRAINAGE SYSTEMS AND ASSOCIATED WORKS AT LAND BETWEEN DEANBURN AND MAURICEWOOD ROAD, PENICUIK

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for detailed planning permission for the erection of 544 residential units; formation of access roads, sustainable urban drainage systems (SUDs) and associated works at land between Deanburn and Mauricewood Road, Penicuik. There has been 18 representations and consultation responses from the Scottish Environment Protection Agency (SEPA), Transport Scotland, The Coal Authority, Penicuik Community Council, the Council's Archaeological Advisor, the Council's Land Resources Manager, the Council's Housing Planning and Performance Manager, the Council's Policy and Roads Safety Manager, the Council's Head of Education and the Council's Environmental Health Manager.**
- 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 COMD1, RP5, RP7, RP13, RP14, RP20, RP24, RP27, RP28, RP31, RP32, HOUS1, HOUS4, NRG3, TRAN1, IMP1, IMP2 and DP2 of the Midlothian Local Plan 2008 (MLP). Policies STRAT1, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV22, ENV24, ENV25, TRANS1, TRAN2, TRAN5, IT1, NRG3, NRG4, NRG6, IMP1, IMP2 and IMP3 of the Proposed Midlothian Local Development Plan 2014 (MLDP) are significant material considerations**
- 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 approximately 53.7 hectares of agricultural land to the north of the built up area of Penicuik. The site is split into six development areas: Bellwood, Nursery, Mauricewood, Mauricewood**

North, Deanburn and Rullion Road (these development areas are referenced on the attached location plan).

- 2.2 The site is steeply sloping from west to east and from south to north with approximately a 40 metre variation in levels across the site. Although some parts of the site are relatively flat, the gradient of some parts make access and development challenging. There are open views from the higher parts of the site over Penicuik, and out towards East Lothian.
- 2.3 The site lies between two major roads, the A701 to the east connecting Edinburgh and Peebles, and the A702 to the west connecting Edinburgh with Biggar. There is existing woodland planting in and around the site.
- 2.4 There is an existing road network around the site, and also through it. Rullion Road runs past the south east boundary, whilst Mauricewood Road runs north to south through the site. There are also existing pedestrian and cycle networks around the site.
- 2.5 There are significant constraints within the site which are indicative of its former uses (mining and agriculture) including: (i) a number of small watercourses and ditches; (ii) the Talla Aqueduct which enters and crosses the site from the south western boundary; (iii) the Megget Reservoir Aqueduct which crosses the north eastern part of the site; and, (iv) a number of mine shafts.
- 2.6 A combination of agricultural land, areas of woodland and the grounds of the category B listed Belwood House bound the site to the north. A combination of established residential development and the Taylor Wimpey residential development, the subject of detailed planning permission 12/00745/DPP for 422 houses and 36 flats and which is currently under construction, bounds the site to the east and south. Agricultural fields bound the site to the west.
- 2.7 The existing housing to the south within the existing settlement of Penicuik comprises predominantly traditional post war, two-storey terraced and semi detached houses and share the same form and character - typically fronting onto streets with front and rear gardens and either fenced or hedged boundaries. The majority of the buildings are characterised by various forms of rendered wall finish.
- 2.8 The south eastern part of the site; known as Deanburn (site h26) was allocated in the 2003 Local Plan with an indicative capacity of 90 units. The remainder of the site; known as North West Penicuik (site h58) was allocated in the 2008 Midlothian Local Plan with an indicative capacity of 400 units. These allocations are confirmed and the number of units revised in the Proposed Midlothian Local Development Plan to 109 units on site h26 and 385 units on site h58.

3. PROPOSAL

- 3.1 The application is for detailed planning permission for the erection of 544 residential units; which includes 120 affordable units (22% of total number of units) and associated works on the site.
- 3.2 The proposal consists of:
- 389 detached houses;
 - 20 semidetached houses;
 - 39 terraced houses;
 - 44 cottage flats (four-in-a-block);
 - 52 flats in three-storey blocks.
- 3.3 The proposed housing mix comprises:
- 56 one bed units;
 - 30 two bed units;
 - 95 three bed units;
 - 307 four bed units;
 - 56 five bed units.
- 3.4 Through an amendment made to the current application the housing mix/product within both the Rullion Road and Nursery East areas have been revised from the originally submitted scheme. A total of 120 affordable units (an increase from the originally submitted 109 units) are currently proposed as follows:

Rullion Road layout comprising:

16 terraced houses;
28 cottage flats (four-in-a-block); and
24 flats in two three storey blocks

Total 68

The Nursery (East) layout comprising:

8 semi detached houses;
16 cottage flats (four-in-a-block); and
28 flats in two three storey blocks

Total 52

- 3.5 The proposed buildings have a mixture of pitched and hipped roofs. The following proposed buildings are three-storey in height: (i) ten semi-detached town houses at the entrance to the Mauricewood area; (ii) two flatted blocks in the Rullion Road affordable area; and, (iii) two flatted blocks in the nursery (east) affordable area. The remainder of the proposed buildings on the site are two-storey in height with conventional eaves and ridge height.

- 3.6 The development consists of 6 development areas with the following unit numbers in each area:

Development Area

	Private	Affordable	Total
1. Belwood	162	-	162
2. The Nursery	78	52	130
3. Mauricewood	100	-	100
4. Mauricewood North	10	-	10
5. Deanburn	74	-	74
6. Rullion Road	-	68	68
Total	424	120	544

- 3.7 An Area of Improved Quality (AIQ) is proposed in the following four development areas: (i) Belwood; (ii) Nursery Area; (iii) Mauricewood; and, (iv) Deanburn. A total of 143 plots are included within the AIQs; which equates to 27% of the total number of units in the development. A combination of the following finishing materials are proposed within the AIQs: wet dash render, painted timber weatherboarding to vertical gables, cast stone detailing, natural grey slate, red clay pantiles, painted metal railings to front boundaries.
- 3.8 Outwith the AIQ the following finishing materials are proposed in combinations: a mixture of white, cream, stone, ochre and terracotta coloured dry dash render, painted timber weatherboarding to vertical gables, cast stone and grey concrete tile. Ground paving materials have not been specified.
- 3.9 Surface water treatment is a combination of SUDS basins and swales.
- 3.10 The layout incorporates a combination of traditional roads and footpaths as well as mixer courts/shared surfaces. There are proposed footpaths and cycleways within the site that connect to the existing footpath network within the area, including in neighbouring existing residential developments.
- 3.11 The proposed affordable units comprise a mixture of flats, cottage flats (four-in-a-block), terraced houses and semi-detached houses.
- 3.12 The application is also accompanied by:
1. a design and access statement;
 2. an archaeological Assessment;
 3. a transportation assessment;
 4. a flood risk assessment report;
 5. an ecology/ assessment;

6. a tree survey;
7. a woodland management plan;
8. a topographical survey;
9. a feasibility study for the provision of community heating; and,
10. a letter from the applicant seeking to justify the number of units proposed on the site being higher than the indicative numbers in the development plan.

3.13 An indicative phasing plan has been submitted with the application. The proposed phasing is as follows: Phase 1 - Belwood; Phase 2 - The Nursery; Phase 3 – Mauricewood and Mauricewood North; Phase 4 - Deanburn; Phase 5 - Rullion Road. Phase 5 is mostly affordable homes. The applicant states that some of the phases can be progressed together and it is likely an early delivery of affordable housing will come forward within the Nursery site. The applicant also states that phasing of the affordable housing element will be discussed in more detail and agreed with the Council. The phasing plan is not comprehensive as the road infrastructure; including the link road connecting Rullion Road and Mauricewood Road and the structural landscaping is not delineated.

4 BACKGROUND

- 4.1 The applicant carried out a pre-application consultation (ref.15/00987/PAC) for residential development on the site, which was reported to Committee at its meeting of 1 March 2016.
- 4.2 An environmental impact assessment (EIA) screening opinion request, 16/00403/SCR, for a proposed residential development on the site was submitted 31 May 2016. The applicant was advised that an EIA was not required under schedule 2 of the EIA Regulations.
- 4.3 Outline planning application 06/00474/OUT for residential development at land north-west of Deanburn, Penicuik is being held in abeyance, subject to the assessment of the current application. It is anticipated that this legacy application will be withdrawn by the applicant if planning permission is granted on the site.
- 4.4 Planning application 06/00475/OUT for the erection of 300 dwellinghouses at land between Deanburn and Mauricewood Road, Penicuik is being held in abeyance, subject to the assessment of the current application. It is anticipated that this legacy application will be withdrawn by the applicant if planning permission is granted on the site.
- 4.5 In 2006 the Committee resolved to grant planning permission (05/00784/FUL) for the erection of 109 houses and associated works on the allocated site at Deanburn (h26) subject to a legal agreement to secure developer contributions and planning conditions. The legal agreement was not concluded and as such planning permission was not issued. If the applicant wished to conclude this application then it would be reported back to Committee prior to any formal decision being issued because of the time period since the original resolution. It is anticipated

that this legacy application will be withdrawn by the applicant if planning permission is granted on the site.

5 CONSULTATIONS

- 5.1 In an initial consultation response **The Scottish Environment Protection Agency (SEPA)** objected to the application on the following two grounds: (i) the development may place buildings and persons at flood risk, contrary to Scottish Planning Policy; and, (ii) lack of information on the provision of heat and power to the proposed development. In the case of the latter SEPA informs that the proposed development offers the potential for a new district heating network to be created within the site. Therefore in line with government policy to connect to and/or develop district heating networks the applicant is required to meet their heat demands through district heating networks subject to the outcome of a feasibility statement. SEPA noted that it is not apparent from the planning application, or supporting documents, how it is proposed to address the provision of district heating within the proposed development. This could be accomplished through onsite heat generation, co-location with an existing or proposed heat source, or an existing or proposed heat network off site.
- 5.2 Following the submission by the applicant of further information relating to the Flood Risk Assessment submitted with the application and a feasibility statement on district heating, SEPA withdrew their objection regarding provision of heat and power to the proposed development. In addition, following the resolution of a technical issue relating to the size of a culvert and the subsequent updating of the Flood Risk Assessment, SEPA withdrew their objection to the application on grounds of flood risk.
- 5.3 **Transport Scotland (TS)** do not object to the application subject to the imposition of a condition on a grant of planning permission requiring that no more than 25 residential units on the site are occupied until works associated with the upgrading of the A702 (T)/Mauricewood Road roundabout, as illustrated in Fairhurst's Drawing No.86607/1006 Revision K, has been completed to the satisfaction of the Planning Authority, after consultation with TS. They state that the reason for this condition is to ensure the standard of infrastructure modification proposed to the trunk road complies with the current standards, and that the safety and free flow of traffic on the trunk road is diminished. A contractor has been appointed by Taylor Wimpey to carry out the construction works on the roundabout and site construction works are imminent and scheduled to finish in June 2018.
- 5.4 The **Coal Authority** advises that the site falls within a defined Development High Risk Area and thus there is a potential risk posed to the development from past coal mining activity. Six recorded mine entries (shafts) are located within, or within 20m of the planning application boundary. Whilst the Coal Authority has some details relating to the locations and treatment of some of the shafts, the

locations and treatment details for others are largely unknown. They also inform that the site has also been subject to shallow coal mining and it likely to have been subject to historic underground unrecorded coal mining at shallow depth. The Coal Authority state that the applicant has provided confirmation that intrusive site investigations have been undertaken across the site and the site layout appears to have been informed by the presence and the commitment to locate investigate and treat (where necessary) the mine entries within the site. The Coal Authority has no objections to the planning application subject to the imposition on the grant of planning permission of a condition requiring: (i) the submission of a scheme of intrusive investigations for both the mine entries and shallow mine working; (ii) the undertaking of the scheme of intrusive investigations; (iii) the submission of a report of findings arising from the intrusive site investigations; (iv) the submission of a scheme of remedial works for approval and any remediation works to consolidate any shallow mine workings identified by the intrusive investigations; and, (v) the undertaking of the remedial works prior to commencement of the development.

5.5 **Penicuik Community Council** raises the following concerns:

- (i) Footpaths and cycleways within the site should link to existing rights of way and core paths which pass through or are adjacent to the application site;
- (ii) Developers allegedly illegally extinguished a right of way leading from Greenlaw Mains north to Belwood Road, linking up to a site to the rear of the Glencourse Barrack married quarters;
- (iii) There is a deficit of public parks in Penicuik suitable for use by dog walkers;
- (iv) Concern about the loss of a greenfield site and thus loss of an area suitable for childrens play and, dog walkers which is away from car traffic;
- (v) The woodland alongside Rullion Road is enjoyed by people as a safe recreation area and therefore should be preserved;
- (vi) Loss of habitat for wildlife;
- (vii) There should not be any additional housing development near the Old Roman Road/A702;
- (viii) The reason why the Council allowing the land comprising the application site to be included in the 2003 and 2008 Local Plans;
- (ix) The allocation of the site for housing is the only means by which the Council can increase its affordable housing stock;
- (x) The length of time it would take to build out the development;
- (xi) The architectural style of the Avant homes house types would be out of keeping with the character and appearance of the area;
- (xii) The traffic impact of the development considering the existing road infrastructure is not of an adequate standard to cope with the increase in use of it resulting from the development, thus raising road safety concerns, particular during periods of construction;
- (xiii) Disturbance to existing properties during periods of construction;

- (xiv) Insufficient capacity within existing schools to accommodate the school children arising from the development;
- (xv) Insufficient local amenities; including doctor surgeries and dental surgeries to cope with the increase in demand on them arising from the proposed development;
- (xvi) Loss of trees;
- (xvii) There is a need for a shop(s) /commercial use(s) as part of the overall development;
- (xviii) Concerns about flooding;
- (xix) Safety of SUDS provision;
- (xx) Too many houses are proposed on the site;
- (xxi) The proposed development is not sustainable;
- (xxii) Lighting of the development will be intrusive in the landscape;
- (xxiii) There will be no benefits to Penicuik arising from the development;
- (xxiv) There is insufficient public transport to serve the proposed development;
- (xxv) The neighbouring allotments require to be improved in terms of drainage, security and boundary fencing.
- (xxvi) Childcare facilities are required within the Deanburn, Cuikenbank area; and
- (xxvii) The data informing the traffic impact assessment accompanying the application is incomplete.

5.6 An initial archaeology desk based assessment and setting impact assessment was submitted as part of the planning application. This work identified the potential for archaeological remains within the site, particularly because the site lies in close proximity to the Inventory Battlefield of Rullion Glen. Accordingly, any groundbreaking works carried out as part of the development process are considered as having a potential archaeological impact and require a suitable mitigated response. As a result of this study the **Council's Archaeological Advisor** recommends a programme of archaeological works (Trial Trench Evaluation) be carried out in accordance with a written scheme of investigation which is to be submitted by the applicant in advance of the works commencing. The area to be investigated should be no less than 5% of the total site area and should target specific areas of the site identified by the Council's Archaeological Advisor in her consultation letter. The results of the initial investigations may indicate that further work is required to mitigate the impacts of the proposed development.

5.7 The Council's **Land Resource Manager** was consulted on the application and raises no objection. He does not advise of any rights of way or core paths being extinguished by the proposed development.

5.8 The Council's **Housing Planning and Performance Manager** made the following comments on the original proposed scheme of development for the affordable units within both the Rullion Road and Nursery areas: (1) It is welcomed that there will be an opportunity for construction work to commence on the western edge of the site in the Rullion Road affordable area at an early phase of the development; (2) The 'nursery' site of affordable is acceptable; and, (3) The proposed

blocks of flats with approximately 12 flats in each block totalling about 70 affordable units within the Rullion Road area is unsuitable for affordable housing as registered social landlords (including the Council) are keen to avoid large concentrations of all flats. Generally these are less popular with people on the Council waiting list. Areas where there are concentrations of flatted social housing tend to be our most difficult to let, hard to manage estates and with higher levels of deprivation and anti social behaviour. Therefore fewer tenement style flats are desired and instead more 'four in a block' type units would be preferred as they are more popular with tenants primarily because they have their own front door, access to a private garden, and from the outside they look and feel like they could be private housing.

5.9 Since making these initial comments the unit mix within the Rullion Road and Nursery (East) development areas have been revised by the applicant to address the Council's Housing Planning and Performance Manager's concerns. More 'four in a block' type units have been introduced and some flatted blocks removed. The Council's Housing Planning and Performance Manager confirms that he has no objection to the revised unit mix proposed for the Rullion Road and Nursery (East) development areas

5.10 The Council's **Policy and Road Safety Manager** raises no objection to the principle of the development, but recommends the following matters, in the different development areas, be secured by condition:

Belwood (Avant)

- (i) An additional 3m wide cycleway / footpath link should be provided in the vicinity of plot A75 linking the proposed internal road network with the main cycleway / footpath which will run along the northern boundary of the adjacent TW site. This will provide a convenient cycling / pedestrian link from the new development to the proposed commercial area which is to be built within the adjacent TW site.

Nursery (Affordable Housing)

- (ii) Secure, covered, lockable cycle parking facilities will be required for each dwelling which does not have access to a private rear garden. The buildings should have lockable doors with an automatic internal light and floor drainage. The internal cycle storage should take the form of standard 'Sheffield' type racks which can accommodate 2 cycles each. These facilities should be located in secure locations within the site which can be overlooked by the properties they are serving. As an alternative, individual cycle storage unit/locker could be provided to the rear of dwellings to provide the necessary secure storage area. Details of the location and design of the proposed cycle parking should be submitted for approval.

Mauricewood (CALA)

- (iii) A pedestrian/cyclist zebra crossing should be provided at the main pedestrian crossing point opposite plot 22. This should be formed as a humped zebra to provide traffic calming as well as a formal crossing point. This feature should be in place prior to 25% of the dwellings in this phase of the development being occupied.

Mauricewood North (CALA) and Rullion Road (Affordable Housing)

- (iv) Secure, covered, lockable cycle parking facilities will be required for each dwelling which does not have access to a private rear garden. This would appear to cover plots 1 - 73. The cycle storage buildings should have lockable doors with an automatic internal light and floor drainage. The internal cycle storage should take the form of standard 'Sheffield' type racks which can accommodate 2 cycles each. These facilities should be sited in secure locations within the site which can be overlooked by the properties they are serving. Given the large number of flats in this location it may be better to have two buildings rather than a single, large structure. Details of the location and design of the proposed cycle parking should be submitted for approval.
- (v) Details of the proposed bin storage arrangements for the flats should be submitted. Two units are identified on the layout however the locations shown would result in restricted visibility for drivers using the adjacent parking spaces and the storage buildings should be setback into the landscaped areas by a minimum of 2m to provide improved sightlines.

General

- (vi) Details of the proposed new junctions and pedestrian crossing points onto Mauricewood Road and Rullion Road (identified in the Transport Assessment) should be submitted for approval. The final detailed design of these junctions and crossings will require a stage 2 Road Safety Audit.
- (vii) Two sets of bus stops and shelters should be provided at suitable locations on the spine road. The southern set should be in the vicinity of the affordable housing with the second set on the Nursery frontage. Details of the design and location of the stops and shelters should be submitted for approval.
- (viii) Traffic calming features will be required along the spine road to produce vehicle speeds in line with the road speed limit. As a possible bus route raised 'flat top' tables at road junctions and road humps would be suitable features to use. It is envisaged that 3 flat top tables and 4 road humps would be adequate for

this length of road. Details of the proposed design should be submitted for approval.

- (ix) Technical details for the 3 SUDs basins will be required. This will include engineering sections through the basins showing the invert level, 1:200y flood level, side slopes and the level of any nearby new road/footpath. The details should also show the anticipated overland flow route from the basins during extreme flood conditions.
- (x) Given the increase in children attending the local primary and secondary schools, additional cycle and scooter storage facilities should be provided at Mauricewood, Cuiken, Cornbank and Sacred Heart primary schools and at Beeslack, Penicuik and St Davids secondary schools. Details of the number and type of additional cycle parking facilities should be discussed and agreed with the Council.
- (xi) Once development of the housing on the western side of Mauricewood Road has commenced a safe route to school (SRTS) will be required from the new housing to the local primary schools (Cuiken / Cornbank). The present footpath network in this area is not adequate to cope with the level and type of pedestrian/cycle traffic this development will generate and a new or improved route will be required to provide a safe and attractive route to encourage active travel from the new housing to the local schools in line with current Council guidance. A number of possible routes have been investigated and following consideration of the various constraints in the area, a deliverable route has been identified. This route is shown on the Council drawing No. SRTS 001. The improvements will require widening of the existing footway along a section of Rullion Road and the widening of the existing footpath from Rullion Road to Cuiken Terrace. A new zebra crossing will also be required at a suitable point on Cuiken Terrace to complete the route to the school. Technical details of the proposed route should be submitted for approval with the completed route being available prior to the first dwelling in this phase of the development being occupied.
- (xii) The applicant should enter into a Section75 legal agreement to provide a financial contribution to the Councils A701 relief road scheme. This scheme is designed to improve vehicle access to developments along the A701 corridor and improve walking, cycling and public transport services on the by-passed section of the A701.
- (xiii) As this development will require changes to the existing speed limit on roads surrounding this site the developer should enter into a Section75 agreement to provide a financial contribution to the costs involved in drafting and promoting these changes.

- (xiv) The proposed development would generate a need for additional cycle and scooter parking/ storage at the schools affected by the development. Therefore the developer should enter into a Section 75 agreement to provide a financial contribution to the costs involved in providing these additional parking/storage facilities.

5.11 The Council's **Head of Education** advise that the development would result in a demand for 168 primary school pupils and 120 secondary school pupils.

5.12 The site lies within the following school catchment areas:

Non-denominational primary -	Cornbank, Cuiken and Mauricewood Primary Schools
Denominational primary -	Sacred Heart RC Primary School
Non-denominational secondary -	Beeslack and Penicuik High Schools
Denominational secondary -	St David's RC High School

5.12 In the case of primary non-denominational school provision, a significant amount of new housing has already been allocated to the Penicuik area therefore additional primary school capacity will be required. A developer contribution will be required towards the cost of any additional provision.

5.13 Sacred Heart RC Primary School is at capacity and an extension will be required. A developer contribution will be required towards the cost of this extension.

5.14 In the case of secondary non-denominational school provision, a significant amount of new housing has already been allocated to the Penicuik area and therefore additional secondary capacity will be required. A developer contribution will be required towards the cost of any additional provision.

5.15 With regard to Secondary Denominational provision a contribution towards St David's High School is required.

5.16 The Council's **Environmental Health Manager** raises no objection to the application subject to the imposition of a condition on a grant of planning permission requiring a scheme to deal with any contamination of the site/previous mineral workings being approved in advance by the planning authority. Furthermore, the condition should require any necessary measures to decontaminate/remediate the site being fully implemented prior to any part of the site being occupied.

5.17 The **Midlothian Health and Social Care Partnership** was consulted on the application and has made no comment.

6 REPRESENTATIONS

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

- the schools in the area are at, or over capacity;
- would put undue strain on already over stretched GP and dentist surgeries in the area;
- the lack of provision for expansion in GP services in the area and the absence of plans to expand these services is likely to lead to the closure of practice lists, leaving patients without basic medical care;
- insufficient infrastructure in Penicuik to support the development;
- concerns about child pedestrian safety as a consequence of construction vehicles being driven in close proximity to existing residences;
- harm to the rural character of the area;
- there should be buffers between the new development and existing properties to mitigate the impact;
- the loss of trees and shrubs to the detriment of the landscape character and amenity of existing properties;
- harm to the Penicuik community;
- existing road infrastructure is not of an adequate standard to cope with the increase in traffic resulting from the development;
- increased risk of flooding of neighbouring properties;
- the loss of fields used for recreational purposes;
- harmful to flora and fauna;
- the loss of animal and bird habitat;
- brownfield sites in Penicuik should be redeveloped for housing instead of the application site;
- the loss of a dog walking area;
- too many houses;
- the development is too dense;
- the site should be developed entirely for social housing;
- insufficient neighbour notification has been carried out;
- the proposed construction access roads raise road safety concerns;
- disruption during periods of construction would unduly harm residential amenity;
- undue damage to existing roads by construction vehicle movements;
- construction vehicle wheel wash facilities should be provided;
- the description of the application is misleading;
- dog waste bins should be provided at exits to the development;
- problems of insufficient drainage of surface water within the area;
- traffic associated with the development would increase pollution in Penicuik;
- noise nuisance to neighbouring properties during periods of construction;
- insufficient recreational facilities are proposed as part of the development;

- insufficient public transport to serve the proposed development;
- there should be a strategic review of the land assets of the MOD; including Glencourse Barracks, to determine how these facilities could be integrated into Penicuik's housing requirements. Planning applications for residential development should be refused until such review is carried out;
- harm to the setting of Mauricewood House and Stables and other existing neighbouring historic buildings;
- the SUDS proposals are inadequate to deal with water run-off from the site and consequential flooding of neighbouring properties;
- harm to the setting of Belwood House and Martyrs Cross House; both of which are listed buildings;
- the land at Mauricewood is of historic significance as it contains a mineshaft dating back to the late 19th century and a colliery disaster on 5 September 1889 when 63 miners lost their lives. It would be inappropriate to build a new development on top of this area;
- neither CALA nor Avant carried out adequate pre-application consultation on the application;
- concern about light pollution;
- the development would encroach on the canopy spread of the group of 7 mature beech trees; known locally as the Seven Sisters, located directly in front of Belwood House;
- harm to eastward views from Belwood House;
- the loss of privacy to residents of Belwood House;
- species of trees to be planted is not appropriate in some instances;
- too much access to the proposed areas of woodland; and
- More accesses through the site are required for walkers and dog walkers.

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 Plan (MLP), adopted in December 2008. The Proposed Midlothian Local Development Plan 2014 (MLDP) has been subject to an examination by the Scottish Ministers and was reported to the Council at its meeting of 26 September 2017 with a timetable to adopt the plan by the end of 2017. The Council approved the modifications proposed by the Scottish Government Reporter (with the exception of one proposed technical modification in relation to the Midlothian Science Zone) and referred the plan back to Scottish Ministers who have confirmed they are not going to intervene in the adoption of the plan. At the time of drafting this Committee report it is scheduled to report the MLDP to Council at its meeting of 7 November 2017 for adoption. As this plan is at a very advanced stage of preparation and represents the settled view of the Council it is a material consideration of significant weight in the assessment of the application. If the Council adopts the MLDP its policies shall supersede those in the MLP and will form the basis of the assessment of this application. The report identifies the relevant MLP policies in this section of the report but the assessment of the application is primarily against the policies in

the MLDP because of its advanced stage. The following policies are relevant to the proposal:

Edinburgh and 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 Plan 2008 (MLP)

- 7.4 The MLP policies relevant to the application which are to be superseded by the MLDP are:
- Policy COMD1: Committed development;
 - Policy RP5: Woodland trees and hedges;
 - Policy RP7: Landscape character;
 - Policy RP13: Species protection;
 - Policy RP14: Habitat protection outwith formally designated areas;
 - Policy RP20: Development within the built up area;
 - Policy RP24: Listed buildings;
 - Policy RP27: Other important archaeological or historic sites;
 - Policy RP28: Site assessment, evaluation and recording;
 - Policy RP31: Open space standards;
 - Policy RP32: Public rights of way and other access routes;
 - Policy HOUS1 Strategic housing land allocations (proposal);
 - Policy HOUS4: Affordable housing;
 - Policy NRG3: Energy for buildings (dwellings);
 - Policy TRAN1: Sustainable modes of transport;
 - Policy IMP1: New development;
 - Policy IMP2: Essential infrastructure required to enable new development to take place; and
 - Policy DP2: Development guidelines.

Midlothian Local Development Plan (MLDP)

- 7.5 Policy **STRAT 1: Committed Development** seeks the early implementation of all committed development sites and related

infrastructure, facilities and affordable housing, including sites in the established housing land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.

- 7.6 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.7 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.
- 7.8 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.9 Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.
- 7.10 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.11 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that Plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan.
- 7.12 Policy **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*.
- 7.13 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.

- 7.14 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.
- 7.15 **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.
- 7.16 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.
- 7.17 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.18 Policy **ENV22: Listed Buildings** states that development will not be permitted which would adversely affect the setting of a listed building. New development within the curtilage of a listed building or its setting will only be permitted where it complements its special architectural or historic character.
- 7.19 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.
- 7.20 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.

- 7.21 Policy **TRANS1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.22 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area, including the A701 realignment.
- 7.23 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.
- 7.24 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.25 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.
- 7.26 Policy **NRG4: Interpretation of Policy NRG3** interprets Policy NRG3.
- 7.27 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.28 Policy **IMP1: New Development**. This policy ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.
- 7.29 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.

- 7.30 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.
- 7.31 Supplementary Guidance and other non-statutory planning guidance referred to in the MLDP; which includes; inter alia the following topics, has not yet been brought forward by the Council:
- Affordable and Specialist Housing;
 - Quality of Place;
 - Open Space Standards;
 - Midlothian Green Networks;
 - Community Heating;
 - Developer Contributions.

National Policy

- 7.32 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.
- 7.33 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.
- 7.34 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*.
- 7.35 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.
- 7.36 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”.

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

8 PLANNING ISSUES

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

The Principle of Development

- 8.2 The site is allocated for housing and is located within the built up area of Penicuik where there is a presumption in favour of appropriate development. The principle of residential development on this site is established by its allocation for housing within the adopted Midlothian Local Plan 2003 (Deanburn – site h26) and the MLP (North West Penicuik – site h58). The MLDP continues this commitment to residential development, but revises the number of units to 109 on site h26 and 385 on site h58 (a total of 494).
- 8.3 The proposed development is for 544 residential units, approximately 10% more than the indicative number set in the development plan. However the figure set in the MLDP is an indicative figure and the proposed level of variation is within the tolerances of the allocation and can be supported if the impact of the increase can be mitigated in terms of education provision and its impact on infrastructure.
- 8.4 Furthermore, allowing some manageable generosity on sites helps deliver good quality layouts, rather than schemes based solely on numbers and ensures the Council delivers its housing requirement without having to support/allocate unplanned sites if during the local plan period it becomes evident that a particular housing site cannot be delivered.

Phasing

- 8.5 The indicative phasing plan submitted with the application is not comprehensive and thus it should not be approved. It should be made

a condition of a grant of planning permission that a comprehensive annotated phasing plan and phasing schedule is submitted for the prior written approval of the planning authority. The structural landscaping for the site should be completed in the early phases of development to enable it to grow and become established to complement the built form as it comes forward. In addition, the affordable housing area(s) should be included on the phasing plan and phasing schedule. It is reasonable for the Council to expect some affordable housing units and the link road connecting Mauricewood Road to Rullion Road to come forward on the site as early as practicable. Furthermore, the phasing should address the timing of delivery of safe routes to school and other pedestrian and cycling connections through the site.

Layout and Form of the Development

- 8.6 The density of the development is appropriate to the established density of Penicuik. In terms of the number of units, their size, massing and positioning on the site, the houses would not appear cramped or an unsympathetic development on the site.
- 8.7 Spatial policies and good practice require the provision of appropriate useable private garden areas for houses: (i) 100 square metres for terraced houses of 3 or more apartments; (ii) 110 square metres for other houses of 3 apartments; and (iii) 130 square metres for houses of 4 apartments or more. Ninety four (17%) of the proposed houses have rear private gardens that fall below the stated requirement. In calculating the area of the useable rear gardens areas, slopes in excess of 1:3 have not been included. Twenty three of those houses are small terraced houses. In the case of these terraced houses if the minimum private rear garden size was adhered to the rear gardens would be overly long. Four of the townhouses have rear gardens that fall notably short of the minimum private garden ground. However these four houses are of enhanced design and external finishes, and a relaxation of the private garden size on design grounds is justified in this particular case. Furthermore, these four townhouses front onto a large area of public open space in the development, which in part compensates for their smaller rear gardens. The mixture of properties with larger and smaller rear gardens creates variation in the layout and visual diversity to the development. This justifies allowing a relaxation in the size of the gardens of 94 dwellings in this particular case. Furthermore, the areas of open space located throughout the site provide good quality amenity and help offset concerns about rear garden sizes.
- 8.8 The development has been designed primarily as a traditional street layout with the integration of open space and planting. There are three primary streets in the development, which are all accessed off a new access off Mauricewood Road. These primary streets are defined by an avenue of tree planting, which would provide attractive routes through the development. The principal open spaces in the development are mostly in the form of linear parks, which follow the

route of the watercourses/aqueducts that cross the site. The orientation of buildings onto the primary streets, the linear parks and the SUDS basins delivers a good layout with character and interest. The street pattern reflects the existing housing in the northern part of Penicuik and is designed to adapt to the irregular shape of the site. The distances between properties are either in compliance with or do not fall significantly short of the set spatial standards. The only exceptions being in the case of the back to back distance between houses on eight plots and the back to gable distance between six plots. However the distances are only marginally below the recommended 25 metres and 16 metres respectively. Therefore, the future occupants of these houses would still be afforded adequate residential amenity. The arrangement of buildings, disposition of open space and scale and massing of the proposed development is acceptable. The development has been designed to include a series of linear streets and loops, some of which are laid out with 5.5 metre wide shared surfaces in block paving with 2 metre wide grassed service strips/verges on both sides. Shared surfaces encourage reduced vehicle speeds as motorists perceive that they do not have priority over any other users of the road space.

Design and Materials

- 8.9 The mix of house types and sizes is acceptable. The architectural styles of the houses and flatted buildings are traditional in form and complement the character and visual amenity of the area. Accordingly, in terms of architectural style the proposed buildings would not harm the character or visual amenity of north west Penicuik. Policy and good practice requires that there is an added emphasis on the quality of design of a minimum of 20% of the dwellings on the site. This applies to individual buildings and the use of materials both in building finishes and also in boundary treatment and ground surfaces. The expectation is that such treatment is focused on prominent landmark groups or key individual buildings. The proposed four Areas of Improved Quality (AIQ) comprises buildings fronting onto the linear parks, the other principal open spaces, SUDS features and at the entrance to the Mauricewood development area. In principle, the locations of the AIQ within the scheme are acceptable. The pallet of materials specified for each of the AIQ is different, thus providing variety in the development. Variation and distinction is also achieved within the AIQ owing to differences in boundary treatments within each AIQ. In terms of the number of dwellings included (26% of the total); the locations, building form, boundary treatments and external finishing materials and colours of the proposed AIQs are acceptable.
- 8.10 Elsewhere in the development, in order that the external finishes of the buildings are appropriate to the development and its location it should be made a condition of a grant of planning permission that samples are submitted for the prior approval of the Planning Authority. The materials and distribution of materials will be complementary to each other and appropriate to the character and visual amenity of the area.

- 8.11 The majority of the houses will be two-storeys in height. The proposed three-storey flatted buildings within the Rullion Road area and the three-storey townhouses at the entrance in the Mauricewood area provide some variation and interest to the built form. These buildings are not unduly high so as to impose themselves or appear obtrusive within the locality.
- 8.12 All of the proposed buildings are sufficiently distanced from existing neighbouring houses so as not to give rise to any demonstrable harm to their residential amenity in terms of loss of daylight, loss of sunlight or overlooking. There would be no significant harm to the amenity of any existing neighbouring property from the proposed development.
- 8.13 No details of 'percent for art' for the development have been submitted with the application. It can be made a condition of a grant of planning permission that details of artwork be submitted for the prior approval of the Planning Authority. The 'percent for art' adds interest and individuality to the development.
- 8.14 The proposed development by means of its layout, form and separation would not harm the setting of neighbouring listed buildings including the category B listed Belwood House, and the category B listed Martyrs Cross House or any other neighbouring historic building.

Open Space and Play Areas

- 8.15 The proposed play/recreation consists of a mix of formal, informal and naturalistic play provision comprising: (i) an informal 'kick about' pitch within the main open space within the Belwood character area; (ii) a formal equipped neighbourhood childrens play area in an area of open space between Mauricewood and Rullion Road character areas; and, (iii) a trim trail incorporating 12 individual pieces of outdoor gym equipment of largely timber construction at points within the principal open spaces in the development.
- 8.16 In terms of its size and location the kick about pitch is acceptable. It will benefit from an adequate level of passive surveillance from the proposed dwellings that will look onto it. It is sufficiently large to absorb such activity with minimum disturbance to local residents. The equipped childrens play area is on three tiers, taking advantage of the sloping site and incorporating a number of natural features which will be integrated within the landscape and will provide fun interaction for children. It incorporates play equipment for toddlers as well as children of both early primary and late primary school age. Two pieces of inclusive play equipment are included; which are an at-grade roundabout and a basket swing. Where possible timber play equipment is used. Bespoke pre-cast concrete benches will be positioned at points within the play area. Dog bins and dog on lead signage is positioned at entrances to the play area. In terms of their location within the development, size, quantity, form, design and

materials and nature the proposed equipped neighbourhood play area is appropriate for this development and is acceptable. The linear parks and other principal open spaces in the development present an opportunity for sport or outdoor recreation for the future residents of the proposed dwelling. The proposed trim trail extends through the principal spaces, providing a degree of connectivity of use between them. Although the trim trail provides a selective outdoor sport resource, it does not dominate the spaces or preclude the use of them for other recreational uses. On these counts the trim trail is a good addition to the development. Together the proposed open spaces, play and recreation proposals are appropriate for a residential development of the size proposed.

Landscaping

- 8.17 Owing to the elevated nature of the site the landscape visual impact (LVI) of the site and the impact on the setting of the Pentland Hills is a material consideration. In long views the most visually sensitive part of the site is the western part which includes the development areas of Mauricewood North and Rullion Road and part of the new distributor road which will connect these development areas with Rullion Road. Through negotiations with the applicant the built form and layout of these development areas has been changed in order to facilitate substantial boundary planting along the east side of the new distributor road. Such landscaping will provide adequate visual containment of the site to mitigate its impact on the setting of the Pentland Hills AVLG.
- 8.18 The development to the east of Belwood House (Plots nos. 17 – 22 & 39) lies outwith the vista of Belwood House, thus retaining important views from this listed building and thus safeguarding its setting.
- 8.19 To facilitate the provision of sightlines as well as pavements along Mauricewood Road, earthworks including cutting into higher ground is required as well as the felling of a significant number of trees. Replacement tree planting is proposed in this application as compensation for the loss of the trees resulting from the earthworks. The replacement tree planting will satisfactorily mitigate the loss of the trees.
- 8.20 Located on the northern part of the Bellwood development area is a group of seven mature beech trees standing on a slightly raised knoll with the land dropping gradually to the north. These trees are within the vista of Belwood House and appear to have been planted as a strategically placed group. An arboricultural report on the seven trees informs that two of them are severely damaged and should be removed. The remaining five trees are generally in fair condition and are worthy of retention. The nearest proposed dwellings (plots 17-22) are located at a minimum of some 23 to 25 metres from the three nearest trees, which is just within the potential falling distance of them but far enough away as to present minimal risk to safety. A roadway is proposed between plots 17 to 22 and the tree group. The footprint of

this encroaches slightly into the root protection zone of one of the trees on one side only. This is by a very small amount and is considered negligible incursion. The roadway falls outwith the canopy spread and root protection area of the other retained trees. The ground levels are to be raised slightly to accommodate the roadway. This is beneficial in that it will prevent any ground excavation or lowering of levels in the vicinity of the trees. The arboricultural report makes a number of recommendations to protect the, to be retained, five trees during construction. It can be made a condition of a grant of planning permission that the recommendations in the arboricultural report are adhered to.

- 8.21 The landscape proposals submitted with the application require some refinement in order to be acceptable in planning terms. Therefore, if the Council were minded to grant planning permission it should be subject to a planning condition(s) requiring the prior submission and approval by the Planning Authority of revised detailed landscape plans including planting specifications and a woodland management plan. The details should include mitigation measures to be carried out to safeguard biodiversity and natural heritage; and measures to ensure sustainability in landscape terms.

SUDS and Flooding

- 8.22 The SUDS proposals as delineated on the application comprise three SUDS basins, designed as relatively soft features in the landscape. The SUDS scheme will ensure that there will be no net detriment to the locality's drainage whilst providing a locally attractive space which enhances biodiversity.

Access and Transportation Issues

- 8.23 The Transportation Assessment (TA) demonstrates to the satisfaction of the Council's Policy and Road Safety Manager that that proposed access and road arrangements are acceptable in terms of meeting traffic capacity and promoting pedestrian and traffic safety.
- 8.24 The proposed affordable flatted blocks incorporate integral cycle stores within the buildings. The size and nature of these cycle stores is acceptable in planning terms. The proposed cottage flats incorporate cycle stores under the stairwell of the flats, which is also adequate in terms of cycle parking provision. This proposed cycle store provision meets the requirements of the recommendations of the Council's Policy and Road Safety Manager.
- 8.25 As recommended by the Council's Policy and Road Safety Manager, it should be made a condition of a grant of planning permission that an additional 3m wide cycleway/footpath link be provided in the vicinity of plot A75 of the Belwood development area, which will link the proposed internal road network with the main cycleway/footpath which will run along the northern boundary of the adjacent Taylor Wimpey

site. This will provide a direct cycling/pedestrian link from the new development to the proposed commercial area which is to be built within the adjacent site which is under construction. To facilitate this it will require the reconfiguration of a number of proposed house plots along the boundary with the adjoining site.

- 8.26 There is an existing public footway alongside Rullion Road which will be the desire route for access to both Cuiken Primary School and Cornbank Primary School by occupants of new dwellings on the west side of Mauricewood Road. At present the public footway alongside Rullion Road is some 1.8 metres wide. The widening of the footway along Rullion Road to 2.8 metres will provide a segregated footway and cycleway and thus a portion of the safe route to school (SRTS). To facilitate the widening of the footway the carriageway of Rullion Road would be reduced to 5.6 metres. This is acceptable in transportation terms. The Council have title to Rullion Road and therefore there is no title incumbent to the footway being widened to 2.8 metres. The applicant has confirmed to the Planning Authority that they are agreeable to undertaking the widening of that section of footway. However, the Council does not have title to the area of open space between Rullion Road and Cuiken Terrace on which a remote section of footway lies. Nevertheless that section of remote footpath would still function as part of the SRTS, albeit at some 1.8 metres wide. The Planning Authority does not consider that it is reasonable in planning terms to insist that the applicant/developer widen that remote section of footway to 3 metres to form a cycleway/footway given that neither the Council nor the applicant has title to the land on which it lies. Furthermore, the widening of that section of remote footway would necessitate the replacement of street lighting and also the felling of a row of trees that have amenity value. On balance the Planning Authority does not consider it expedient to impose a condition on a grant of planning permission requiring that the remote section of footway be widened. A new zebra crossing at a suitable point on Cuiken Terrace is also required to complete the route to the school.
- 8.27 Except for the Council's Policy and Road Safety Manager recommendation relating to the remote section of footpath, the other transportation recommendations can be secured by either a condition imposed on a grant of planning permission or by a developer contribution secured by a Section 75 Legal Agreement. Subject to these recommended controls there will be adequate and safe footpath and cycleway connections to/from the site to existing bus stops and public transport network in Penicuik to serve the proposed development.

Ground Conditions

- 8.28 The control referred to by the Council's Environmental Health Manager in respect of ground contamination/previous mineral workings and the same control in respect of previous mineral workings recommended by

the Coal Authority can be secured by a condition imposed on a grant of planning permission.

Archaeology

- 8.29 The control required by the Council's Archaeological Advisor can be secured by a condition imposed on a grant of planning permission.

Feasibility of Communal Heating System

- 8.30 In an initial consultation response SEPA stated that in order for the government's renewable energy and heat demand targets to be met, it is important that all types of new development consider the role they play in using heat from renewable sources. They highlight that paragraph 154 of SPP states that the planning system should support the transitional change to a low carbon economy including deriving *"11% of heat demand from renewable sources by 2020"* and supporting *"the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity – and the development of heat networks"*. SEPA confirmed that it is their view that the proposed development offers the potential for a new District Heating Network to be created within the site. Consequently, SEPA objected to the application on the grounds of lack of information on the provision of heat and power to the proposed development. In response to SEPA's objection the applicants commissioned an engineer to undertake a feasibility study for the provision of community heating system for the new development.
- 8.31 The report considers the feasibility of a centralised CHP (Combined Heat & Power) & boiler system in energy centres in stand-alone buildings within the central landscaped areas of the development. The feasibility report concludes that: (i) At the time the site was purchased by CALA Homes (East Ltd) there was no requirement for the provision of the centralised system and this has not been allowed for within their business plan; (ii) The reduction in electrical costs would not be passed onto the residents; (iii) Whilst the technology and strategy for installing and running centralised energy centres incorporating CHP are improving, the adopting and setting up of an energy service company to run and operate the systems are still at an early stage - any costs associated with set up a system would be passed onto the home owners/occupiers. This reduces the financial benefits to the home owner/occupiers. The capacity investment of the system is still high in comparison to the more traditional gas and boiler installation; (iv) Whilst there is a government drive to make the energy market more competitive and simpler for the consumer to change suppliers, the provision of a district system, particular with CHP plant, will result in the house buyer tied down to one energy service company for their dual fuel tariff. This can have a negative impact on potential buyers and for anyone looking to sell in the future or lease the property; (v) The provision of a complicated district heating system incorporating

heat interface units, remote energy centres and distribution networks in relation to more simplistic and convenient boiler installations can potentially have a negative effect on potential buyers. This change in technology is still relatively new in the housing market, and it is this change, with a lack of knowledge on how the system works and its resilience that can put buyers off; (vi) The provision of a centralised system provides a small financial saving per annum. The CHP installation would have a payback on the capital investment within 12 years, excluding any maintenance costs and the financial asset of the gas network. These costs would need to be factored in prior to any decision been agreed; (vii) With existing developments, the full heating load already exist to retrofit a central heating system, making the system efficient from the start. With a new development with a build rate of circa 50 properties a year, the early provision of a central system along with the distribution network will be over sized to meet the initial loads. This will make the system inefficient unless a modular approach is taken, adding complexity and cost to the installation; (viii) In order to meet the government's drive for renewable energy and heat demand targets, SAP (Standard Assessment Procedure to measure energy efficiency) calculations will be carried out to ensure the proposed construction and servicing strategy for each property meets the energy performance and carbon dioxide emission targets set out within the Scottish Building Regulations "Domestic Handbook 2016". These could potentially be achieved through the provision of solar panels, mechanical ventilation heat recovery units, high specification efficient condensing boilers, hybrid source heat pumps and high performance thermal construction properties. Given all of these stated circumstances the report recommends that the development progress with more traditional gas networks with individual dwelling boilers. In a subsequent consultation response SEPA confirmed that the submission of the feasibility study is sufficient for them to remove their objection to the application on the grounds of lack of information in regards to district heating, low or zero carbon heat networks. The Planning Authority agrees with SEPA that the feasibility study into the provision of community heating system for the new development satisfactorily demonstrates that such a system is not at this present time technically or financially viable for this development site.

Ecology

- 8.32 The report on the ecological survey of the whole of the site does not recommend against the development on grounds of impact on biodiversity. The ecological survey report recommends a number of controls to safeguard/enhance biodiversity. These recommended controls could be secured by a condition imposed on a grant of planning permission.

Light Pollution

- 8.33 The proposed development would not give rise to significant levels of light pollution such as to have a significant detrimental effect on the

character and amenity of the area or the amenity of existing residential properties or the residential amenity of the proposed new houses.

Developer Contributions

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

- Contribution to education provision;
- Contribution to nursery provision
- Contribution to Angle Park Pavilion
- Contribution to New Pool and Library
- Contribution to Traffic Regulation Order
- Provision of affordable housing (22%);
- Contribution to A701 Relief Road;
- Contribution to Penicuik Town Centre Improvements;
- Maintenance of open space;
- Contribution to highway works including A702 roundabout ;
- Cycle and scooter storage/parking equipment/facilities at the catchment schools; and
- Restriction on development until A702 roundabout is delivered.

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

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

I am satisfied that the requirements set out for the proposed Planning Obligation meet the above tests.

Affordable Housing

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

- 8.36 The specification of the affordable housing units within the development would be subject to the agreement of the Council as Local Housing and Planning Authority, and in accordance with the permitted plans for the site.
- 8.37 The south eastern part of the site (known as Deanburn - site h26) was allocated for housing in the now superseded 2003 Local Plan. The affordable housing requirement of the 2003 LP was 5%-10% of the total units. The remainder of the site (known as North West Penicuik - site h58) was allocated for housing in the Midlothian Local Plan (2008) with an indicative capacity of 400 units. These allocations are confirmed and the number of units revised in the MLDP to 109 units on site h26 and 385 units on site h58. The affordable housing requirement for site h58 is 25%. The applicant proposes a total of 120 affordable units on the application site, which equates to 22% of the total number of units proposed. The MLDP requires all allocated and committed sites to deliver 25% of residential units to be affordable unless it can be demonstrated this is not feasible. In a letter to the Planning Authority CALA Homes' seeks to justify the proposed 22% affordable units on the following grounds:
1. Part of the site (Site D - first allocated in the 2003 Local Plan) has the benefit of a minded to grant decision for 104 private and 5 affordable units) (ref.05/00784/FUL). Separate planning applications for the balance of the site (h58 - first allocated in 2008 Local Plan), were lodged in 2006 for 285 private (ref.06/00475/FUL) and 100 affordable units (ref.06/00474/OUT). The combined total equates to 389 private and 105 affordable units. The affordable percentage being 21%.
 2. In light of intervening changes to Building Regulations, CALA/Avant decided to lodge a new planning application to replace the historic applications with updated house types. This also allowed CALA/Avant to consult with the public given the time since original planning submission, and to show in detail the affordable housing product and layout.
 3. The current application comprises 424 private and 120 affordable homes, an increase to 22% of the total compared to the earlier applications.
 4. Whilst acknowledging that the Council's MLDP contains a policy provision where new applications should meet 25%, the current planning application was lodged in February 2017 under the policy position where previous lower affordable housing rates for historic sites were accepted. The negotiations with CALA/Avant's various landowners, and commitments to planning gain contributions were based on that assessment.

5. There are physical and cost constraints which mean that CALA/Avant cannot afford to reduce the scale of the private units (in exchange for additional affordable housing), namely:
 - i. The site is already very expensive to develop, given land remediation (grouting), topography, water supply improvements and the link road between Mauricewood Road and Rullion Road. This coupled with physical limitations of retaining TPO woodland and avoiding the 2 no. underground aqueducts serve to limit the area available for development.
 - ii. The development costs of the site have increased substantially over recent years, in particular the costs of diverting the Scottish Water apparatus at Martyrs Cross junction on A702.
 - iii. The combined costs of the new roundabout on the A702 (Martyrs Cross), improvement to Mauricewood Road and junction improvements to A701 have risen to £5.285m. This has meant that the planning gain obligations have risen by almost 30%.
 - iv. Notwithstanding these cost challenges, CALA and Avant remain committed to this longstanding development site. Assuming the Planning Permission is approved, CALA intend to commence construction in Spring 2018.
- 8.38 On balance the case put forward by CALA Homes provides reasoned justification for a 22% affordable housing requirement to be applied to the site instead of a 25% affordable housing requirement.
- 8.39 It is through an amendment made to the current application that the affordable unit product mix within the Rullion Road and Nursery areas have been changed, principally to reduce the number of flats within three-storey blocks within the Rullion Road area following concerns raised by the Council's Housing Planning and Performance Manager. To demonstrate to the Planning Authority that the currently proposed affordable unit product mix is deliverable CALA Homes/AVANT Homes have submitted to the Planning Authority a letter from Melville Housing Association's Development Manager confirming MHA's support for the affordable unit product mix.
- 8.40 Each of the proposed flatted blocks incorporates a cycle store integral to the building at ground floor level. Integral cycle storage should alleviate any safety and security concerns with detached cycle stores. The future occupants of the proposed affordable flats within Rullion Road will benefit from being located close to the neighbourhood childrens play area. Furthermore, bus stops and shelters are to be positioned along Rullion Road which means that the affordable flats in both areas will be well connected to the public transport network. The treed embankment along the northern edge of the Rullion Road

affordable housing area will provide an appropriate landscape buffer along the countryside edge of the development that will mitigate the landscape visual impact of the built development.

- 8.41 On all of these counts the Planning Authority considers that the currently proposed affordable housing is largely acceptable in terms of unit mix, design and landscaping. Notwithstanding, the revised layout plan for each of the affordable housing areas were received relatively late in the application process. Owing to this, some minor amendment will be required to the layouts including the addition of boundary treatments, footpath connections etc.

Cycle and scooter storage facilities at catchment schools

- 8.42 A developer contribution is required for the provision of additional cycle and scooter storage facilities at Mauricewood, Cuiken, Cornbank and Sacred Heart primary schools and at Beeslack, secondary school. The Council is justified in requiring a contribution as the Council has a contact for the IBike programme which is being rolled out for all Midlothian Schools. Furthermore, securing provision of additional cycle and scooter storage facilities is further justified under Policy TRAN1: Sustainable Travel of the emerging MLDP which states that the Council will give priority to walking and cycling initiatives, including infrastructure to encourage sustainable modes of travel.

Open Space Maintenance

- 8.43 The responsibility for the maintenance of the open spaces (including informal kick about pitch, childrens play area and equipment, trim trail and equipment and SUDS) shall be the developers/owners and provision would be made in the deeds of sale of all housing units to contribute to the ongoing maintenance of these areas through a regular "factoring" change. The developer would demonstrate to the satisfaction of the Council how these spaces and equipment would be maintained in perpetuity.
- 8.44 Subject to the recommended conditions of a grant of planning permission the proposed development complies with the relevant development plan policies.

Other Matters raised by Representors and Consultees

- 8.45 Issues raised by the representors and by consultees have been largely addressed above. With regards to the matters raised which have not been addressed above:
- 8.46 The concern raised in letters of objection about the existing capacity of general practice in Midlothian and the impact of new house building on health and care services is a matter which would need to be addressed by the Midlothian Health and Social Care Partnership through the provision of sufficient health service capacity. That can

involve liaison with the Council as planning authority but it is not, on its own, a sufficient basis on which to resist or delay the application.

- 8.47 The application is sufficiently detailed to show the nature of the proposed development.
- 8.48 The application has been determined on its own merits, giving due consideration to all material considerations including the matters raised in consultation responses and letters of objection/representation. Planning decisions reached by the planning authority relating to other development sites and also relating to householder developments is not a material consideration in the determination of this planning application. Any future planning applications for development on other sites stand to be determined on their own merits.
- 8.49 The nature of the proposed development is unlikely to give rise to significant nuisance or significant risk to human health as a result of dust deposition during periods of construction. However, if dust deposition were to become a problem it could be addressed through environmental health legislation.
- 8.50 The nature and scale of the proposed development is unlikely to result in extraordinary levels of noise and disturbance during periods of construction. If noise nuisance were to arise it could be dealt with through environmental health legislation.
- 8.51 No evidence has been submitted to substantiate the claim made in a letter of representation that the development contravenes the Human Rights Act.
- 8.52 Any damage to and the requirement for future repairs to the haulage routes of construction vehicles associated with the development of the site is a legal matter and not a material consideration in the determination of this planning application.
- 8.53 Neighbour notification has been carried out in accordance with the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.
- 8.54 The pre-application consultation was carried out in accordance with the statutory requirements of the Planning etc. (Scotland) Act 2006. The Planning Authority has not received any evidence to the contrary.
- 8.55 Regarding matters raised by Penicuik Community Council: The alleged extinguishing of right of way located outside the application site is not a material consideration in the determination of this planning application.
- 8.56 There is no known protected species or flora and fauna on the site that merits special protection. The Planning Authority has not received any evidence to the contrary.

- 8.57 The Planning Authority cannot control the length of time taken to complete the whole development.
- 8.58 Whether the existing neighbouring allotments are in need of improvements in terms of drainage, securing and boundary fencing is not a material consideration in the determination of the application.
- 8.59 The transportation assessment; including the survey date/s that informed it, is adequate to assess the traffic impact of the development.
- 8.60 The following matters raised in letters of representation are not material considerations in the determination of the application:
- The effect of the development on the market value of existing residences in Penicuik;
 - Whether there will be any damage to neighbouring buildings and property as a result of ground movement/vibrations associated with the movements of heavy construction vehicles or subsidence within the village;
 - The effect of the development on existing broadband speeds/internet access and mobile phone reception of existing neighbouring properties;
 - Existing problems of drainage within neighbouring properties;
 - The parking of site contractor's vehicles on neighbouring adopted roads;
 - Loss of view;
 - The existing land assets of the MOD; including Glencourse Barracks and the potential redevelopment opportunity of these assets; and
 - Whether it is morally appropriate to build on the site.

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 development plan. The proposed detailed scheme of development in terms of its layout, form, design and landscaping is acceptable and as such accords with development plan policies, subject to securing developer contributions. The presumption for development is not outweighed by any other material considerations.

Subject to:

- i) the prior signing of a legal agreement to secure:
- a contribution towards Education provision;

- a contribution towards nursery provision;
- a contribution towards Angle Park Pavilion;
- a contribution towards Penicuik swimming pool and library;
- a contribution towards a Traffic Regulation Order;
- the provision of affordable housing (22%);
- a contribution towards the A701 Relief Road;
- a contribution towards Penicuik town centre improvements;
- maintenance of open space;
- a contribution towards highway works including the A702 roundabout;
- cycle and scooter storage/parking equipment/facilities at the catchment schools; and
- restriction on development until A702 roundabout delivered

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

ii) the following conditions:

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

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

2. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. An enhanced quality of materials shall be used in the area of improved quality. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

Reason: *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies DEV2 and DEV6 of the Midlothian Local Development Plan and national planning guidance and advice.*

3. Notwithstanding that delineated on application drawing the development shall not begin until details of a revised scheme of

hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- i other than existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
- ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii proposed new planting in communal areas, road verges and open space, including trees, shrubs, hedging, wildflowers and grassed areas;
- 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;
- vii a woodland management plan for existing and proposed areas of woodland;
- viii a biodiversity action plan and maintenance plan to enhance the biodiversity value of the existing suds pond located nearby to the north east of the nursery area;
- ix drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
- x proposed car park configuration and surfacing;
- xi proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and
- xii details of existing and proposed services; water, gas, electric and telephone

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi).

Any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

Reason: *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies DEV2, DEV6 and DEV7 of the Midlothian Local Development Plan and national planning guidance and advice.*

4. Development shall not begin until details of the site access, roads, footpaths, cycle ways and transportation movements has been

submitted to and approved in writing by the planning authority.
Details of the scheme shall include:

- i existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
- ii proposed vehicular, cycle and pedestrian access;
- iii proposed roads (including turning facilities), footpaths and cycle ways;
- iv proposed visibility splays, traffic calming measures, lighting and signage;
- v proposed construction traffic access and haulage routes;
- vi a green transport plan designed to minimise the use of private transport and to promote walking, cycling, safe routes to school and the use of public transport:
- vii proposed car parking arrangements;
- viii an internal road layout which facilitates buses entering and leaving the site in a forward facing direction;
- ix proposed bus stops/lay-bys and other public transport infrastructure;
- x a programme for completion for the construction of access, roads, footpaths and cycle paths; and
- xi proposed on and off site mitigation measures identified by the traffic assessment submitted with the application.

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

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

5. Notwithstanding the requirements of condition 1 of this planning permission, prior to the first occupation of any of the houses on plots 89, 90, 96 and 97 of the Mauricewood development area and any of the terraced houses within the Rullion Road affordable development area, the equipped neighbourhood childrens play area with associated benches and bins delineated on docketed drawings No.1611.L.L.(93)002 rev A, shall be formed/constructed and made available for use. There shall be no variation therefrom unless with the prior written approval of the Planning Authority.

Reason: *To ensure the timeous provision of an acceptable quantity and quality of equipped children's play in the development in the interests of the residential amenity of the future occupants of the houses and flats.*

6. Notwithstanding the requirements of condition 1 of this planning permission, prior to the first occupation of any of the house on plots A60, A61, A62, A63, A64, A66, A67 and A68 of the Belwood

development area, the informal kick about pitch within Belwood Park; as delineated on docketed drawing 1611.L.G.(92)001 rev B, shall be formed and made available for use. There shall be no variation therefrom unless with the prior written approval of the Planning Authority.

Reason: *To ensure the timeous provision of an informal kick about pitch in the development, in the interests of the residential amenity of the future occupants of the houses and flats.*

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

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

8. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
 - i. The nature, extent and types of contamination and/or previous mineral workings on the site;
 - ii. Measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
 - iii. Measures to deal with contamination and/or previous mineral workings encountered during construction work; and
 - iv. The condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate/remediate the ground conditions of the site shall be fully implemented in accordance with the approved scheme to the approval of the planning authority.

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

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

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

11. Development shall not begin until a programme of archaeological works (Trial Trench Evaluation) in accordance with a written scheme of investigation. The approved programme of works shall comprise a field evaluation by trial trenching reported upon initially through a Data Structure Report submitted to the planning authority and carried out by a professional archaeologist prior to any construction works or pre commencement ground works taking place. There shall be no variation therefrom unless otherwise agreed in writing by the planning authority.

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

12. The recommendations made within Section 6.0 of the Mauricewood, Penicuik Preliminary Ecological Appraisal report, dated May 2016 and docketed to this planning permission shall be implemented in full in accordance with an action programme and timetable to be submitted to and approved in writing by the Planning Authority.

Reason: *In the interests of safeguarding biodiversity.*

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

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

14. No more than 25 residential units shall be occupied until works associated with the upgrading of the A702(T)/Mauricewood Road roundabout, as illustrated in Fairhurst's Drawing No.86607/1006 Revision K, have been completed to the satisfaction of the Planning Authority in consultation with Transport Scotland. There shall be no variation therefrom unless otherwise agreed in writing by the planning authority.

Reason: To ensure that the standard of infrastructure modification proposed to the truck road complies with the current standards, and that the safety and free flow of traffic on the trunk road is not diminished.

15. Detailed drawings and a written specification of the following shall be submitted for the prior written approval of the Planning Authority:
- (i) The pre-cast concrete benches;
 - (ii) The dog waste bins.

Reason: To ensure the quality of the development is enhanced by the provision of appropriate designed street furniture.

16. A detailed plan and elevation drawings and details of the finishing materials and colours of any electricity station(s) and pumping station(s) to be erected/installed on the site shall be submitted for the prior written approval of the Planning Authority.

Reason: To safeguard the character and visual amenity of the area.

17. Notwithstanding that delineated on docketed drawings the development shall conform to the following constraints in accordance with detailed plans/drawings and design details to be submitted for the prior written approval of the Planning Authority:
- i. In the Belwood development area an additional 3m wide cycleway/footpath link shall be provided in the vicinity of plot A75 linking the proposed internal road network with the main cycleway/footpath which will run along the northern boundary of the adjacent Taylor Wimpey site. This will provide a convenient cycling/pedestrian link from the new development to the proposed commercial area which is to be built within the adjacent TW site.
 - ii. In the Mauricewood area a pedestrian/cyclist zebra crossing shall be provided at the main pedestrian crossing point opposite plot 22. This shall be formed as a humped zebra to provide traffic calming as well as a formal crossing point. This shall be in place prior to the 26th unit in the Mauricewood area being occupied.
 - iii. In the Mauricewood Road North (CALA) + Rullion Road (Affordable) areas secure, covered, lockable cycle parking facilities shall be provided for each flatted dwelling which does not have access to a private rear garden; which includes plots 35 – 59. The cycle parking buildings shall have lockable doors with an automatic internal light and floor drainage. The internal cycle storage shall take the form of standard 'Sheffield' type racks which can accommodate 2 cycles each.

These facilities shall be sited in secure locations within the site that are overlooked by the properties they are serving.

- iv. In the Mauricewood Road North (CALA) + Rullion Road (Affordable) areas details of the bin storage arrangements for the flats shall be submitted and a suitable access route to the kerb provided. This will include the provision of an area of hardstanding in the vicinity of the pickup point.
- v. Details of the proposed new junctions and pedestrian crossing points onto Mauricewood Road and Rullion Road (identified in the Transport Assessment) shall be submitted for the prior approval of the Planning Authority.
- vi. Two sets of bus stops and shelters shall be provided at suitable locations on the spine road. The southern set shall be in the vicinity of the affordable housing with the second set on the Nursery frontage.
- vii. Traffic calming features shall be provided along the spine road to produce vehicle speeds in line with the road speed limit. As a possible bus route raised 'flat top' tables at road junctions and sinusoidal road humps would be suitable features to use. A minimum of 3 flat top tables and 4 road humps are required for this length of road.
- viii. Technical details for the proposed 3 SUDs basins are required including engineering sections through the basins showing the invert level, 1:200y flood level, side slopes and the level of any nearby new road / footpath. The details shall also show the anticipated overland flow route from the basins during extreme flood conditions.
- ix. Prior to the first occupation of any units on the west side of Mauricewood Road or by a different date to be agreed in advance by the Planning Authority, the section of footway along the south side of Rullion Road delineated by a purple coloured line on drawing No.SRTS001, titled: "SAFE ROUTES TO SCHOOL FOOTWAY/CYCLEWAY IMPROVEMENT, docketed to this planning permission shall be widened to 2.8 metres along its length and that widened footway/cycleway shall be marked out as a segregated pedestrian footway and cycleway.
- x. Prior to the first occupation of any units on the west side of Mauricewood Road a new zebra crossing shall be provided at a point on Cuiken Terrace. The location and details of the crossing shall be submitted for the prior written approval of the Planning Authority.

Reason for 17i-viii: *In the interests of road and pedestrian safety.*

Reason for 17ix and 19x: *To ensure the provision of a section of safe pedestrian and cycle route to Cuiken Primary School and Cornbank Primary School in the interest of pedestrian and cyclist safety.*

18. Notwithstanding that delineated on docketed drawings the configuration of and the position of the dwellings on plots A01 and A02 of the Nursery development area are not approved. No works shall be carried out on the land comprising plots A01 and A02 unless and until either (i) a tree survey demonstrating that no tree(s) in the adjacent woodland are within the fall distance of the houses on plots A01 and A02 is submitted for the prior written approval of the Planning Authority; or alternatively, (ii) a revised layout plan for that part of the development site delineating the reconfiguration of plots A01 and A02 and the position on those plots of the houses on them such that they are out with the fall distance of the trees in the adjacent woodland, is submitted for the prior written approval of the Planning Authority.

Reason: *The information supplied does not demonstrate that the house on plot A02 is not within the fall distance of tree(s) within the adjacent woodland.*

19. Notwithstanding that delineated on application drawings the cycle stores of cottage flats delineated on drawing No.15124(PL)704 and also the cottage flats within the Rullion Road affordable area shall extend beneath each of the stairs so that bicycles can be wheeled into the store. Each cycle store shall have a secure lockable door and incorporate a light, a drain and a bike rack/attachment bar.
20. Notwithstanding that delineated on application drawings the cycle storage rooms of the Rullion Road and Nursery area flats shall have a secure lockable door and incorporate a light, a drain and at least one bicycle rack per flat.

Reason for conditions 19 & 20: *To ensure the provision of adequate secure bicycle parking for the flats that do not have a private garden, in the interests of the amenity of the future occupants of the flats.*

21. The road serving plots 17 - 22 of the Mauricewood development area shall be constructed using above ground construction methods that avoid excavation or lowering of levels of the raised knoll containing the group of seven Beech trees referred to in the tree report titled: "Group of Seven Mature Beech Trees" by Donald Roger Associates Ltd, September 2017. A detailed methodology for the construction of the road to safeguard the five Beech trees

within the knoll that are to be retained shall be approved in advance by the Planning Authority.

Reason: *Allowing the development to cut into the raised knoll would encroach into the root zone of and thus would likely harm the mature Beech trees standing on the knoll. Five of those Beech trees are in fair condition and have landscape amenity value and thus should be protected. The loss of these trees would be to the detriment of the landscape character and amenity of the area.*

22. The recommendation made in the tree report titled: "Group of Seven Mature Beech Trees" by Donald Roger Associates Ltd, September 2017, shall be carried out in full and without any variation unless with the prior written approval of the Planning Authority.

Reason: *To ensure the retention of five Beech trees which have historic importance and are of landscape value.*

23. Notwithstanding that delineated on docketed drawing No.1611.L.D(94)00 rev A, the proposed three 5m long concrete benches within Area A are not approved.

Reason: *Five of the existing Beech trees within the raised knoll within area A are in fair condition and have landscape amenity values and thus they should be safeguarded and retained. The erection/siting of concrete benches within area A would result in harm to the roots of the retained trees, thus jeopardising their future survival.*

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

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

25. Prior to development commencing, revised site layout plans and drawings of both the Rullion Road and Nursery affordable housing areas delineating all boundary treatments, all footpaths, surfacing materials and footpath lighting within those area shall be submitted for the prior written approval of the Planning Authority.

Reason: *Modifications are required to/additional information is required in respect of the development within both the Rullion Road and Nursery affordable housing areas in order for the development within those areas to be acceptable in planning terms and to comply with the development plan.*

Ian Johnson
Head of Communities and Economy

Date: 07 November 2017

Application No: 17/00068/DPP
Applicant(s): CALA Management Limited and Avant (Scotland)
Ltd c/o Cairnlee House, Callendar Business Park,
Falkirk, FK1 1WE

Validation Date: 8 February 2017

Contact Person: Adam Thomson

Tel No: 0131 271 3346

Background Papers: 05/00784/FUL, 06/00474/OUT, 06/00475/FUL,
15/00987/PAC, 16/00403/SCR.



APPLICATION FOR DETAILED PLANNING PERMISSION (17/00224/DPP) FOR THE ERECTION OF 34 DWELLINGHOUSES, FORMATION OF ACCESS ROAD, CAR PARKING, SUDS FEATURES AND ASSOCIATED WORKS ON LAND SOUTH WEST OF TORCRAIK FARM, NORTH MIDDLETON, GOREBRIDGE

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

1.1 The application is for detailed planning permission for 34 dwellinghouses on land within the built-up area of North Middleton, as identified by the Midlothian Local Plan. There have been 25 representations received objecting to the planning application. Consultation responses have been received from Scottish Water, the Council's Archaeological Advisor, the Council's Head of Education, the Council's Policy and Roads Safety Manager and Midlothian Health and Social Care Partnership. An objection has also been received from the Moorfoot Community Council.

1.2 The relevant development plan policies are policies 1B and 7 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies RP5, RP6, RP7, RP20, RP22, HOUS2, HOUS4, IMP1, IMP2 and DP2 of the Midlothian Local Plan (2008). Policies STRAT1, DEV1, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV19, ENV24, ENV25, TRAN1, TRAN5, IT1, NRG3, NRG4, NRG6, IMP1, IMP2 and IMP3 of the Proposed Midlothian Local Development Plan 2014 (MLDP) are significant material considerations.

1.3 The recommendation is granted planning permission subject to planning conditions and securing developer contributions.

2 LOCATION AND SITE DESCRIPTION

2.1 The application site is located at the north east end of North Middleton village, on the south east side of Borthwick Castle Road. Moorfoot Primary School is sited opposite the application site, on the other side of Borthwick Castle Road. Torcraik Farm is situated to the north east of the application site.

2.2 North Middleton is a small settlement, approximately three miles to the south of Gorebridge. Other than the primary school and village hall the

settlement comprises only residential properties. The dwellings are generally semi-detached or detached and have accommodation over either one or two storeys. In many cases where there is a second storey of accommodation it is provided within the roofspace.

- 2.3 The application site comprises a gently sloping area of open farmland. The site is bounded to its south east and eastern boundaries by a mature band of trees. A hedge runs along the street frontage to the north west and a very high hedge is located to the north east, between the site and Torcraik Farm. The first of a row of residential properties is located to the south west of the site. The site is currently accessed via a farm access at the southern end of the site.

3 PROPOSAL

- 3.1 The applicant proposes a residential development of 34 dwellinghouses. The proposed development comprises a mix of detached, semi-detached and terraced dwellings. The development contains a mix of full height two storey houses and cottage-style houses which have a second storey of accommodation in the roofspace, served by dormer windows.
- 3.2 A row of cottage-style houses have been located along, and facing on to, Borthwick Castle Road. The remainder of the dwellings are located along a loop road which provides two entrances to the development from Borthwick Castle Road. Behind the buildings on the main street frontage the majority of the dwellings are two storeys in height.
- 3.3 Within the proposed development there are to be 5 two bedroom houses, 4 three bedroom houses and 25 four bedroom houses. A row of five terraced houses comprise the affordable housing element of the proposed development.
- 3.4 An area of open space is located centrally within the development. This open space provides a cycleway/footpath link from the development to a crossing point on Borthwick Castle Road and on to Moorfoot Primary School on the opposite side of the road. Within the eastern area of the planning application site it is intended to include a sustainable urban drainage (SUDs) basin in an area of open space. Immediately adjacent to the SUDs basin is a pumping station.
- 3.5 The planning application is accompanied by a planning statement which sets out the applicant's position regarding the acceptability of the proposal.

4 BACKGROUND

- 4.1 There is no relevant planning history. The application has been called into Planning Committee by Cllr Johnstone on account of her concerns regarding the level of objection.

5 CONSULTATIONS

- 5.1 **Scottish Water** does not object to the planning application. They state that there may be insufficient capacity at Rosebery Water Treatment Works to service the development. There is currently sufficient capacity at North Middleton Waste Water Treatment works to service the development. The applicant is required to contact Scottish Water in order to arrange access to their infrastructure.
- 5.2 The Council's **Archaeological Advisor** has advised that the proposed development site lies within previously undeveloped agricultural land and that archaeological sites of prehistoric and possibly later date lie within 800m, to the south-west and south-east, of the site. For these reasons the Archaeological Advisor has recommended that a programme of archaeological work, in accordance with a Written Scheme of Investigation, be undertaken by the applicant.
- 5.3 The Council's **Head of Education** has advised that the development is estimated to give rise to the following number of pupils:
Primary Pupils – 11
Secondary Pupils - 8
- 5.4 Moorfoot Primary School has sufficient capacity for this development. However, the school is currently at capacity as a result of net placing requests and, as such, placing requests in the future will be managed in order to accommodate pupils arising from planned housing in the Moorfoot catchment area.
- 5.5 St Andrew's RC Primary School is at or near capacity from committed developments in the Newtongrange and Gorebridge area. A developer contribution would be required towards the cost of any extension.
- 5.6 A significant amount of new housing has already been allocated to Newbattle High School and additional secondary capacity will be required. A developer contribution will be required towards the cost of any additional provision.
- 5.7 With regard to Secondary Denominational provision a contribution towards St David's High School is required.
- 5.8 The Council's **Policy and Road Safety Manager** has not objected to the planning application, but has made some recommendations to improve road safety within and out with the application site.
- 5.9 The Policy and Road Safety Manager has advised that the existing street lighting and 20mph speed limit on Borthwick Castle Road be extended over the site frontage and that a pedestrian crossing point be formed across the road. In addition, the rural footpath along the site frontage is to be widened to 2m. There is also a requirement for additional cycle and scooter parking facilities at the adjacent primary school.

- 5.10 The Policy and Road Safety Manager has made the following comments in response to local concerns regarding the impact of the development and construction phase on the local road network:

Some concerns have been raised over the increase in traffic resulting from this development and its impact on the existing A7/Borthwick Castle Road junction. The scale of the proposal is well below the accepted threshold (100 dwellings) where a formal Transport Assessment may be required and the additional traffic the development would generate can be accommodated on the local road network. The existing junction with the A7 has been there for many years, was originally designed as a trunk road junction and meets current design standards. There is no record of any injury road accidents occurring at the junction during the current 3-year accident period and the junction should be more than capable of handling the increase in traffic flows.

Construction traffic would require to use Borthwick Castle Road to access the site and there may be a need at some point to temporarily restrict parking on the access to the site, however the local primary school successfully used this route during its construction period and the residential site should not raise any major access issues.

- 5.11 The **Midlothian Health and Social Care Partnership** has concerns regarding the impact of new house building on health and care services. Midlothian has limited capacity in General Practice leading to some practices restricting access to new patients. This site is within the boundary of general practices which are operating lists that are restricted, which means that new patients need to contact a national service to be allocated a practice in this area. The Partnership is implementing a plan to expand the capacity of general practice in Midlothian which should address capacity issues in this area for the next four to five years. This includes the expansion of Newbyres Practice, the new Newtongrange Clinic which will open later in 2017, and the testing of new roles to work in General Practice to increase capacity.

- 5.12 **Moorfoot Community Council** have objected to the planning application on the following grounds:

- the number and size of houses on the site are not compatible with the requirements of the conservation area;
- the development will add significantly to the numbers of vehicle movements on Borthwick Castle Road and at the A7 junction; and there has been insufficient analysis of the additional risk this will cause;
- there are significant concerns that the arrangements for developer contributions to infrastructure are inadequate;
- there are significant concerns regarding the deliverability of the scheme in terms of the feasibility of provision of utilities to the site; and
- there is inadequate provision of affordable housing.

6 REPRESENTATIONS

6.1 There have been 25 objections received, which can be viewed in full on the online planning application case file. A summary of the points raised are as follows:

- the proposed development represents an overdevelopment, given that the site was originally allocated for 15 dwellinghouses;
- the proposed development will increase the village population (figures presented vary from 25% to 50%);
- the character and appearance of the village and conservation area will be adversely impacted by the proposed development;
- the use of standard house types and 2 storey houses is inappropriate;
- the proposed development will have an unacceptable impact on local services, facilities and infrastructure, including the local primary school, GP services, telecommunications networks and sewage and electricity infrastructure;
- it is unclear whether the developer plans to provide gas infrastructure to the development and village;
- there will be an unacceptable impact on road safety from a significant increase in vehicle movements as a result of the development, particularly at the A7/Borthwick Castle Road junction, the road through the village and at the primary school;
- the traffic generated by the proposed development will add to congestion on the A7;
- there are serious concerns regarding the impact of construction traffic on road safety and the condition of local roads;
- a traffic management plan should be secured in order to ensure the safety of school children during the construction phase;
- there is a lack of public transport serving North Middleton. Some objectors have expressed concerns regarding the Council securing contributions towards the Borders Rail project and instead suggest using contribution funds towards an improved bus service to the village;
- the proposed development will result in the loss of an important green space, used for informal recreation, which benefits the amenity of the village;
- the proposed development risks loss of the mature trees adjacent to the site;
- there will be an adverse impact on wildlife;
- there will be an adverse impact on archaeology;
- there are concerns that there will be an adverse impact as a result of pollution, noise and dust;
- there will potentially be an adverse impact on the local watercourse as a result of discharge from the site;
- the objectors are concerned that the developer contributions will not be sufficient to address infrastructure deficiencies (the figure of £500 is mentioned in several representations);

- there are concerns that the affordable housing is not genuine affordable housing and that it should be better distributed throughout the site;
- concerns that the creation of a playpark on the development site will prevent integration of new residents of North Middleton with existing residents;
- there are limited concerns that the proposed zebra crossing is unnecessary;
- the proposed solar panels will have an adverse impact on the character and appearance of the conservation area; and
- the planning application submission is of a poor quality, including inaccurate statements and information.

6.2 In general, there is a view within the representations that the developer has a disregard for the village and its residents and has placed a desire for profits ahead of providing a greater benefit to the local community.

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 Plan (MLP), adopted in December 2008. The Proposed Midlothian Local Development Plan 2014 (MLDP) has been subject to an examination by the Scottish Ministers and was reported to the Council at its meeting of 26 September 2017 with a timetable to adopt the plan by the end of 2017. The Council approved the modifications proposed by the Scottish Government Reporter (with the exception of one proposed technical modification in relation to the Midlothian Science Zone) and referred the plan back to Scottish Ministers who have confirmed they are not going to intervene in the adoption of the plan. At the time of drafting this Committee report it is scheduled to report the MLDP to Council at its meeting of 7 November 2017 for adoption. As this plan is at a very advanced stage of preparation and represents the settled view of the Council it is a material consideration of significant weight in the assessment of the application. If the Council adopts the MLDP its policies shall supersede those in the MLP and will form the basis of the assessment of this application. The report identifies the relevant MLP policies in this section of the report but the assessment of the application is primarily against the policies in the MLDP because of its advanced stage. The following policies are relevant to the proposal:

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

7.2 Prior to SESplan the Edinburgh and Lothians Structure Plan (approved 2004) and superseded by SESplan in 2013 contained policy HOU8, which set out a presumption against new housing on Greenfield sites in Areas of Restraint. Any acceptable exceptions to the policy were to be restricted to proposals which were required to:

- be identified through the local plan;

- be small-scale and in keeping with the character of the settlement or local area;
 - not be in the Green Belt; and,
 - have any additional infrastructure already committed or funded by the developer.
- 7.3 The Structure Plan Authorities formally agreed that the definition of small-scale development, for the purposes of implementing policy HOU8, should comprise developments of a size no more than 10% of the existing number of households, up to a maximum of 50 new houses.
- 7.4 SESplan did not include the same restrictions when it was approved. Although, Policy 7 of SESplan ensures that development is still to be in keeping with the character of the settlement and local area; does not undermine green belt objectives; and, additional infrastructure required as a result of the development is funded by the developer. SESplan, through policy 1B, is focused on improving the quality of life in local communities, enhancing the natural and built environment and mitigating against climate change. This policy also seeks high quality design, energy efficiency and the use of sustainable building materials. Specifically in Midlothian, SESplan is concerned regarding settlement coalescence and maintaining community identity.

Midlothian Local Plan (MLP)

- 7.5 The MLP policies relevant to the application which are to be superseded by the MLDP are:
- Policy RP5 : Woodland, trees and hedges;
 - Policy RP6 : Areas of great landscape value;
 - Policy RP7: Landscape character;
 - Policy RP20: Development in the built-up area;
 - Policy RP22: Conservation areas;
 - Proposal HOUS2: Village housing allocations;
 - Policy HOUS4: Affordable housing;
 - Policy IMP1: New Development;
 - Policy IMP2: Essential infrastructure required to enable new development to take place; and
 - Policy DP2: Development guidelines
- 7.6 The Council has prepared **Supplementary Planning Guidance on Affordable Housing and Developer Contributions**. The SPG on Developer Contributions sets out guidance on when and where developer contributions are payable.

Midlothian Local Development Plan (MLDP)

- 7.7 While the majority of the relevant policies of the Midlothian Local Development Plan (MLDP) do not alter the planning policy position

significantly from that of the MLP the following policies are relevant to the assessment of the planning application:

- 7.8 Policy **STRAT 1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, facilities and affordable housing, including sites in the established housing land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.
- 7.9 Policy **DEV1: Community Identity and Coalescence** states that development will not be permitted where it would result in the physical or visual coalescence of neighbouring communities unless adequate mitigation measures are proposed.
- 7.10 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.
- 7.11 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.
- 7.12 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.13 Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.
- 7.14 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.15 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.
- 7.16 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*.

- 7.17 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.
- 7.18 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.
- 7.19 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.
- 7.20 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.
- 7.21 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.22 Policy **ENV19: Conservation Areas** states that development will not be permitted within or adjacent to conservation areas where it would have any adverse effect on its character or appearance.
- 7.23 Policy **ENV24: Other Important Archaeological or Historic Sites** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting.
- 7.24 Policy **ENV25: Site Assessment, Evaluation and Recording** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of

the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.

- 7.25 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.26 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.
- 7.27 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.28 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.
- 7.29 Policy **NRG4: Interpretation of Policy NRG3** interprets Policy NRG3.
- 7.30 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.31 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; 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.
- 7.32 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.
- 7.33 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

- 7.34 Supplementary Guidance and other non-statutory planning guidance referred to in the MLDP; which includes; inter alia the following topics, has not yet been brought forward by the Council:
- Affordable and Specialist Housing;
 - Quality of Place;
 - Open Space Standards;
 - Midlothian Green Networks;
 - Community Heating;
 - Developer Contributions.

National Policy

- 7.35 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.
- 7.36 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.
- 7.37 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*.
- 7.38 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.
- 7.39 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".

- 7.40 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.
- 7.41 **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.
- 7.42 **The Scottish Government's Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

8 PLANNING ISSUES

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

The Principle of Development

- 8.2 The MLP allocates the application site for a residential development of approximately 15 dwellinghouses (allocated site VH2). As a result, the principle of a residential development at the site, and the subsequent loss of the open space and agricultural land, has been established as being acceptable. The MLDP continues the commitment to residential development on the site.
- 8.3 In allocating site VH2 the Council had taken in to account national guidance in relation to the siting of housing. Housing allocations were limited to small settlements where there was good accessibility, through a choice of transport to jobs and services. In addition, the Council had provided a new primary school within North Middleton, immediately adjacent to the allocated site.
- 8.4 The previous structure plan, now superseded, allowed for a small-scale residential development at North Middleton. Small-scale was defined as being 10% of the existing number of households in the settlement. It was acknowledged that the site was capable of accommodating a higher number of houses if developed at a higher density, but this was not supported at the time of adoption of the local plan given the criteria set within the structure plan.
- 8.5 As noted above, since that time the structure plan has been superseded and the local plan is in the process of being superseded, with considerable weight now being attached to the MLDP.
- 8.6 Given that structure plan has been superseded and there is no longer a definitive definition of 'small-scale development' within the policy documents it is necessary to fully consider the other criteria relevant to the policy assessment, including ensuring that any new development is

in keeping with the character and appearance of the settlement and surrounding area. The MLDP acknowledges this position by stating that, in relation to site VH2, the *site capacity [was] limited to comply with now superseded Edinburgh and the Lothians Structure Plan 2004. It may be appropriate to adjust the capacity, subject to acceptable layout/design.*

- 8.7 Without the limit on unit numbers it is now necessary to ensure that development does not detract from the character, appearance or amenity of the area. The numbers of units arrived at on this site will be entirely dependent on an acceptable design approach to the layout and on the capacity of local infrastructure and facilities.
- 8.8 The applicant had, in an early version of their planning statement, made repeated reference to the Council failing to provide an effective five-year supply of housing land. This is not the case. In any event, as already stated previously, the application (and acceptable unit numbers) will be assessed on the basis of whether the proposed scheme is acceptable in urban design terms.

Development Layout

- 8.9 While the application site is located within the Borthwick and Crichton Conservation Area the rest of North Middleton is not included in the conservation area boundary. Borthwick and Crichton Conservation Area comprise the rural setting around Borthwick and Crichton castles. The conservation area around Borthwick is characterised by a sporadic grouping of buildings, dominated by the castle. Key elements are boundary walls marking the edge between countryside and hamlet; buildings of contrasting architectural styles; use of stone in various forms, slate and pantiles; and a sense of tranquillity.
- 8.10 Some of the key elements of the conservation area contrast with the character of the village of North Middleton, which is immediately adjacent to the application site. Therefore, in order for a residential development to be successful on the application site, in terms of its appearance, it must respect the character of both the village and the conservation area.
- 8.11 Any form of residential development on the application site is inevitably going to result in a more dense arrangement of dwellings than found elsewhere in the conservation area, given the sporadic nature of development in the conservation area. Therefore, the developer has made efforts to reflect the strong street elevation found within the village. In addition, the developer has limited the size of the dwellings proposed along Borthwick Castle Road to more closely reflect the scale of buildings adjacent.
- 8.12 The use of cottage-style house types along Borthwick Castle Road reflects the general approach to the two most recent extensions to the west end of the village. The quality of the strong street frontage is

enhanced through hedge planting and landscaping, the use of traditional finishing materials and the lack of cars parked at the fronts of houses (vehicle parking for these dwellings is accessed via the loop road through the development). The strong building line is interrupted by the provision of an area of open space, in the form of a small village green, half way along the frontage. This open space provides scope for informal recreation and a footpath link to the school, but also opens up views in to the back of the site, where the houses are slightly larger in scale.

- 8.13 The houses to the rear of the site have been arranged along a loop road through the development, which has been designed with pedestrians as a priority, with the aim to passively reduce vehicle speeds. Therefore, the loop road contains some sharp bends and focused road narrowing. In order to accommodate this “designing streets” approach some of the proposed houses are closer to the road than they would be seen on more traditional volume house builder developments. This is a relatively small development and the proximity of the houses to the road is unlikely to result in poor levels of residential amenity.
- 8.14 Urban design principles have been considered in the design of the proposed layout. The developer has placed buildings and created interest at key points through the development. Vistas through the development are terminated with buildings, rather than empty spaces. This approach, along with good permeability (through the provision of quality usable pathways), will encourage residents to walk or cycle through the development.
- 8.15 Throughout the proposed development the parking provision has been arranged in different ways. Most commonly the parking has been sited in small parking courtyards or to the rear of the dwellings. However, there are a number of plots which have parking provided to the front of the dwelling or where the parking is provided on street. This arrangement, while not ideal in urban design terms, should assist in further reducing vehicle speeds through the development.
- 8.16 A row of five affordable homes has been integrated in to the site, located between houses that will be available on the open market, rather than being located at the edge of the development.
- 8.17 The proposed SUDs basin is to be provided to the north east end of the development. The arrangement of dwellings around the basin ensure that it is subject to good levels of passive surveillance.
- 8.18 MLP policy DP2 standards set out requirements for private usable garden area for dwellings on residential developments. Generally, the garden sizes provided across the proposed development are in close compliance with the DP2 standards. However, there are a few dwellings which do not achieve the set garden sizes. The reduced garden sizes on these plots can be justified on account of the good

quality urban design approach within the development and the convenient access to open countryside in the area which will contribute to levels of amenity.

- 8.19 The layout of the proposed development responds to the constraints of the site and presents a solution which largely complies with the policies of the local plan.

Design

- 8.20 Several comments have been made in the letters of representation about the design and scale of the proposed development, and it being 'out of character' with the local area.
- 8.21 While it is the case that the majority of the dwellings within the proposed development are of a standard volume house builder design, as stated previously, the developer has made an attempt to reflect some of the characteristics of the area through the most visible units along Borthwick Castle Road. The Lodge House and Type A house types along Borthwick Castle Road are single storey buildings with a second floor of accommodation in the roofspace. The upper floors of these dwellings are served by dormer windows. This approach to the design of the most prominent dwellings respects the limited height of buildings elsewhere in the settlement. The approach to the proportions, detailing and finishing of these dwellings is traditional. The design approach employed by the applicant attempts to respond to the local context.
- 8.22 Elsewhere within the development, albeit standard house types are being used, there will be limited use of integral garages and hipped roofs on the dwellings. This approach is appropriate given the appearance of other buildings in the area and in terms of good urban design principles.
- 8.23 Where buildings are located on corner plots the developer has identified that the dwellings will have dual frontages. This approach allows dwellings to present an active elevation to both streets, or provide additional surveillance of the SUDs basin.
- 8.24 A traditional palate of materials is to be used on houses and other structures within the most prominent area of the development site. Other properties will be finished in a way which is reflective of traditional materials.
- 8.25 The proposed houses are not unduly large or bulky and the architectural detailing will result in a positive contribution to the streetscape in particular.

Impact on amenity

- 8.26 Future residents of the proposed development will benefit from good levels of amenity. Garden sizes, distances between buildings and areas of open space are largely compliant with the planning guidance. In addition, there will be new landscaping planted and existing landscaping retained, which will contribute to a good quality environment.
- 8.27 There are few residential properties immediately adjacent to the application site. The closest residential property is at 30 Borthwick Castle Road. However, the closest dwelling to that property has been deliberately set some distance away from it, to ensure that impact on the existing property is kept to a minimum.
- 8.28 Some residents of North Middleton have identified that the existing field is used for informal recreation, thereby contributing to the amenity of the settlement. While the principle of development has been established and some form of development can go ahead the developer has provided pedestrian links through the site which can be used by residents of the village wanting to access the countryside to the east.
- 8.29 Impact on amenity, as a result of this development, will not be significant.

Access and Transportation Issues

- 8.30 The site has been in agricultural use and therefore any form of development is likely to result in an increase in vehicle movements in the area. The developer has proposed an internal loop road which provides access and egress at two separate points on Borthwick Castle Road. Vehicular access to all dwellings is via this loop road and no direct vehicular access to the houses can be taken from Borthwick Farm Road.
- 8.31 The loop road through the development has been designed to passively reduce vehicle speeds through a range of designing streets measures, including selective road narrowing, shared surfaces and a raised table.
- 8.32 Out with the site, the speed limit along Borthwick Castle Road (along the frontage of the site) will be reduced to 20mph. The reduced speed limit will be accompanied by street lighting and a 2m wide adopted footpath on the same side of the road as the development.
- 8.33 The 3m wide cycleway/footpath which runs through the open space within the site links with a new zebra crossing across Borthwick Castle Road, to provide access to the primary school and elsewhere in the village.

- 8.34 Significant concerns have been raised regarding the impact of additional vehicle movements, resulting from this development, on the local road network. The Council's Policy and Road Safety Manager has advised that the A7/Borthwick Castle Road junction has operated without recorded injury accident during the current 3-year accident period and that the junction should be more than capable of handling the increase in traffic flows that this proposed development would generate.
- 8.35 Construction traffic would require use of Borthwick Castle Road to access the site. There may be some need to temporarily restrict parking in the area but construction of the adjacent primary school was successfully carried out while using the same route. It would also be appropriate to agree a construction access/transport plan by way of condition to ensure effective management of vehicles during school term times as the Moorfoot Primary School is opposite the site.

Landscaping

- 8.36 The development is to be set against a band of mature trees which run along the Eastern boundary of the application site. While these trees are located outwith the application site they are protected by virtue of being within a conservation area. The retention of the trees will ensure that an appropriate landscape buffer is provided, which will help soften the development into its landscape setting.
- 8.37 Hedge planting is proposed along the site frontage with Borthwick Castle Road, which will replace the existing hedge which will be lost in order to accommodate the new footpath. Hedges are a traditional feature in the local area and is an appropriate boundary treatment for this development.

SUDS and Flooding

- 8.38 The application site is sufficiently elevated above the local burn so as to not be at risk from flooding. There are no reported surface water issues on the site at present.
- 8.39 The developer has proposed to site the SUDs basin at the north east side of the development. Further clarity is required from the developer regarding the gradient of the basin and the surrounding land. There may be a requirement for a safety barrier to be erected along the access road to plots 19 and 20 in the interests of safety. This can be secured through a planning condition.
- 8.40 The developer has identified the route of the outflow from the SUDs basin into the local burn, to the east of the site. This outflow does not form part of the current planning application and does require planning permission. Should this scheme secure permission it is expected that the applicant will submit a further planning application for the SUDs outflow. The outflow from the SUDs basin into the local burn originates

from surface water only. The surface water will go through two levels of treatment before entering the watercourse. This is a standard approach and should ensure limited risk of pollutants reaching the watercourse from the site.

- 8.41 The developer has proposed a pumping station adjacent to the SUDs basin. While this pumping station is required in terms of the sewage infrastructure, not the SUDs, given its proximity to the basin and the fact that the pumping station is a heavily engineered feature it will be necessary to soften its appearance given its prominent position.

Play and other children's facilities

- 8.42 One objector has raised a concern regarding the provision of play equipment on site. They suggest that if the new development is served by its own children's play area this will limit opportunities for new and existing residents of the village to integrate. For clarity, there are no plans to accommodate play equipment within the application site. As outlined in the developer contributions section of this report it is intended that the developer will contribute funds to enhance provision at the existing play area in the village.
- 8.43 As a result of the development additional cycle and scooter parking provision will be made available at the local primary school.

Affordable housing provision

- 8.44 The developer has proposed the provision of five terraced houses within the application site for affordable housing.
- 8.45 In accordance with MLP Policy HOUS4 sites of 15-49 units are subject to a requirement for 25% of the units above 14 units to be affordable. This equates to 5 units based on the 34 total units.
- 8.46 Policy DEV3 of the MLP states that sites allocated in the previous local plan, which do not yet benefit from planning permission, will require to provide affordable housing based on 25%. This would result in a requirement for nine affordable units on the site.
- 8.47 While the Planning Authority will generally seek to ensure the maximum provision of affordable housing on sites there are some relevant factors in this case. The pre-application discussions regarding the development of this site stretch back a number of years and were based on the requirements of the current adopted local plan. In addition, the applicant contends that to provide nine affordable houses will threaten the economic viability of the scheme.
- 8.48 Council officers have engaged in extensive discussions with the applicants to challenge and test this assertion. The conclusion of that engagement is that, taking into account the overall merits of the

development, the provision of five affordable housing units is acceptable.

Impact on facilities and infrastructure

- 8.49 The objectors have highlighted concerns regarding deficiencies in local facilities and infrastructure.
- 8.50 The impact of the development on schools will be addressed through securing developer contributions towards increasing capacities of schools which have North Middleton in their catchment area. Moorfoot Primary School is only at capacity due to taking in pupils from out with its catchment. The Head of Education has stated that the school will be able to manage this matter in order to accommodate children from the development.
- 8.51 It is acknowledged that there is significant pressure on GP services in the area at present. While it is possible for new residents to register with GPs they may not be in the most convenient location. The Midlothian Health and Social Care Partnership are implementing a plan to expand the capacity of general practice in Midlothian which should address capacity issues in this area for the next four to five years. This includes the expansion of Newbyres Practice, the new Newtongrange Clinic which will open later in 2017, and the testing of new roles to work in General Practice to increase capacity.
- 8.52 Local residents have highlighted that public transport services to North Middleton are limited. They have suggested that the Council secure contributions from the developer towards improving the service. The Council is justified in seeking contributions from the developer towards the Borders Rail Line, as this has been identified through the local plan process. Bus services to North Middleton have not been identified as being an issue by the Policy and Road Safety Manager. The existing bus service has been reduced, but there may be more demand for an increased service should the development be carried out.
- 8.53 The developer had previously indicated that the site would be connected to the mains gas network. Local residents have advised that North Middleton does not benefit from being on mains gas. The developer was due to be investigating the options available regarding whether gas could be supplied to the development but has not, as yet reported back to the Planning Authority. In any event, it is not a requirement that the development is connected to mains gas. However, if mains gas infrastructure to the village is achieved it would have potential wider community benefit.
- 8.54 The sewage infrastructure is adequate to accommodate the proposed development.
- 8.55 With regards to the provision of Broadband, it is the developer's intention to service the development and provide fibre to all new homes

in the site. The developer has enquired with the provider whether enhancement to the Broadband services within the village are required.

- 8.56 Electricity infrastructure is in place in North Middleton. The responsibility for ensuring that the village is adequately serviced is down to the electricity operator and supply companies.

Coal Mining Legacy

- 8.57 The site is in an area identified as being at low risk of coal mining legacy.

Archaeology

- 8.58 The control required by the Council's Archaeological Advisor in the consultation response could be secured by a condition imposed on a grant of planning permission.

Carbon reduction and energy efficiency

- 8.59 The applicant has submitted an Energy Statement to accompany the planning application. The applicant has suggested that photo voltaic solar panels will be used in order to reduce carbon and increase energy efficiency.
- 8.60 Given the lack of clarity regarding whether gas will be used to heat the homes, due to the lack of gas infrastructure in the area, it is not possible to calculate whether the development complies with the relevant policies. It will, therefore, be necessary to condition that the development complies with the terms of policies NRG3 and NRG4 of the MLDP.

Biodiversity

- 8.61 While some objectors have raised concerns regarding the impact of the proposed development on wildlife there have been no protected species identified in the area during the screening of the application.
- 8.62 The Council is seeking to encourage biodiversity across the area. This requirement is not reduced on development sites. Small measures can help encourage wildlife. In this case, it would be appropriate for the developer to provide features which encourage biodiversity, such as swift/bat boxes and some meadow planting in the small communal area.

Percent for art

- 8.63 The percent for art requirement provides an opportunity to support a local craftsperson and provide a feature which helps the development create an identity. This requirement can be covered by planning condition.

Planning Obligations

- 8.64 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:
- necessary to make the proposed development acceptable in planning terms (paragraph 15)
 - serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
 - relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)
 - fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)
 - be reasonable in all other respects.
- 8.65 In relation to Midlothian Council, policies relevant to the use of Section 75 agreements are set out in the MLP, the MLDP and Midlothian Council Developer Contributions Guidelines (Supplementary Planning Guidance) and Supplementary Planning Guidance (SPG) on Affordable Housing both approved in March 2012.
- 8.66 This proposed development of 34 dwellings has been assessed in relation to the above guidance and it is considered that a Planning Obligation is required in respect of the following areas;
- Education provision
 - Affordable housing
 - Borders Rail
 - Children's Play
 - Maintenance of Open Space
- 8.67 **Denominational Primary School Capacity:** The Head of Education has advised that as St Andrews RC primary school is at, or near, capacity an extension to it will be required and this development will be required to make a proportionate contribution to that.
- 8.68 **Denominational Secondary School Capacity:** The Developer Contributions SPG requires that all new residential units in Midlothian contribute towards Midlothian additional denominational secondary school capacity at the Dalkeith Schools Community Campus.
- 8.69 **Non Denominational Secondary School Capacity:** The Head of Education has advised that as a significant amount of new housing has already been allocated to Newbattle High School additional capacity will be required. The development will therefore be required to make a proportionate contribution to additional secondary school capacity.

- 8.70 **Borders Rail:** The site is in the A7/A68 Borders Line Corridor. The 2008 Local Plan and the Proposed Midlothian Local Development Plan require that the site contributes towards the Borders Rail line.
- 8.71 A **traffic regulation order** will be required to be implemented in relation to the delivery of this development. A developer contribution to cover the costs of making the order will be required.
- 8.72 **Children Play and Open Space :** The 2012 SPG on developer contributions identifies that in relation to this specific site that a contribution to enhance the community play park would be sought.
- 8.73 **Affordable Housing :** In accordance with MLP Policy HOUS4 sites of 15-49 units, are subject to a requirement for 25% of the units above 14 units to be affordable. This equates to 5 units based on the 34 total units. Affordable Housing by definition is to be 'housing of a reasonable quality that is affordable to people on modest incomes (Supplementary Planning Guidance (SPG) Affordable Housing Adopted 6th March 2012, paragraph 3.1). MLDP Policy DEV3 requires a 25% provision (without the first 14 unit exemption on allocated sites), this would equate to 9 units. The securing of five units is addressed in paragraphs 8.44 to 8.48.
- 8.74 **Open Space Maintenance:** The responsibility for the maintenance of the open space (including the play area and SUDS) shall be the developers/ owners and provision shall be made in the deeds of sale of all housing units to contribute to the ongoing maintenance of these areas through a regular "factoring" charge.
- 8.75 The above provisions meet the tests set out in circular 03/2012 and comply with the policies within the MLP and MLDP. The applicant has agreed to enter in to a Section 75 Legal agreement with the Council to ensure developer contributions are provided.

Other matters

- 8.76 Local residents have raised concerns regarding the impact of pollution, noise and dust from the site, particularly during the construction phase. There may be some disturbance as a result of development, however developers are required to work within specific parameters and these are regulated by the Council's Environmental Health Service.
- 8.77 Some objectors have suggested that the developer is being asked for developer contributions of £500 per unit. The actual contribution figure will be significantly higher than this. The methodology behind the developer contributions calculation is carefully arrived at and, as mentioned previously, the figures required and the reasons for taking contributions satisfy the tests in place.

- 8.78 Objectors have raised concerns regarding the accuracy of the applicant's submissions. The applicant has corrected incorrect documents and statements.
- 8.79 Earlier in this report it was stated that the appropriate number of units on this site would be arrived at as a result of a scheme that is acceptable in urban design terms. It has been demonstrated that the 34 house development can be accommodated on this site while protecting, and potentially enhancing, the character and appearance of the area. In addition, the developer is funding the additional infrastructure improvements required as a result of this development.

9 RECOMMENDATION

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

By virtue of its scale, location, design and choice of materials the proposed development accords with policies RP5, RP6, RP7, RP20, RP22, HOUS2, HOUS4, IMP1, IMP2 and DP2 of the Midlothian Local Plan 2008 and policies STRAT1, DEV1, DEV2, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV19, ENV24, ENV25, NRG3, NRG4, NRG6, IMP1, IMP2 and IMP3 of the Proposed Midlothian Local Development Plan 2014. The layout and detailed appearance of the development will add interest to the street scene and it will not have a significant adverse impact on the amenity of nearby properties. The presumption for development is not outweighed by any other material consideration.

Subject to:

- i) the prior signing of a legal agreement to secure the provision of affordable housing, and contributions towards education provision, Borders Rail, children's play provision and maintenance of play equipment. The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.
- ii) the following conditions:
 1. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall include:
 - i. existing and finished ground levels and floor levels for all buildings, open space, the SUDs feature and roads, cycleways and paths 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, wildflowers and grassed areas;
- iv. location and design of any proposed walls, fences and gates;
- 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/buildings on adjoining plots are occupied. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August);
- vii. drainage details and details of 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. details of car park and footpath lighting.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the Planning Authority as the programme for completion and subsequent maintenance (vi).

Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

Reason: *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP20 and DP2 of the adopted Midlothian Local Plan, policy DEV6 of the Proposed Midlothian Local Development Plan and national planning guidance and advice.*

2. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be approved in writing with the Planning Authority.

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

3. Development shall not begin until details of the kerb/verge arrangements between plots 19 and 20 and the SUDs basin have

been submitted to and approved in writing by the Planning Authority.

Reason: *In the interests of road safety, given the close proximity of the access road to the SUDs basin.*

4. Development shall not begin until details of the access arrangements, landscape planting and surfacing at the proposed pumping station have been submitted to and approved in writing by the Planning Authority.

Reason: *In the interests of clarity and to ensure that the access to the pumping station operates successfully and safely and that the pumping station, which is a hard landscaped feature in a prominent location, is adequately screened from view.*

5. Development shall not begin until a traffic management plan related to the management of vehicles involved in the preparation and construction of the development hereby approved has been submitted to and approved in writing by the Planning Authority. Thereafter the construction traffic shall operate in compliance with the approved traffic management plan.

Reason: *In the interests of road and pedestrian safety, in particular given the close proximity of the development site to Moorfoot Primary School.*

6. The dwellinghouses hereby approved shall not be occupied until vehicular, cycle and pedestrian access details and routes have been constructed in accordance with plans to be submitted and approved in writing by the Planning Authority. The plans shall include details of construction, visibility, traffic calming measures, lighting and signage.

Reason: *To ensure the future users of the buildings have safe and convenient access to and from the site.*

7. Prior to the occupation of any dwellinghouse on site a minimum visibility splay of 2.4m by 70m shall be provided at both vehicle entrances into the site. The visibility splay shall be shown on a site plan to be submitted and approved in writing by the Planning Authority. Any landscaping within the splay shall be removed and replaced to the rear of the splay.
8. The existing street lighting and 20mph speed limit on Borthwick Castle Road shall be extended over the site frontage with a suitable gateway feature being formed at the start of the residential development.
9. The pedestrian crossing point on Borthwick Castle Road shall be formed as a standard raised zebra crossing and a short section of

2m wide public footway shall link the new crossing to the existing public footway at the school access.

Reason for conditions 7 - 9: In the interests of highway and pedestrian safety.

10. Additional cycle and scooter parking facilities shall be provided within the school grounds at Moorfoot Primary School, in a position to be approved in writing by the Planning Authority, prior to the occupation of the first house unless an alternative timescale is approved in writing by the Planning Authority. Details of the cycle and scooter parking shall be approved in writing by the Planning Authority prior to the installation of the parking features.

Reason: In order to encourage sustainable forms of travel in terms of complying with the aims of policy TRAN1 of the Proposed Midlothian Local Development Plan.

11. Unless otherwise approved in writing by the Planning Authority the external materials on the buildings on plots 1-4, 7 -10, 15-17, 24 and 25, as identified on the approved site plan, shall be traditional natural materials.

Reason: These plots are the most prominent on the application site and the use of traditional natural materials will ensure that the development enhances the character and appearance of the conservation area.

12. Development shall not begin until temporary protective fencing is erected around all trees and hedges on the site to be retained and those trees off site which have a canopy which extends in to the application site. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the canopy unless otherwise approved in writing with the Planning Authority. No excavation, soil removal or storage shall take place within the enclosed area.

Reason: To ensure the development does not result in the loss or damage of trees and hedges which merit retention in accordance with policies RP5 and RP20 of the Midlothian Local Plan, policies DEV7, ENV7 and ENV11 of the Proposed Midlothian Local Development Plan and national planning guidance and advice.

13. No house shall have an under-building that exceeds 0.5 metres in height above ground level unless otherwise approved in writing by the Planning Authority.

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

14. Development shall not begin until a scheme of archaeological investigation has been undertaken in accordance with details submitted to and approved in writing by the Planning Authority.

Reason: *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policy RP28 of the adopted Midlothian Local Plan and policies ENV24 and ENV25 of the proposed Midlothian Local Development Plan.*

15. 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 in the adopted Midlothian Local Plan and the Proposed Midlothian Local Development Plan and national planning guidance and advice.*

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

Reason: *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the Proposed Midlothian Local Development Plan.*

17. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts throughout the development has been submitted to and approved in writing by the Planning Authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the Planning Authority.

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

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

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

19. Prior to the commencement of development details to demonstrate how the development complies with either policy NRG3 or NRG6 of the emerging Midlothian Local Development Plan shall be submitted to and approved in writing by the Planning Authority.
20. The dwellinghouses hereby approved shall not be occupied until the zero and/or low carbon equipment or community heating system approved as part of condition 10 of this permission is installed in accordance with a phasing scheme which is to be agreed in writing by the Planning Authority.

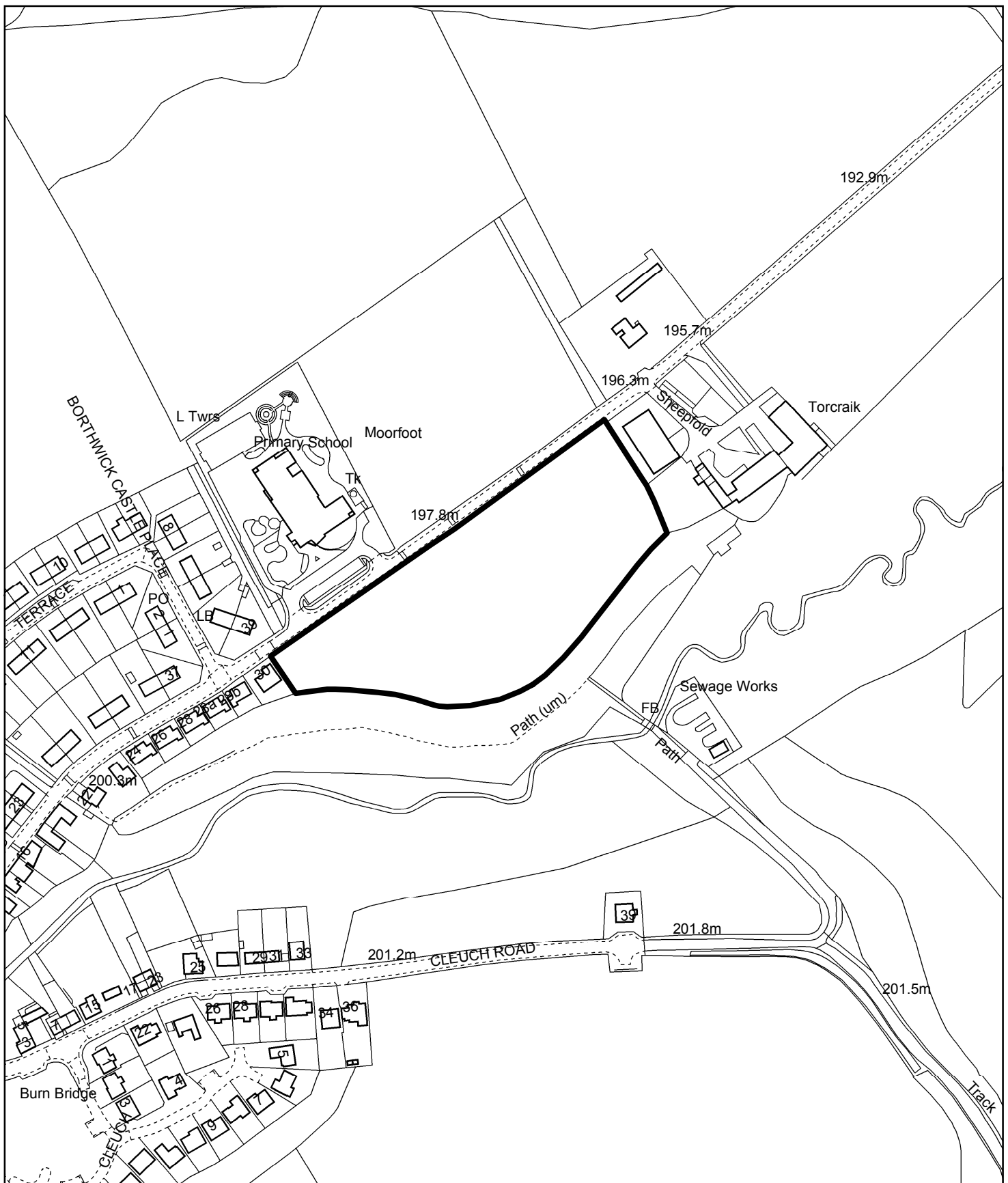
Reason for conditions 19 and 20: To ensure this development complies with the on-site carbon emissions target stated in policy NRG3 of the emerging Midlothian Local Development Plan or secures the infrastructure for a community heating system in compliance with policies NRG3, NRG4 and NRG6 of the emerging Midlothian Local Development Plan, in order to promote sustainable development.

Note – if the Midlothian Local Development Plan is adopted at the Council meeting of 7 November 2017 the reasons to grant planning permission and the reasons for the conditions shall be amended to remove reference to those policies in the Midlothian Local Plan 2008 and the Proposed Midlothian Local Development Plan shall be referred to as the Midlothian Local Development Plan 2017.

Ian Johnson
Head of Communities and Economy

Date:

Application No:	17/00224/DPP
Applicant(s):	Miller Homes, Clydesdale House, 300 Springhill Parkway, Glasgow Business Park, Glasgow
Agent:	N/A
Validation Date:	31 March 2017
Contact Person:	Duncan Robertson
Tel No:	0131 271 3317
Background Papers:	



**Education, Economy
& Communities**
Midlothian Council
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Land south-west of Torcraik Farm, North Middleton,
Gorebridge

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**APPLICATION FOR PLANNING PERMISSION 17/00641/PPP FOR
PLANNING PERMISSION IN PRINCIPLE FOR THE ERECTION OF RETAIL
UNIT AT SOUTRA MAINS FARM, BLACKSHIELDS, FALA, PATHHEAD**

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1** This application is for planning permission in principle for the erection of a retail unit at Soutra Mains Farm, Pathhead. There has been one letter of representation and consultation responses from Transport Scotland, Scottish Water and the Council's Policy and Road Safety Manager.
- 1.2** The relevant development plan policies are policies 3 and 8 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies RP1, RP6, RP7, ECON8, SHOP5, IMP1 of the adopted Midlothian Local Plan 2008 (MLP). Policies RD1, TRC2, ENV6 and ENV7 of the Proposed Midlothian Local Development Plan (MLDP) are significant material considerations.
- 1.3** The planning history of the application site is also a significant material consideration as retail development at this rural location has been previously refused by the Council's Local Review Body, the Council's Planning Committee and by a Reporter appointed by the Scottish Ministers, who dismissed an appeal seeking planning permission for retail units on the site.
- 1.4** The recommendation is to refuse planning permission.

2 LOCATION AND SITE DESCRIPTION

- 2.1** The application site comprises a rectangular area of agricultural land at Soutra Mains Farm, measuring 0.44 hectares, which currently accommodates a large agricultural shed.
- 2.2** The collection of buildings at Soutra Mains Farm includes four holiday cottages, a single storey cafe building, two farm houses and agricultural buildings. The holiday cottages and cafe are relatively recent additions (2014) to the group.

- 2.3 Access and egress at the application site is taken via the existing new vehicle access road taken from the A68. This access was formed as part of the holiday cottage and café development.

3 PROPOSAL

- 3.1 The applicant is seeking planning permission in principle for the erection of a retail unit. An indicative design and layout has been submitted alongside the application. It is noted within the applicant's supporting information that an internal floor space of some 1,800 square metres would be created within the application site.
- 3.2 The indicative design of the retail unit shows an open plan interchangeable retail space that can be utilised by various small businesses. The proposal comprises a mostly single storey building arranged around a courtyard in the style of an agricultural steading.
- 3.2 The applicant has submitted a selection of documents in support of the application, including:
- landscape and visual appraisal;
 - transportation assessment;
 - design and access statement;
 - ecological/habitat survey;
 - indicative layout and design drawings; and
 - planning statement.
- 3.4 The applicant has submitted a petition in support of the application with 119 signatures collected from customers of the cafe. The petition has been taken into consideration as a representation despite having been arranged and submitted by the applicant's agent.

4 BACKGROUND

- 4.1 Outline planning permission, **08/00159/OUT**, for the erection of holiday cottages, coffee shop, parking area and new access road was approved in May 2010. Permission was **granted** subject to a number of conditions, including a limit on the number of holiday cottages to four. The coffee shop was allowed as being ancillary to the main use of the site as holiday accommodation.
- 4.2 A detailed planning application **10/00538/DPP** for the erection of a coffee/gift shop and four holiday lodges was **refused** in December 2010 for the following reasons:

1. It has not been demonstrated that the proposed retail use has a requirement for a countryside location and it is not of a scale appropriate to its position in the countryside and area of great landscape value; for these reasons the proposal does not comply with the terms of policy RP1 of the Midlothian Local Plan.

2. The proposal does not comply with the terms of policy ECON8 of the Midlothian Local Plan as it primarily comprises a retail development of an inappropriate scale in the countryside.

3. The scale, form and design of the proposed development will have an adverse impact on the character and appearance of the landscape, which forms part of the area of great landscape value, and which convey a level of development inappropriate to the confines of this site ; and is therefore contrary to the terms of policies RP6 and RP7 of the Midlothian Local Plan.

4. The proposed tourist accommodation dwellings have not been designed to enhance the area of great landscape value and results in buildings that are out of character with the rural setting ;and as such do not comply with the terms of policies DP1 and ECON7 of the Midlothian Local Plan.

5. The increased level of traffic generated by the retail use would lead to an increased level of traffic leaving and entering the trunk road which may be detrimental to the safety of other road users.

- 4.3 Application **11/00199/MS**C to discharge the conditions of the original 2008 application was **approved**. However, it was only possible to discharge some of the conditions as information had not been submitted in connection with some of the outstanding conditions.
- 4.4 Application **12/00067/MS**C was submitted to address the remaining outstanding matters relating to the 2008 and 2011 applications. However, insufficient information was submitted and a further grant of permission was issued, but not all the conditions were discharged.
- 4.5 Application **13/00274/MS**C was submitted in order to discharge the outstanding matters from the 2008, 2011 and 2012 applications. This application was submitted with the same information as had been submitted previously. The planning authority **refused** the planning application due to not being able to assess the proposal given the lack of information submitted by the applicant.
- 4.6 Planning application **13/00370/DPP** for the erection of four retail units (part retrospective) was **refused** in September 2013 for the following reasons:

1. The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the Edinburgh and the Lothians Structure Plan (ELSP) policy ENV3 and adopted Midlothian Local Plan (MLP) policies RP1 and ECON8.

2. As the application site is in the countryside it is not in one of the locations specified in the ELSP policy RET1 - Sequential approach to the location of retail and commercial leisure development, as being potentially suitable for retail developments. Accordingly, the proposed development is contrary to ELSP policy RET1 and the adopted MLP policy SHOP5.

3. It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead.

4. It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.

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

1. The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the adopted Midlothian Local Plan (2008) policies RP1, SHOP5 and ECON8;

2. It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead; and

3. It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.

- 4.8 Planning application **14/00293/DPP** for the erection of four retail units (part retrospective) was **refused** by Midlothian Council's Planning Committee in September 2014 for the following reasons:

1. The proposed development would comprise a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the adopted Midlothian Local Plan (2008) policies RP1, SHOP5 and ECON8.

2. As the application site is in a remote countryside location it is not in one of the acceptable types of locations, as specified in the sequential town centre first approach identified in the Scottish Planning Policy. As no sequential test has been submitted for assessment it has not been

demonstrated, to the satisfaction of the Planning Authority, that the site is appropriate for the proposed use and that there are no other more sustainable or suitable sites which could accommodate the development more appropriately. Accordingly, the proposed development is contrary to the SPP, policy 3 of the Strategic Development Plan and policy SHOP5 of the adopted Midlothian Local Plan.

3. It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead.

4. It has not been demonstrated that the retail complex could operate successfully without having a significant and adverse impact on road safety on the trunk road.

- 4.9 This applicant appealed against the Planning Committee's decision to refuse planning application **14/00293/DPP**. The application was also **refused** at appeal by the Reporter on the 15 December 2014.
- 4.10 Application **14/00542/MS** to discharge the conditions of the original 2008 application was **approved** in September 2014.
- 4.11 Pre-application advice was provided in December 2016 with regards to a development proposal seeking to erect a new building to incorporate a visitor centre comprising open retail space/retail units and a tourism facility. Overall, it was advised that it was unlikely that the development proposal would be supported.
- 4.12 The current application has been called to Planning Committee for consideration by Councillor Hackett to enable the Planning Committee to discuss a unique development which warrants deliberation and debate by the elected members.

5 CONSULTATIONS

- 5.1 **Transport Scotland** does not object to the planning application but do request that a condition be imposed seeking adequate visibility splays. This condition is required in order to maintain highway safety.
- 5.2 **Scottish Water** does not object to the development proposal. It was noted that the applicant should be aware that this does not confirm that the proposed development can currently be serviced.
- 5.3 The Council's **Policy and Road Safety Manager** does not object to the proposed development.

6 REPRESENTATIONS

- 6.1 One representation has been received. The representation supports the planning application. The representor believes that the development proposal would be beneficial to the local area and the building would be a visual improvement to the existing agricultural building. The representation can be viewed in full on the online planning application case file.
- 6.2 The agent hand delivered a petition containing 119 signatures collected from the cafe on the 13 September 2017. The petition has been taken into consideration as a representation despite it being submitted by the applicant's agent. A short covering statement was noted at the top of the petition stating that the Russell family (the applicant) would like support with their current planning application. The planning reference, site address and a short description of the proposal were also noted.

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 Plan (MLP), adopted in December 2008. The Proposed Midlothian Local Development Plan 2014 (MLDP) has been subject to an examination by the Scottish Ministers and was reported to the Council at its meeting of 26 September 2017 with a timetable to adopt the plan by the end of 2017. The Council approved the modifications proposed by the Scottish Government Reporter (with the exception of one proposed technical modification in relation to the Midlothian Science Zone) and referred the plan back to Scottish Ministers who have confirmed they are not going to intervene in the adoption of the plan. At the time of drafting this Committee report it is scheduled to report the MLDP to Council at its meeting of 7 November 2017 for adoption. As this plan is at a very advanced stage of preparation and represents the settled view of the Council it is a material consideration of significant weight in the assessment of the application. If the Council adopts the MLDP its policies shall supersede those in the MLP and will form the basis of the assessment of this application. The report identifies the relevant MLP policies in this section of the report but the assessment of the application is primarily against the policies in the MLDP because of its advanced stage. The following policies are relevant to the proposal:

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

- 7.2 The Strategic Development Plan sets out some key aims, three of which are:

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

Midlothian Local Plan 2008 (MLP)

- 7.5 The MLP policies relevant to the application which are to be superseded by the MLDP are:
- Policy RP1: Protection of the Countryside;
 - Policy RP6: Areas of Great Landscape Value;
 - Policy RP7: Landscape Character;
 - Policy ECON8: Rural Development;
 - Policy SHOP5: Major Retail and Commercial Leisure Development outwith Strategic Town Centres and Straiton; and
 - Policy IMP1: New Development.

Midlothian Local Development Plan (MLDP)

- 7.6 Policy **RD1: Development in the Countryside** sets out where appropriate development would be acceptable in the countryside subject to defined criteria. The policy states that proposals will not be permissible if they are of a primarily retail nature.
- 7.7 Policy **TRC2: Location of New Retail and Commercial Leisure Facilities** is relevant to the siting of new retail and commercial leisure facilities. The policy and the role of centres are defined in the network of centres which give support to development in town centres, to Straiton where alternatives are not available in a town centre, and to a new out of centre location that is supported in the southern A7 corridor (Redheugh). Policy TCR2 also supports retail development (up to 1000sqm gross floor area) at local centres (these are identified in the network of centres). The policy also allows for new local centres to come forward serving housing developments where these are not served adequately by existing centres. There is no support for retail development in the countryside.
- 7.8 Policy **ENV6: Special Landscape Areas** states that development proposals will only be permitted where they incorporate high standards of siting and design and where they will not have significant adverse effect on the special landscape qualities of the area.

- 7.9 Policy **ENV7: Landscape Character** which advises that development will not be permitted where it may adversely affect the quality of the local landscape. Provision should be made to maintain local diversity and distinctiveness of landscape character and enhance landscape characteristics where improvement is required.
- 7.10 **The Scottish Planning Policy (SPP)** promotes a town centre first principle, which considers the health and vibrancy of town centres. The SPP promotes the use of the sequential town centre first approach, outlining the following order of preference for commercial development proposals:
- town centre (including local centres);
 - edge of town centre;
 - other commercial centres identified in the development plan; and
 - out-of-centre locations that are, or can be made easily accessible by a choice of transport modes.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies, unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations. A significant material consideration in this case is the planning history of the site, particularly as the Council has consistently resisted the introduction of retail based development in this rural location. In addition, the Council's Local Review Body's decision to uphold the decision to refuse planning permission for retail units in this location is relevant. Furthermore, the Planning Committee have refused permission for retail development on this site and subsequently a Reporter appointed by the Scottish Ministers dismissed an appeal seeking permission for retail units in this location.

The Principle of Development

- 8.2 The applicant has stated in their statement supporting the planning application that the adopted plan is out of date. However, the proposed local development plan reiterates the same core principles as those contained within the current adopted local plan. Furthermore, the Council's adopted and emerging policies are reflective of the position taken by the Scottish Government in the SPP in the areas relevant to the development proposal. There is no policy support for retail development at this location.
- 8.3 The MLP and MLDP set the application site within an area identified as being the countryside and as such is covered by the Protection of the Countryside (RP1/RD1) policies.

- 8.4 The application site is located within a designated area of countryside and an area of great landscape value. The relevant policies of the development plan state that rural developments must demonstrate a requirement for a countryside location and take account of accessibility to public transport and services. In addition, development in the countryside must have an operational requirement for such a location that cannot be met on a site within an urban area or land allocated for that purpose, and it is compatible with the rural character of the area. The proposal neither requires a countryside location nor is compatible with the rural character of the area.
- 8.5 MLDP policy RD1 adds an additional restriction where proposals will not be permissible where they are of a primarily retail nature (this restriction is contained within policy ECON8 of the MLP).
- 8.6 In relation to the information submitted by the applicant, it is noted on the indicative floor plan that the retail unit will be open plan and may comprise a delicatessen, ice cream parlour, bakery, butchers, green grocer, newsagent/gift shop, clothing, gifts and crafts and a tourist information area. No business case or supporting statement has been submitted to justify the current application or demonstrate the viability of the proposed development. The applicant has not offered an operational need for a countryside location in order to justify the development. The indicative retail uses are those commonly found in town centres or neighbourhood centres and as such are not appropriate to a rural countryside location.
- 8.7 Scottish Government Policy and the Strategic Development Plan seeks a sequential approach to the siting of new retail facilities which means that they should be located in accordance with the following priorities, depending on the availability of suitable opportunities within the expected catchment area of the proposed development: a) within a town centre; failing that b) on the edge of a town centre, or significantly close to form an effective extension to the centre; failing which c); within another shopping location of an appropriate size, character and function, including major shopping centres; failing which d) on the edge of such established shopping locations referred to in c), or sufficiently close to form an effective extension; failing which e) elsewhere within an existing or planned urban area defined in the local plan. The application site is outwith the sequential hierarchy and therefore has no support by national policy or development plan policy.
- 8.8 Generally, it would be expected that retail activities are sited within the town centres in Midlothian. Town centres are the sustainable option for retail activities given that they have the best access to public transport and greater footfall. Following the sequential approach ensures that development is guided to appropriate, sustainable and viable sites which support the community and economic growth in a logical and sustainable way. Retail developments, like the proposal, in rural

locations undermine the sense of community and economic benefits which are delivered by a vibrant town and neighbourhood centres.

- 8.9 The site is not in a town centre, Straiton or at the new retail opportunity location in the Redheugh area. Soutra Farm is not one of the Council's identified local centres, and nor does the site meet the criteria to be identified as a new local centre. The siting of the proposed retail unit fails the sequential test.
- 8.10 The footprint of the proposed development is less than the scale at which Midlothian Council would normally require Retail Impact Assessment (RIA) to be carried out, although the MLDP does allow for a RIA to be undertaken for smaller proposals (para. 4.6.5). In the circumstances, the Planning Authority considers that a RIA is not necessary. The purpose of a RIA is to ensure that proposals conforming with the sequential approach meet qualitative and quantitative deficiencies and can be implemented without undermining town centres. A RIA could not be used as a justification to over-ride the need to apply the sequential approach.
- 8.11 Within the applicant's supporting information, it is noted that there is a demand for the proposed development from the local community and business people. It is stated that there are eight local home businesses, which employ 8-15 people and would require additional staff numbers that are interested in re-locating to the newly proposed retail unit. The applicant estimates that the development would result in 25 permanent jobs at the site. However, there is no evidence submitted to support these statements. No information has been provided regarding the exact location of the existing businesses seeking to move to the application site; their current employment status; the viability of the existing home businesses; whether the businesses have sought out alternative premises in local town centres; and whether these business people have considered the long term viability of operating a retail business in such a rural location. Furthermore it is unlikely that the uses identified in paragraph 8.6 are currently operating from existing residential properties.
- 8.12 It is unlikely that any form of retail development could be successfully argued to have an operational requirement to be located at Soutra, other than some form of agricultural-related sales of a scale compatible with the farm. There is no operational requirement for a retail unit of this scale to be located at Soutra. The confirmed national, regional and local policy position is that these types of retail units should be located within existing retail centres, helping deliver sustainable economic development and contribute to existing town centre and retail centre viability.
- 8.13 That policy position is predicated on the assessment that the type of development proposed in this application, if supported, could readily undermine the viability and vitality of Midlothian's town centres to the

detriment of existing business and jobs. This type of retail development, which has no operational requirement for being in the countryside, attracts typical town centre uses away from the town centres in to areas where operating costs, such as rent, can often be lower. This also encourages users to avoid shopping within existing town centres.

- 8.14 The application site does not benefit from good public transport links. In addition, the proposed development will potentially generate significantly increased levels of journeys by car. This is an unsustainable form of development and is contrary to the aims of sustainable development as pursued by the Scottish Government and Midlothian Council, through planning policy.
- 8.15 The proposed development has not demonstrated, to the satisfaction of the Planning Authority, that there is a requirement for a countryside location for this development. Accordingly, the application proposal is contrary to policy RP1 of the MLDP.
- 8.16 Policy ECON8 of the MLP and policy RD1 of the MLDP both state that development will not be approved in rural areas where it is primarily of a retail nature. This application relates solely to the erection of a large retail unit and is, therefore, not in compliance with policy ECON8 of the MLP and policy RD1 of the MLDP.
- 8.17 Planning policies do support some forms of farm related diversification, including the possibility of a farm shop selling goods grown or produced on the farm. However, it is not evident that a retail development of this scale would be viable, nor has it been demonstrated that the proposed development in this case constitutes farm related diversification. The proposal is a speculative retail proposal in the countryside, for which there is no policy support and a planning history consistently resisting such a development.
- 8.18 As noted in paragraph 4.9 above a Scottish Government Reporter dismissed an appeal for the erection of four retail units of a smaller scale than the current proposal at the application site in 2014. The three main issues previously considered by the Reporter with regards to the earlier retail proposal were in relation to the effect of the proposed shops on the vitality and viability of nearby town centres; the operational requirement by means of the sequential approach and the impact upon road safety.
- 8.19 The applicant has not addressed these reasons for the previous application being refused and dismissed at appeal.

Transport

- 8.20 A supporting transportation assessment was submitted along with the application which provided an assessment of the development proposal

in terms of road safety. The supporting transportation assessment noted that the appropriate junction visibility splay, for the speeds past the site, is 160 metres for traffic going south, and 210 metres for traffic going north. Transport Scotland has identified the requirement for sightlines measuring 215 metres in each direction. The applicant has not demonstrated that visibility splays of this distance can be achieved.

Indicative drawings

- 8.21 The application was accompanied with an indicative layout and design for the proposed retail unit which is of a large and imposing scale in comparison to the farmhouse, dwelling, holiday cottages and cafe. The design approach appears to give the impression of a steading which would be more appropriate to a larger, grand country house rather than the more modest farmhouse at Soutra.
- 8.22 Supporting statements were included with the application which included visualisations and design rationale. The existing agricultural shed, which is sought to be replaced, clearly reads as part of Soutra Mains Farm which contributes towards the agricultural appearance of the site. The proposed retail development fails to visually connect to the existing buildings through the form, scale, design or siting.
- 8.23 Within the design and access statement comparisons have been made to Mortonhall Stable Block, Newhailes Block conversion and Castlemilk Stable Block; all of which are of a grander scale associated with estates. It remains unclear what the design rationale is for the choice of materials, including the horizontal split on the end features on the front elevation. In this area these types of buildings are almost exclusively built and finished with natural stone. The pitches on some of the roofs look very shallow, perhaps incapable of accommodating a traditional roofing material.

Biodiversity

- 8.24 The submitted ecology report noted that there is no sign of any protected species being present on site. Badger and Otter have been recorded nearby but there is no evidence of them on site. There is also no evidence of any bat species roosting on site. The design of the current building offers negligible bat roosting opportunities so there is no reason to consider bat surveys. There are no concerns with regards to protected species in relation to the development proposal.

Conclusion

- 8.25 The policies of the development plan are intended to be applied consistently in order to give applicants and developers certainty with regards to the potential outcome of planning proposals in principle. Departing from the adopted policies undermines the effective

implementation of the policies and wider aims of the Council as local planning authority as established in its adopted development plan.

- 8.26 While the Planning Authority supports businesses in Midlothian, development needs to be sited in appropriate locations and comply with the policies of the development plan. This proposed development does not comply with the aims of the Council, most particularly in supporting and promoting viable and economically healthy town centres, as expressed in the MLDP. Furthermore, there is insufficient evidence to suggest that the potential economic benefit as a result of the development should be considered a significant material consideration which would outweigh the policy position.

9 RECOMMENDATION

- 9.1 That planning permission be refused for the following reasons:

1. *The proposed retail development would comprise of a development in the countryside for which it has not been demonstrated that there is an operational requirement for a countryside location. Accordingly, the proposed development is contrary to the adopted Midlothian Local Plan (2008) policies RP1, SHOP5 and ECON8 and the proposed Midlothian Local Development Plan (2014) policies TRC2 and RD1.*
2. *As the application site is in a remote countryside location it is not in one of the acceptable locations, as specified in the sequential town centre first approach identified in the Scottish Planning Policy. As no sequential test has been submitted for assessment it has not been demonstrated, to the satisfaction of the Planning Authority, that the site is appropriate for the proposed use and that there are no other more sustainable or suitable sites which could accommodate the development more appropriately. Accordingly, the proposed development is contrary to the SPP, policy 3 of the Strategic Development Plan, policy SHOP5 of the adopted Midlothian Local Plan (2008) and TRC2 of the proposed Midlothian Local Development Plan.*
3. *It has not been demonstrated to the satisfaction of the Planning Authority that the operation of the proposed retail complex would not undermine the vitality and viability of Midlothian's town centres, in particular Pathhead.*
4. *It has not been demonstrated to the satisfaction of the Planning Authority that the required visibility splays (215 metres in each direction) can be achieved.*
5. *The indicative information submitted shows a building which, on account of its scale, form, design and materials will not be compatible to its location or to existing nearby buildings.*

Note – if the Midlothian Local Development Plan is adopted at the Council meeting of 7 November 2017 the reasons for refusal shall be amended to remove reference to those policies in the Midlothian Local Plan 2008 and the Proposed Midlothian Local Development Plan shall be referred to as the Midlothian Local Development Plan 2017.

Ian Johnson
Head of Communities and Economy

Date: 7 November 2017

Application No: 17/00641/PPP

Applicant: Mr George Russell (Jr)

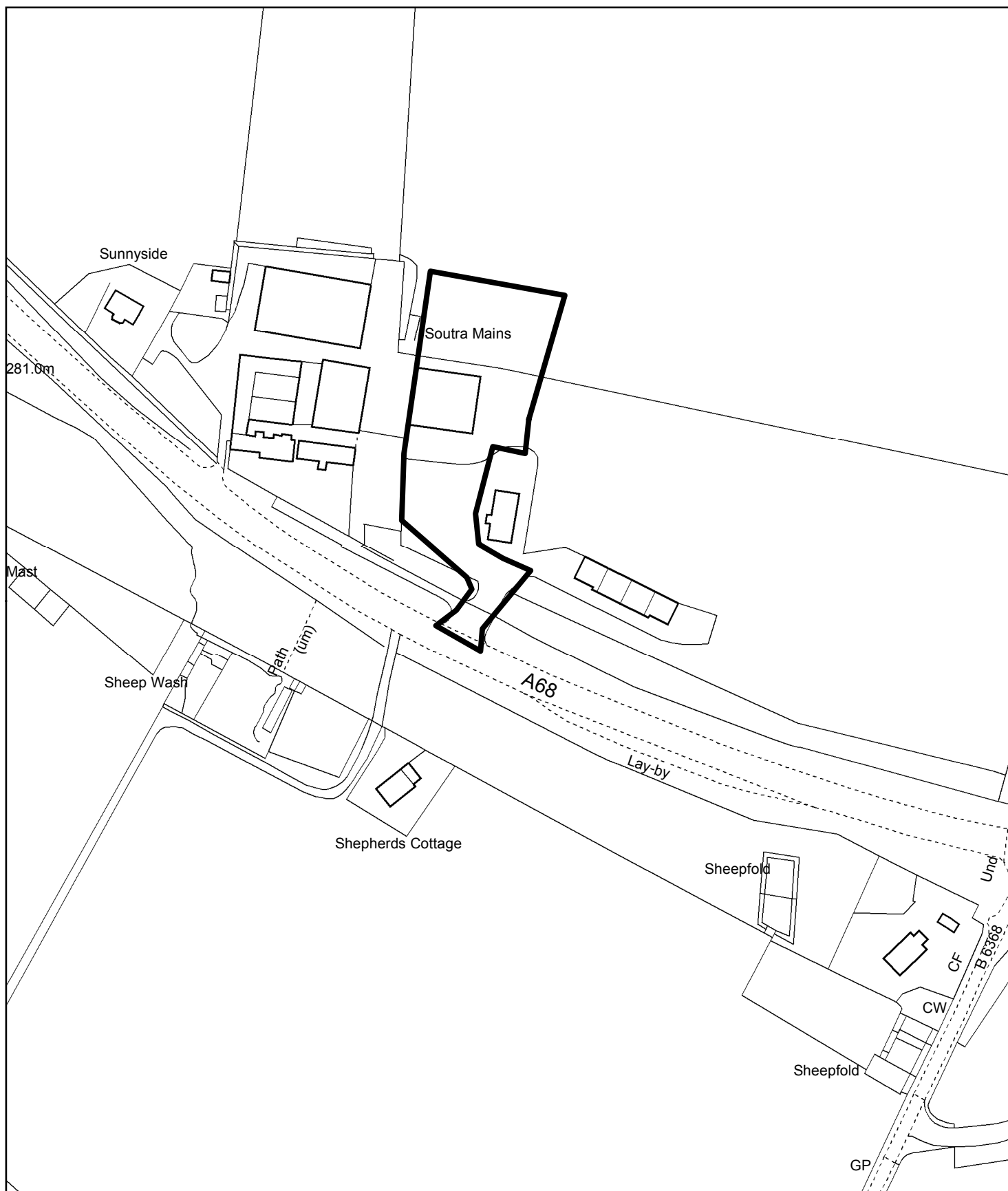
Agent: Ms Suzanne McIntosh

Validation Date: 11 August 2017

Contact Person: Whitney Lindsay

Tel No: 0131 271 3315

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12/00067/MSC, 13/00274/MSC, 13/00370/DPP,
14/00293/DPP and 14/00542/MSC.



**Education, Economy
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