

Midlothian

TREE PRESERVATION ORDER (1 of 2022) AT PENTLAND LEA AND THE FIRS, SEAFIELD ROAD, BILSTON

Report by Chief Officer Place

1 PURPOSE OF REPORT

- 1.1 This report seeks the Committee's approval to confirm a Tree Preservation Order (TPO) 1 of 2022 issued on 1 December 2022 for eight individual trees (T1 - T8) and two groups of trees (G1 and G2) at Pentland Lea and The Firs, Seafield Road, Bilston.

2 BACKGROUND

- 2.1 At its meeting of 22 November 2022 the Committee determined to issue a TPO regarding eight individual trees (T1 - T8) and two groups of trees (G1 and G2) at Pentland Lea and The Firs, Seafield Road, Bilston.
- 2.2 The TPO was issued on the basis that a report regarding the confirmation of the TPO, once the owner of the land and other interested parties have had the opportunity to make comment, be reported to Committee for consideration. The following details of the case are set out in the 22 November 2022 Committee report attached as Appendix A:
- Site location and description;
 - Background and justification for issuing the TPO;
 - Details of the TPO proposal;
 - Location plan;
 - Local development context plan; and
 - Site photos
- 2.3 The TPO came into effect on 1 December 2022 and continues in force for six months (until 1 June 2023) or until the Order is 'confirmed', which is the process of making the TPO permanent (until it is removed).
- 2.4 Following the service of the TPO the landowners were given the opportunity to make representation. Furthermore, in accordance with the Regulations, a notice was published in the Midlothian Advertiser and on the Council's website and the Roslin and Bilston Community Council were also notified of the decision to issue the Tree Preservation Order and invited to make a representation. In addition a site notice was attached to a nearby lamp post advising of the TPO and the consultation process.

Interested parties were given until 26 January 2023 to make representations, this was extended to 10 February 2023 for the property owner in response to a request from their agent. Legislation requires that a period of at least 28 days is made available for representation to be submitted to the Council following a decision to make a Tree Preservation Order.

- 2.4 One representation on behalf of the landowner was received.

3 REPRESENTATIONS

- 3.1 The Council received one representation objecting to the issuing of a TPO, dated 8 February 2023, on behalf of the owners of Pentland Lea and The Firs. The representation is attached as Appendix B.
- 3.2 In summary, the objection considers the making of the TPO premature given proposals for the potential re-development on the site are at a very early stage (pre-application) and the surrounding area is undergoing considerable change as a result of new development. The key points raised in the objection are set out below and are addressed in turn.
- 3.3 **Objection Paragraph 14:** *'The owners consider that the TPO is not appropriate as they have maintained the trees and landscaping at the site for a considerable time and will continue to do so, in line with appropriate redevelopment plans which were the subject of initial plans to prompt discussion... The owners consider that the imposition of the TPO during this process was unreasonable and unnecessary.'*
- 3.4 Response: It is understood that initial plans submitted as part of the pre-application enquiry are intended for discussion and by no means final. However, the indicative site layout raised sufficient concerns for potential tree loss and/or adverse effects on existing trees and their root systems, to consider it expedient in the interest of amenity to make a TPO. This does not preclude any further discussions or the possibility of development on the site. The TPO gives greater tree protection as part of an assessment of a development proposal, should one come forward.
- 3.5 **Objection Paragraph 15:** *'The TPO incorrectly defines the site as it includes land outside the Firs and Pentland Lea. It is understood that no arboricultural assessment has been carried out to define the health and appropriateness of trees identified in the TPO and accordingly the making of the TPO is premature as it could protect trees that should not be protected [for example sycamore trees and cherry trees].'*
- 3.6 Response: Trees on land adjoining the objector's ownership boundary were intentionally included within the TPO, as they contribute to visual amenity of the adjoining properties at Corby Craig Avenue, and provide screening and landscape softening within existing views and to any potential future development at Pentland Lea and the Firs. Whilst the trees are within a different ownership, the effective extent of their roots (generally described as a Root Protection Area) may still be affected by

any potential development on the objectors land. The registered owner of the adjoining land was notified of the making of the TPO.

- 3.7 There is no legal requirement for a tree survey to be carried out as part of the TPO process, nor is there any prescription as to species that may or may not warrant protection. Although condition and retention span may be taken into consideration, the deciding factor in making a TPO is whether it is expedient in the interest of amenity and/or the tree warrants protection based on its cultural or historic value.
- 3.8 A tree survey and arboricultural impact assessment would generally need to be submitted as part of any application for development affecting existing trees. The making of a TPO does not preclude development on the site or works to trees where these may be required for sound arboricultural management or safety reasons. However, a 'Work to Trees' application would need to be submitted and consented by the planning authority ahead of any works to trees protected by TPO, unless the proposed tree works qualify for an exemption.
- 3.9 **Objection Paragraph 16:** *'The identified trees are not under threat from development – as evidenced by the proper pre-application approach taken by the owners towards the development of the area. Works could have been carried out prior to the pre-application process and accordingly, the owners are being adversely impacted by the actions of the council in this matter. The trees outside the owners control, and which provide the screening and visual impact referred to in the TPO and Tree Report would be retained even if development were to proceed on site.'*
- 3.10 Response: As stated earlier, the indicative site layout raised sufficient concerns for potential tree loss and/or adverse effects on existing trees and their root systems, to consider it expedient to make a TPO. This does not prohibit any further discussion with regard to development on the site. Trees on adjoining land are included within the TPO, to safeguard them from potential adverse effects on their roots and associated Root Protection Areas and because of the contribution they make to local amenity and green network.
- 3.11 **Objection Paragraph 17:** *'Notwithstanding the reasons for the imposition of the TPO, other trees of greater importance – i.e. the trees actually adjoining the Bilston Burn, are not protected, which undermines the reasons for this TPO.'*
- 3.12 Response: TPO 2 of 1999 is in place near the Firs, immediately south of Seafeld Road. This was made in the context of residential development at Seafeld Crescent, to safeguard the surrounding framework of trees and includes trees along the Bilston Burn and at the Seafeld Road frontage. No other (imminent or perceived) threats have so far warranted the need for additional TPOs within the Bilston Burn corridor near Pentland Lea and The Firs.

- 3.13 **Objection Paragraph 18:** *‘MDC should not retrospectively protect the amenity of the area through the imposition of this TPO. Had such protection been necessary, or had augmentation been required to provide a meaningful screening and softening appearance, the correct approach should have been through the requirement for additional planting as part of the landscaping proposals for the new housing development..’*
- 3.14 Response: The TPO serves to protect mature trees and established elements of planting that contribute to local character and amenity, in tandem with newly established areas of open space and structure planting that have been implemented as part of the adjoining developments.

4 PLANNING ISSUES

- 4.1 The individual trees and tree groups by means of their size, location and character form a visually prominent and important landscape feature in the local area. The trees feature in views along Seafield Road and from surrounding properties; adding to the setting and amenity of the area. They contribute notably to the character of Seafield Road, whilst providing screening, landscape softening and separation between new housing developments.
- 4.2 Within the wider landscape context, the trees contribute to the green network in terms of supporting habitat and biodiversity within the adjoining Bilston Burn corridor, and maintaining connectivity with planned green spaces in allocated housing site Hs16 (Phase 3) to the north, as well as the rural landscape that lies beyond (as illustrated in the attached masterplan).
- 4.3 The trees form part of the landscape character of the area and contribute to the local green network. The issuing of a TPO will be an important tool in protecting the trees aiding in the preservation of local amenity, biodiversity and habitat connectivity.

5 PROCEDURES

- 5.1 The provision for issuing a Tree Preservation Order is set out in the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006, and the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010. A planning authority may make a Tree Preservation Order if it appears to them to be “expedient in the interest of amenity and/or that the trees, groups of trees or woodlands are of cultural or historic significance” (Scottish Government Planning Circular 1/2011: Tree Preservation Orders). The TPO subject of this report has been made on amenity grounds.
- 5.2 The TPO will continue to remain in effect to the end of the six month period (ending 1 June 2023). If the local planning authority wishes the TPO to stay in effect beyond the six months it must ‘confirm’ the order.

- 5.3 To 'confirm' the Order the LPA must register the TPO in the Land Registry of Scotland, place a copy on its own TPO register and notify Scottish Forestry (previously the Forestry Commission Scotland), interested persons and any person who has made a representation (in this case no representations were received).

6 RECOMMENDATION

- 6.1 It is recommended that Committee:
- a) Confirm the Tree Preservation Order (1 of 2022) for eight individual trees (T1 – T8) and two groups of trees (G1 and G2) at Pentland Lea and The Firs, Seafield Road, Bilston; and
 - b) Instruct the Planning, Sustainable Growth and Investment Service Manager to carry out the necessary procedures, following confirmation and endorsement of a tree preservation order, that are required by the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 and the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date:	20 March 2023
Contact Person:	Grant Ballantine grant.ballantine@midlothian.gov.uk
Background Papers:	November 2022 Committee Report (attached)



Midlothian

PLANNING COMMITTEE
22 NOVEMBER 2022
ITEM NO

TREE PRESERVATION ORDER REGARDING TREES AT PENTLAND LEA AND THE FIRS, SEAFIELD ROAD, BILSTON

Report by Chief Officer Place

1 PURPOSE OF REPORT

- 1.1 This report seeks the Committee's approval to issue a Tree Preservation Order (TPO) on eight individual trees and two groups of trees located at Pentland Lea and The Firs, Seafield Road, Bilston.

2 LOCATION AND SITE DESCRIPTION

- 2.1 Pentland Lea and The Firs are located north of Seafield Road, in an area of Bilston that is changing as a consequence of recent and ongoing housing development. The properties adjoin the western extent of the recently completed Corby Craig development (allocated housing site h56) and are bound to the north and west by new housing at Pentland Green (allocated housing site Hs16). The Bilston Burn corridor extends in close proximity to the south; on the opposite side of Seafield Road.
- 2.2 The trees are growing within the grounds surrounding the existing dwellinghouses and outbuildings at Pentland Lea and The Firs, and on a strip of land immediately adjoining, between the boundary of The Firs and neighbouring properties at Corby Craig Avenue. The trees are mostly located along the property boundaries; with groups of trees and individual specimens providing amenity value and screening.

3 BACKGROUND

- 3.1 Planning permission (18/00679/PPP) has been granted for a dwellinghouse on land to the north west of Pentland Lea, Seafield Road Bilston, but has not been implemented, this permission expires 31 March 2023 (the house would be sited between proposed TPO T1 and T2 shown on the location plan attached to this report). Subsequent to this application the owner of Pentland Lea and The Firs, Seafield Road, Bilston has been in discussion with Planning Officers regarding a potential residential development of 13 dwellinghouses on the site of the two properties (Pentland Lea would be retained, but The Firs would be demolished) – as part of the applicant's plans they are proposing to remove the trees subject to the TPO consideration.

4 PROPOSAL

- 4.1 It is proposed to issue a Tree Preservation Order (TPO) covering eight individual trees and two tree groups as shown on the attached location plan and in the attached photographs and as described below:
- 4.2 The eight individual trees are all broadleaf species, located along property boundaries and comprise:
- A Beech tree (T1) marks the western boundary of Pentland Lea;
 - A Norway Maple tree (T2) and Sycamore tree (T3) punctuate the driveway at Pentland Lea and marks the boundary with The Firs;
 - An Alder tree (T4), Ash tree (T5) and Sycamore tree (T6) form a row along the north eastern boundary of The Firs;
 - A Cherry tree (T7) marks the access to The Firs and punctuates the boundary with Seafield Road; and
 - A Sycamore tree (T8) marks the driveway access to Pentland Lea.
- 4.3 Tree Group 1 (G1) comprises mature mixed species within the front gardens of Pentland Lea. The trees are clustered near the southern property boundary with Seafield Road and provide screening to the main dwellinghouse. As a group, the trees contribute notably to local amenity and the character of Seafield Road. The mix of species supports habitat and local biodiversity; adding to the mix of species found within the Bilston Burn corridor; which extends on the opposite side of Seafield Road. The group includes Birch, Larch, Beech, Norway Maple, Yew, Holly and Cherry.
- 4.4 Tree Group 2 (G2) comprises broadleaf species located along the eastern boundary of the Firs. The trees were most likely planted at the time that the dwelling at The Firs was built in order to provide screening; and continues to perform that role whilst providing relief and separation from recent housing at Corby Craig Avenue. This group consists of Sycamore, Whitebeam and Rowan.
- 4.5 The large mature Ash tree east of the dwellinghouse at Pentland Lea is not included in this proposal. It is evident that the tree is suffering from Ash Dieback Disease and although speed of decline varies; due to its likely retention span it is not considered suitable for a TPO.

5 PROCEDURES

- 5.1 The provision for issuing a Tree Preservation Order is set out in the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 and the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010. A planning authority may make a TPO if it appears to them to be “expedient in the interest of amenity and/or that the trees, groups of trees or woodlands are of cultural or historic significance” (Scottish Government Planning Circular 1/2011: Tree Preservation Orders).

- 5.2 Following the service of a TPO the owner of the land and other interested parties have the opportunity to make representation. However there is no right of appeal against a Tree Preservation Order.
- 5.3 The TPO shall be in effect for six months, during which time representations from the owner of the land and other interested parties will be considered. If the local planning authority wishes the TPO to stay in effect beyond the six months it must '*confirm*' the order.

6 PLANNING ISSUES

- 6.1 The individual trees and tree groups by means of their size, location and character form a visually prominent and important landscape feature in the local area. The trees feature in views along Seafield Road and from surrounding properties; adding to the setting and amenity of the area. They contribute notably to the character of Seafield Road, whilst providing screening, landscape softening and separation between new housing developments.
- 6.2 Within the wider landscape context, the trees contribute to the green network in terms of supporting habitat and biodiversity within the adjoining Bilston Burn corridor, and maintaining connectivity with planned green spaces in allocated housing site Hs16 (Phase 3) to the north, as well as the rural landscape that lies beyond (as illustrated in the attached masterplan).
- 6.3 The trees form part of the landscape character of the area and contribute to the local green network. The issuing of a TPO will be an important tool in protecting the trees aiding in the preservation of local amenity, biodiversity and habitat connectivity.

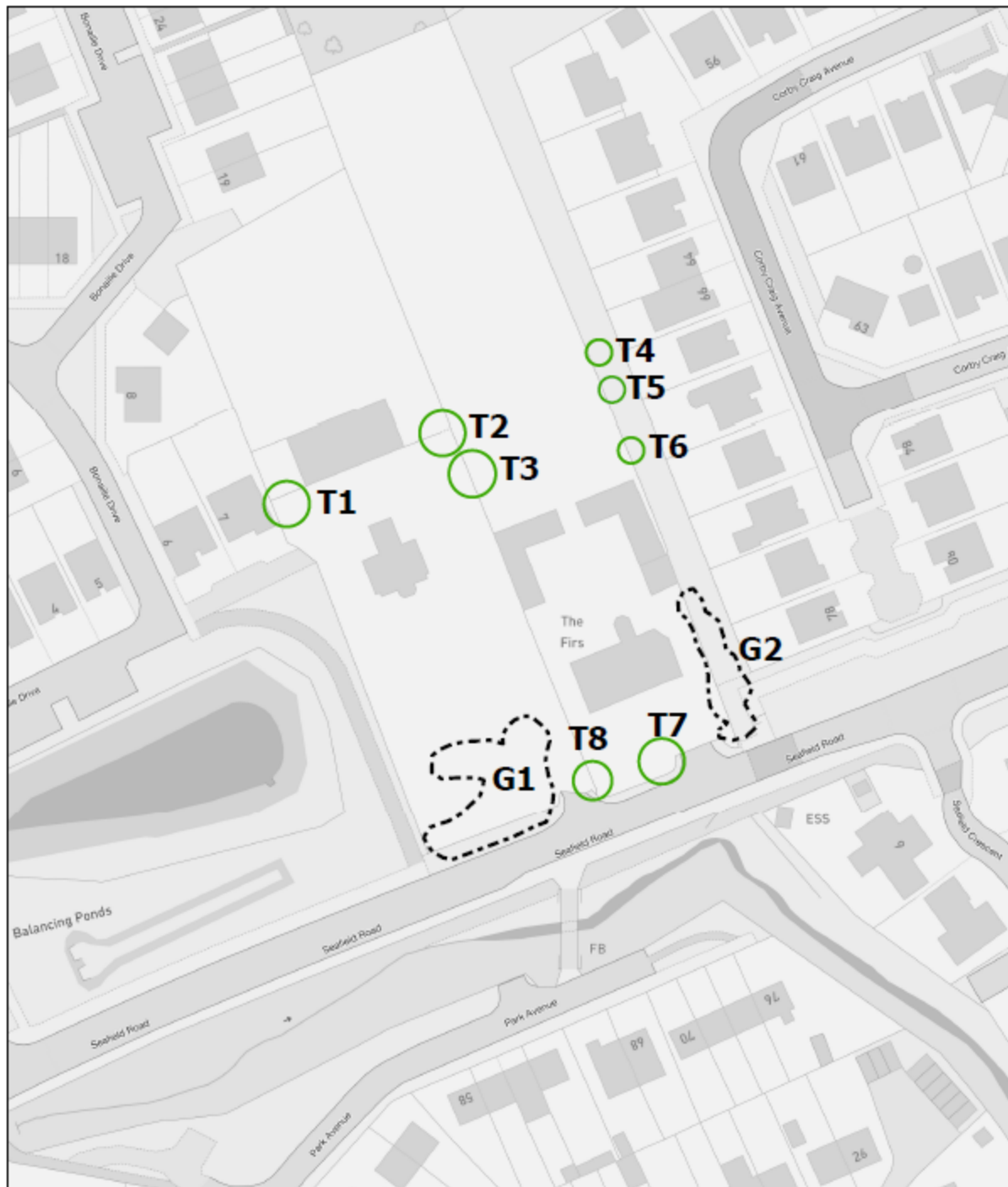
7 RECOMMENDATION

- 7.1 It is recommended that the Committee:
- a) Agree to the issuing of a TPO to protect the identified trees at Pentland Lea and The Firs, Seafield Road, Bilston; and
 - b) Agree to receive a further report to consider confirming the TPO once the owner(s) of the land and other interested parties have had the opportunity to make comment.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 11 November 2022
Contact Person: Grant Ballantine
grant.ballantine@midlothian.gov.uk
Background Papers: Site location plan and site photographs

LOCATION PLAN
MIDLOTHIAN COUNCIL PROPOSED TREE PRESERVATION ORDER
PENTLAND LEA AND THE FIRS, SEAFIELD ROAD, BILSTON



Planning Service
Place Directorate
 Midlothian Council
 Fairfield House
 8 Lothian Road
 Dalkeith
 EH22 3AA

Pentland Lea and The Firs, Seafield Road, Bilston
 Proposed Tree Preservation Order 1 of 2022

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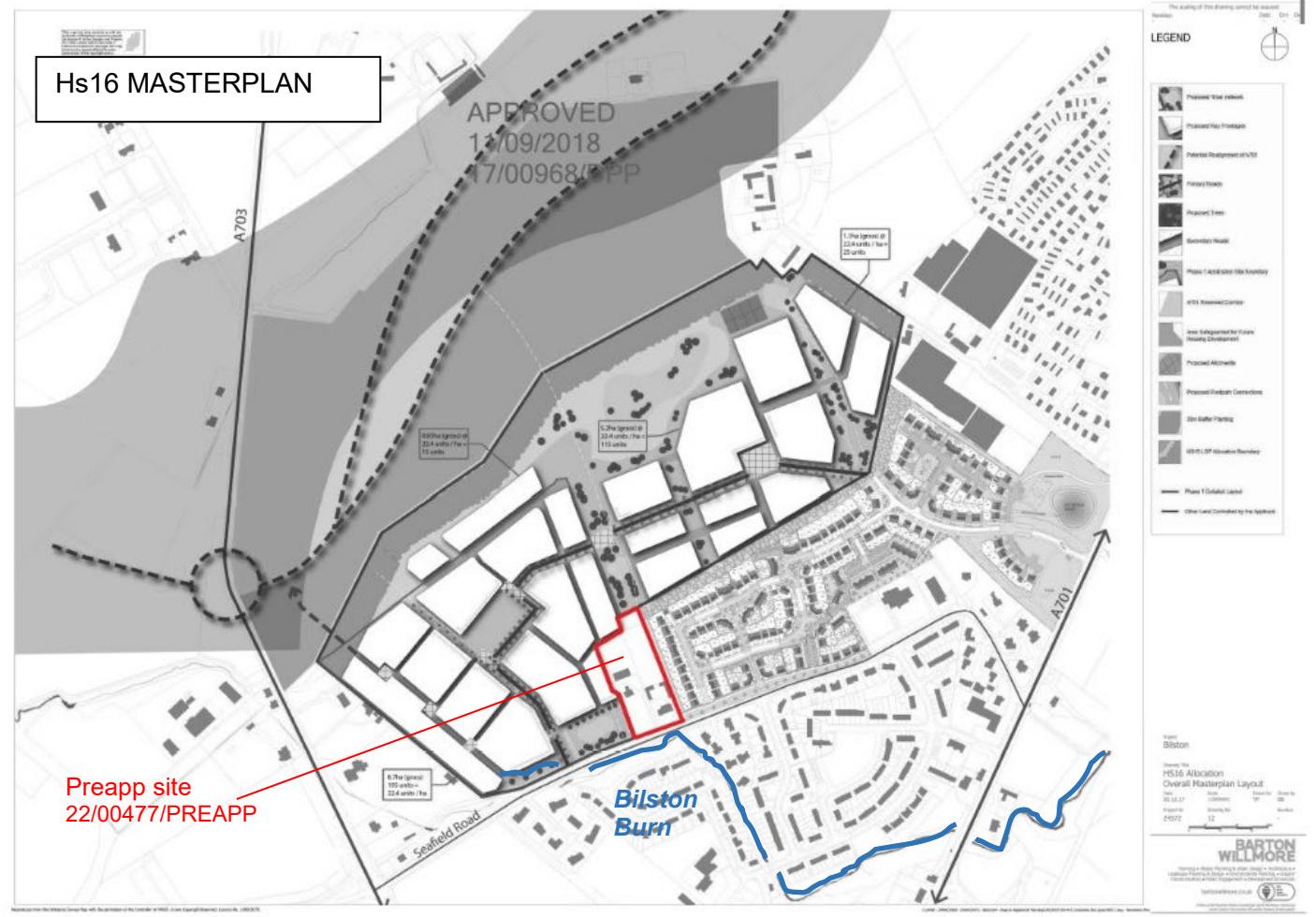
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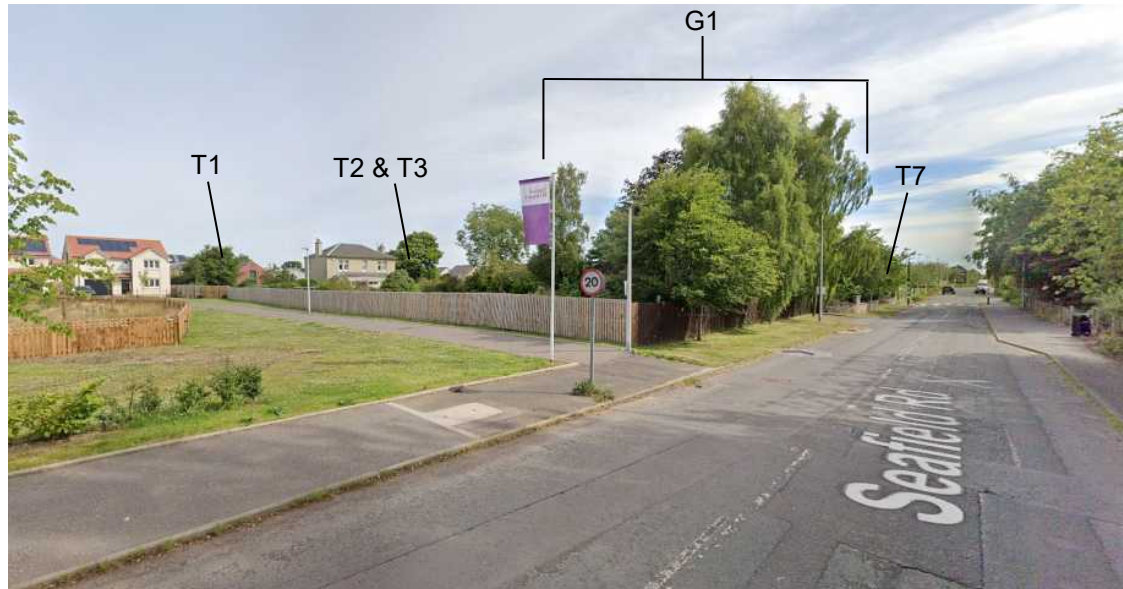
LOCAL DEVELOPMENT CONTEXT
MIDLOTHIAN COUNCIL PROPOSED TREE PRESERVATION ORDER
PENTLAND LEA AND THE FIRS, SEAFIELD ROAD, BILSTON



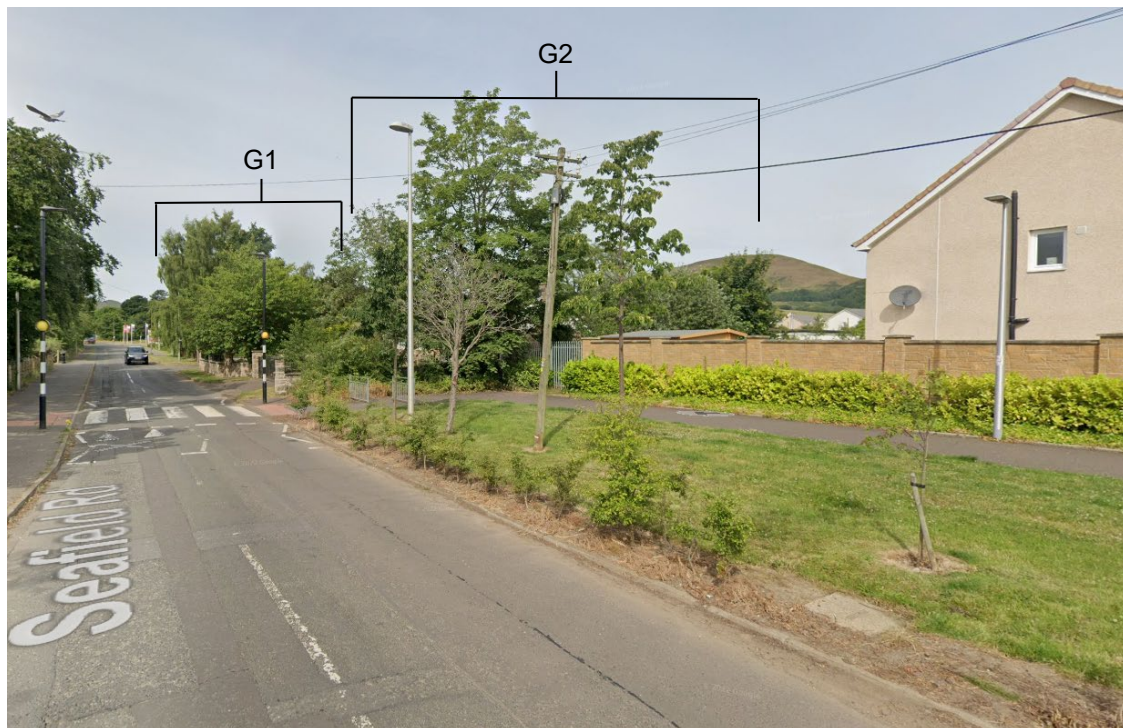
SITE PHOTOS

MIDLOTHIAN COUNCIL PROPOSED TREE PRESERVATION ORDER PENTLAND LEA AND THE FIRS, SEAFIELD ROAD, BILSTON

View in approach along Seafield Road (travelling east)



View in approach along Seafield Road (travelling west)



View north west towards Pentland Lea from Bilston Burn footbridge



View north towards The Firs from Bilston Burn footbridge



View south towards dwelling at The Firs from vacant land



View south west towards dwelling at The Firs from vacant land





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08 February 2023

Tree Preservation Order No 1 (2002)

Land at Pentland Lea and The Firs, Seafield Road, Bilston

Representation on behalf of Mr S Tiffney and Mr J Tiffney

Introduction

1. On 1 December 2022, Midlothian Council [MDC] issued a letter enclosing a Notice of the Making of a Tree Preservation Order no 1 (2022) [TPO], served on Mrs and Mrs Tiffney of Pentland Lea and Mr and Mrs Tiffney [the owners] of The Firs, Seafield Road, Bilston [the site].
2. This representation is on behalf of those recipients, who are the owners of part of the land to which the TPO relates, and it one of objection to the TPO. The reasons for objection are set out below. It is submitted by the 10 February 2023 deadline, as agreed in writing with MDC.

Background

3. The site comprises two detached houses with outbuildings set within relatively spacious grounds, both houses being set back from the frontage onto Seafield Road and with large rear gardens. Until recently the properties were surrounded by agricultural land, comprising fields with hedgerow and mature trees.
4. Over the recent past the context of the site has changed significantly – from semi-rural to modern urban due to the erection of a significant amount of housing. The site is now surrounded on three sides by modern housing estate, with some new landscaping which will become established over time. Notwithstanding this change, the owners have continued to manage their land including retention of the trees.



Source Google Maps [from 2008]



Source Google Maps [from 2022]

Pre-Application Submission

5. As the site is wholly contained within the settlement of Bilston which now has an urban character and form, on 24 June 2022, a pre-application submission was made to MDC to discuss the potential for residential development at the site. An illustrative layout was shown, diagrammatically indicating how development *could* take place, on a site within the built area and identifying the potential to optimise opportunities, in the interests of sustainability (ie reduction of green field release) to prompt discussion regarding the site. No works have been carried out to the trees and it has not been the owner's intentions to carryout any works, pending the discussion with MDC.
6. Some 10 weeks later, on 6 September 2023, the case officer visited the site and then no further contact was made until the issuing of the TPO came to the owners attention on 4 December 2022, more than 5 months after first pre-application submission. On 23 December 2022, 6 months after the pre-application submission, the case officer issued the response (copy email attached as Appendix 1). The owner's considered that a more reasonable approach would have been to enter into dialogue between the two parties, noting that no reference is made to the TPO in the pre-application response although it is stated that *'the removal of trees should be avoided'*.
7. It is noted that the report into the proposed making of the TPO (dated 22 November 2022 – referred to below as 'the TPO report') states that *'as part of the applicant's plans they are proposing to remove the trees subject to the TPO consideration'*. It must be noted that the pre-application, as described above was submitted prior to consideration of the TPO's and the purpose of the pre-application was to promote discussion regarding development. At no time have the owners stated that the trees would be removed, which is evidenced by the fact that no works were carried out to the trees whilst not controlled.
8. It should also be noted that the TPO report refers to all trees the subject of the TPO being identified as being lost – this is not correct (see below).

The TPO

9. The unsigned TPO received by an owner is dated 1 December and relates to 8 trees and 2 groups of trees. The trees appear to be indicatively identified on the accompanying plan and it appears that :

T1	Beech	Pentland Lea
T2	Norway Maple	Pentland Lea or The Firs
T3	Sycamore	Pentland Lea or The Firs
T4	Alder	Not on site but on adjoining land
T5	Ash	Not on site but on adjoining land
T6	Sycamore	Not on site but on adjoining land
T7	Cherry	Pentland Lea
T8	Sycamore	Pentland Lea or The Firs
G1	Birch, Larch, Beech, Norway Maple, Yew, Holly, Cherry	Pentland Lea
G2	Sycamore, Whitebeam, Rowan	Not on site but on adjoining land
10. As noted in the TPO report, three individual trees (T4, T5 and T6) and Group G2 are not within the site and would not, therefore, be under threat from development even if the site were to be developed. Those trees can be covered by TPO will continue to provide the noted screening, relief and separation.
11. It appears that the TPO is not substantiated by topographical survey and arboricultural report to properly consider the health and appropriateness of the trees for protection, reference only being made to the health of one Ash tree on site (excluded from the TPO). It is considered that such health and appropriateness for protection should be carried out prior to making any decision to subject the trees (and therefore owners) to the constraints of a TPO.
12. The stated reason for the making of the TPO is that *‘the trees contribute notably to the character of Seafield Road, whilst providing screening, landscape softening and separation between housing developments. The trees feature in views along Seafield Road, adding to the setting and amenity of the area. Within the wider landscape context, the trees contribute to the green network in terms of supporting habitat and biodiversity within the adjoining Bilston Burn corridor, and maintaining connectivity with planned green spaces in allocated housing site Hs16 and the rural landscape beyond. Mature boundary trees are a defining feature of the area. Should the trees be felled it would have a detrimental impact on local amenity, biodiversity and habitat connectivity.’*
13. Notwithstanding the above comments, it is noted that there are few trees subject to TPO in the area and adjoining the burn, despite those trees providing significantly greater impact in the visual amenity of the area. It is unclear why those trees are not considered to be sufficiently important to warrant protection.



Source : MDC TPO Planning Portal – confirmed TPO indicated

Representations

14. The owners consider that the TPO is not appropriate as they have maintained the trees and landscaping at the site for a considerable time and will continue to do so, in line with appropriate redevelopment plans which were the subject of initial plans to prompt discussion through pre-application submission only, which it is considered is the proper approach to development proposals. The owners consider that the imposition of the TPO during this process was unreasonable and unnecessary. It is requested that the TPO is not confirmed for the reasons expressed below.
15. The TPO incorrectly defines the site as it includes land outside the Firs and Pentland Lea. It is understood that no arboricultural assessment has been carried out to define the health and appropriateness of trees identified in the TPO and accordingly the making of the TPO is premature as it could protect trees that should not be protected [for example sycamore trees and cherry trees]
16. The identified trees are not under threat from development – as evidenced by the proper pre-application approach taken by the owners towards the development of the area. Works could have been carried out prior to the pre-application process and accordingly, the owners are being adversely impacted by the actions of the council in this matter. The trees outside the owners control, and which provide the screening and visual impact referred to in the TPO and Tree Report would be retained even if development were to proceed on site.
17. Notwithstanding the reasons for the imposition of the TPO, other trees of greater importance – i.e. the trees actually adjoining the Bilston Burn, are not protected, which undermines the reasons for this TPO. Those trees to the south side of Seafeld Road (right-hand in picture extracts below) provide greater contribution to the street scene and even if there were any loss of the frontage trees at the site, such open area would be in keeping with Bilston, as now developing and evolving, on this side of Seafeld Road



Source : Google Maps 2022

18. MDC should not retrospectively protect the amenity of the area through the imposition of this TPO. Had such protection been necessary, or had augmentation been required to provide a meaningful screening and softening appearance, the correct approach should have been through the requirement for additional planting as part of the landscaping proposals for the new housing development – it is not the responsibility of the owners to now ensure the protection of amenity.
19. It is clear from the reasoning for the TPO that MDC considers the trees add to the '*screening, landscape softening and separation between housing developments*' yet this was not a material consideration in determining the housing developments, despite policy in the MLDP requiring landscaping for development proposals [for example DEV 5 Sustainability in New Developments, DEV 6 Layout and Design of New Developments, DEV 7 Landscaping in New Development]. Residential amenity was assessed, and the trees were not identified as being important to amenity, the Handling report stating '*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.*'
20. Planning permission in principle has been granted for a house on the site, due to expire on 31 March 2023. In the consideration of that application, the Handling reports states that : *The land to the west and further north has been allocated for housing with a permission recently granted. The approved site plan for this housing site shows houses to the west backing onto the current application site. There is sufficient distance between the two sites to ensure no overlooking or impact on privacy between the properties*'. The separation of the houses is therefore sufficient, without the need for the screening the trees provide.
21. The Proposals Map of the MLDP does not identify the Bilston Burn in this location as being important for open space or amenity and it is not identified as an important green network. Even if the trees were

to be removed, the SuDs pond for the major housing development lies to the immediate west, which provides for green network to the Bilston Burn.



Source : Extract MDLP Proposals Map

Conclusions

22. The owners of the site who have been served Notice regarding the TPO consider that it is not appropriate for the trees to be protected at this time, pending discussion regarding the potential redevelopment of the area. The trees are not under threat and whilst provide a degree of maturity to the landscaping in the area, they are by no means the most important landscaping in the area - that is afforded by the planting on the Bilston Burn and to the south of Seafield Road, which the Council recognises as important but has not protected.
23. Bilston is in the process of considerable change, and it is clear from inspection of the redeveloped area that MDC has not sought considerable frontage planting to Seafield Road, and that the existing trees are not necessary to protect visual or residential amenity. The green network to Bilston Burn is retained via the SuDs area to the recent housing development, which is a permanent feature.
24. It is requested that :
 - the TPO is not confirmed as it is premature, unjustified and unnecessary and
 - MDC continues its discussion regarding the potential for the redevelopment of the site, with which detail, as expressed in the pre-application response, the owners are generally intending to comply.



Appendix 1 Pre-Application Email Response

From: Whitney Lindsay <Whitney.Lindsay@midlothian.gov.uk>

Sent: 23 December 2022 11:59

To: Rory Gibson <Rory.Gibson@RoryGibsonArchitects.co.uk>

Subject: 22/00477/PREAPP - Land At Pentlandslea and The Firs, Seafield Road

Afternoon Rory,

Apologies for the delay in providing a pre-application response.

Pre-application Enquiry for the Erection of 13 dwellinghouses at land at Pentlandslea and The Firs, Seafield Road

I refer to your pre-application enquiry regarding the Erection of 13 dwellinghouses at land at Pentlandslea and The Firs, Seafield Road

Planning policy currently comprises National Planning Framework 3 and Scottish Planning Policy, SESPlan and the adopted Midlothian Local Development Plan 2017. On 8 November the Revised Draft National Planning Framework 4 was submitted to the Scottish Parliament for approval along with an Explanatory Report that outlines the changes from Draft NPF4 to the Revised Draft. The Planning Act requires that NPF4 must be approved by the Scottish Parliament before it can be adopted by Scottish Ministers. On adoption the provisions in the Planning Act will commence to make NPF4 part of the statutory development plan. The existing National Planning Framework 3 and Scottish Planning Policy remain in place until NPF4 has been adopted by Scottish Ministers. As the Revised Draft NPF4 is at an advanced stage and represents the settled view of the Scottish Government in terms of its planning policy it is a material consideration of significant weight in the assessment of the application.

I can advise that, for planning purposes, the site is located in an area covered by the Midlothian Local Development Plan 2017. This local development plan was adopted in 2017 and contains the policies against which planning decisions are made in this local authority area. The main relevant planning policies are DEV2: protecting Amenity within the Built-Up Area, DEV5: Sustainability in New Development, DEV6: Layout and Design of New Development, DEV7: Landscaping in New Development, TRAN5: Electric Vehicle Charging and ENV11: Woodland Trees and Hedges. The application site is sandwiched between two allocated housing sites; Hs16 and h56. The full text for these policies can be found in the local plan document which is available via the Council's online planning pages.

You are seeking advice in relation to your proposal for the a residential development which comprises of the following:

- Erection of 13 dwellinghouses

As the application site is located within the built-up area there is a presumption in favour of development that complies with the relevant policies of the adopted Midlothian Local Development Plan 2017, and would not have a detrimental impact on the character or amenity of the surrounding area. The main considerations in the assessment of the current proposal is the impact upon the character and appearance of the area, residential amenity, impact upon neighbour amenity, parking and road safety, drainage, protected species and trees.

Whilst the principal of a residential development may be acceptable at the application site, I do have some concerns regarding the density of the proposal. The application site relates to a narrow rectangular plot of land that is host to two existing dwellinghouses that are sandwiched between residential developments. The proposed layout does not visually connect or relate to the surrounding developments or the layout of the area.

It is considered that there is scope for a small residential development at the application site as, however, this should avoid the loss of mature trees and siting of dwellinghouses to the front of the existing dwellinghouses. There should also be some sort of landscaping buffer/planting along the eastern boundary of the site so retain the Bilston Burn Corridor. Any revised proposals should look at incorporating the existing trees into the layout and utilise them to enhance the development.

In terms of roads and drainage, it is noted that the Councils Policy and Road Safety Manager offered no objection in principle to this proposal but noted that the following issues would require to be addressed at any detailed design stage :

1. The minimum requirement for an adoptable access road would be 5.5m wide with a 2m wide footway on one side and a 2m wide grass verge / service strip on the other. Given the limited traffic flows the access could be formed as a 5.5m wide 'shared surface' with a 2m wide grass verge / service strip on both sides if required.
2. The existing grass verge over the site frontage would require to be changed to a 2m wide public footway with any redundant access points being infilled.
3. Details of the new access and its driver visibility splay would be required and any alterations required to the traffic calming features / zebra crossings over the site frontage.
4. Details of the proposed surface water management strategy would be required to ensure that any development did not result in an increase in flooding risk in the local area.

It is noted that policy DP2 Development Guidelines, from the now superseded 2008 Midlothian Local Plan, sets out the Development Guidelines that are to be applied for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings. The guidance set out within this policy has been successfully applied to development proposals throughout Midlothian and will be reflected within the Council's Supplementary Guidance (SG) on Quality of Place which is currently being drafted.

The impact upon neighbouring amenity would need to be assessed in terms of impact of the development overall upon neighbouring properties in terms of overlooking, overshadowing, overbearing, outlook, daylighting etc... Furthermore, each dwelling would need to be afforded an acceptable level of amenity in terms of outlook, daylighting, privacy etc..



It is noted that there are a number of trees in and around the site, therefore a tree survey, Arboricultural Impact Assessment and tree retention/removal plan should be carried out and the removal of trees should be avoided.

As there are trees in an around the site along with existing buildings on site, an ecology/bat survey is likely to be required.

It is noted that site investigations are also likely to be required – in terms of planning, if permission was granted this could be conditioned.

There would also be a requirement for developer contributions – if you could provide a breakdown of how many bedrooms each dwelling will have, then I could arrange for a rough figure to be calculated.

Overall, it is considered that the principal of the residential development could be supported by the Planning Authority, as long as the development is reduced in density and is of a high quality that positively contributes and enhances the character, appearance and setting of the area and retains the trees to the front of the existing dwellinghouses/site as well as complying with the relevant policies of the adopted Midlothian Local Development Plan 2017, and would not have a detrimental impact on the character or amenity of the surrounding area.

Please note that the above comments are made on an informal basis only and are consequently not binding on the Council. Should a formal planning application be submitted other matters may be raised by third parties and consultees which are pertinent to the proposed development.

I would also advise that any future planning applications may be the subject of consultations with other relevant bodies/agencies.

Should you still wish to submit a planning application, you will be able to locate the relevant application forms via the Council's online planning pages: <https://www.eplanning.scot/ePlanningClient/>

Should you have any further questions, please do not hesitate to get in contact.

Kind regards,

Whitney

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