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**APPLICATION FOR PLANNING PERMISSION 20/00144/DPP FOR 46 DWELLINGHOUSES, FORMATION OF ACCESS ROADS AND CAR PARKING AND ASSOCIATED WORKS AT LAND AT THE FORMER WELLINGTON SCHOOL, PENICUIK**

Report by Chief Officer Place

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**1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1 The application is for the erection of 46 dwellinghouses, formation of access roads and car parking and associated works at land at the former Wellington School, Penicuik.
- 1.2 There have been 35 representations and consultation responses from the Coal Authority, Scottish Water, the Scottish Environment Protection Agency (SEPA), Nature Scotland, Howgate Community Council, the Council's Archaeology Advisor, the Council's Flooding Officer, the Council's Policy and Road Safety Manager, the Council's Environmental Health Manager, the Council's Housing Planning and Performance Manager, the Council's Education Resource Manager and the Council's Land Resources Manager.
- 1.3 The relevant development plan policies are policies 5 and 7 of the South East of Scotland Strategic Development Plan 2013 (SESPlan 1) and policies STRAT4, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, RD1, ENV2, ENV5, ENV7, ENV9, ENV10, ENV11, ENV15, ENV16, ENV17, ENV18, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).
- 1.4 The recommendation is to grant planning permission subject to conditions and the applicant entering into a Planning Obligation to secure contributions towards necessary infrastructure and the provision of affordable housing.

**2 LOCATION AND SITE DESCRIPTION**

- 2.1 The site is identified as land at Wellington School, Penicuik and forms 4.75ha of land. The site is located to the east of the A701 (Peebles Road) and to the south of Milkhall Road. To the east of the site the

Lead Burn runs approximately south to north. The site is located approximately 1 kilometre (km) to the north of Leadburn, 1.6km to the south west of Howgate and 3km to the south of Penicuik (as the crow flies).

- 2.2 At the sites western boundary is located the property Ard Craig. To the north of Milkhall Road is located a farmhouse (circa 100m). On the west side of the A701 and Milkhall Road junction is a linear formation of properties.
- 2.3 The sites west/south western boundary is defined by mature landscaping (circa 30m wide). The sites south and eastern boundary is also defined by the presence of mature landscaping. This landscaping separates the site from Lead Burn to the east. The sites northern boundary along Milkhall Road does have some landscaping, but this is much sparser than other boundaries.
- 2.4 The landscaping at the sites boundaries are covered by a Tree Preservation Order (TPO) that was designated in 2018.
- 2.5 The site is identified as an additional housing site under policy MLDP policy STRAT4, but its otherwise located within a rural context beyond the limits of any defined urban/built up area.
- 2.6 The former Wellington School structures are/were located at the east of the site, demolition of these structures is well advanced. The existing access into the Wellington School site is from the north off Milkhall Road.
- 2.7 The remainder of the land is located centrally and to the west of the site and is characterised by former playing fields and associated grassland. The site is generally flat with a slight ascent to the east before descending into the Lead Burn valley.

### **3 PROPOSAL**

- 3.1 Detailed planning permission is sought for 46 residential dwellings with associated roads, landscaping, open space, footpath/cycle ways, a sustainable urban drainage system (SUDS) and other associated works.
- 3.2 The Detailed Site Layout (Reference RMDL/412/SL/001 Rev M) includes the provision of the following:
  - 46 dwellings, including affordable housing;
  - Formation of one new primary vehicular access road within the south-western corner of the site, via a separate parcel of land within the adjacent field allowing connection from the site to the A701;

- Provision of a circular internal primary access road within the site. A network of secondary access roads linking residential properties to the primary access road;
- Provision of a 3m wide multi-user cycle path within the north-eastern corner of the site providing pedestrian and cycling connections from the site to Milkhall Road. No vehicular access to/from Milkhall Road is provided from the site;
- Provision of a series of 2m wide pedestrian footpaths throughout the site linking residential properties to primary routes. This includes a 2m wide footpath running along the new vehicular access to the A701 and the nearby bus stops;
- Provision of various public open spaces including an area of open space within the site and linear open spaces along the south-eastern and eastern parts of the site;
- Removal of 15 trees within the existing Tree Preservation Order – Group 1 in the southern part of the site (to accommodate the new vehicular access). Removal of other selected trees within the northern/eastern parts of the site;
- Retention of remaining trees within the TPO; and
- Provision of additional woodland structure planting and/or landscape buffers along key interfaces including the southern boundary between the northern boundary of the TPO and the proposed plots along the southern part of the site (i.e. Plots 1-5).

3.3 With respect to the proposed housing, the average housing density comprises approximately 9.68 dwellings per hectare and would consist of the follow housing mix:

House Type:	Number:
<b>Affordable:</b>	
2-bed Semi-detached bungalow (Type A)	6
3-bed Semi-detached bungalow (Type C)	6
<b><u>Total Private</u></b>	
3-bed detached bungalow (Type D)	8
3-bed detached bungalow (Type E)	14
4-bed detached bungalow (Type F)	12
<b><u>Total Dwellings</u></b>	<b><u>46</u></b>

3.4 The application is accompanied by the following documentation:

- Pre-Application Consultation Report (PAC);
- Design and Access Statement (DAS);
- Transport Statement (TS);
- Flood Risk Assessment;
- Surface Water Management Plan;
- Landscape and Visual Impact Assessment;
- Ecology Assessment (2020);

- Ecology Assessment Update (2021) including Protected Species Surveys and Winter Hibernation Surveys;
- Planning Statement;
- Ground Investigation Report;
- Tree Survey (Updated);
- Arboricultural Implications Assessment & Tree Protection Proposals; and
- Noise Report Memo.

## 4 BACKGROUND

- 4.1 The applicant carried out a pre-application consultation (19/00252/PAC) process for residential development at the application site in 2019. The pre-application consultation accorded with the required regulations and was reported to the Planning Committee at its meeting of 18 June 2019.
- 4.2 In 2019 the Council issued an Environmental Impact Assessment (EIA) opinion (19/00786/SCR) advising an Environmental Impact Assessment Report (EIAR) was not deemed to be required for the proposed residential development.

## 5 CONSULTATIONS

- 5.1 **The Coal Authority** does not object to the application following a review of the accompanying Ground Conditions Report (October 2019) prepared by JPB. They do however advise that ground conditions and/or foundation design details may be required as part of any forthcoming building warrant application.
- 5.2 **Scottish Water** does not object to the application. They advise that there is currently sufficient capacity within the Rosebery Water Treatment Works for future water supply. However, it was noted that capacity of the Wellington School STW Waste Water Treatment Works could not be confirmed and that a detailed Pre-Development Enquiry is required to be provided to consider future connection. They also note that future capacity cannot be reserved and that capacity will be reviewed upon any formal connection application being submitted to Scottish Water.
- 5.3 **The Scottish Environment Protection Agency (SEPA)** does not object to the application subject to the inclusion of a condition on any grant of planning permission requiring the provision of details of any bridges or culverts prior to approval – and that these are designed to mitigate the 1 in 200 year flood risk. They also outline that surface water management approaches should be agreed with Midlothian Council, as the Flood Prevention Authority.
- 5.4 **Nature Scot** does not object to the application. The ecological recommendations within the applicant's Protected Species Surveys are

required to be followed. They also outline that ecological licensing from Nature Scot to undertake work impacting/mitigating protected species will also be required.

- 5.5 **Howgate Community Council (HCC)** advise the proposal is not consistent with the local development plan for the following reasons:
- Additional housing sites should come forward if allocated housing sites are considered to fail to meet required housing need;
  - The proposals represent an overdevelopment and do not reflect the existing scale of Wellington Village;
  - The proposed development would lead to harm to the local highway network including the unclassified Milkhall Road and
  - The development would impact water pressure/availability for existing residents.
- 5.6 The Council's **Archaeology Advisor** does not object to the application but advises that a condition requiring a programme of archaeological works, including trial trench evaluation, to mitigate the impacts of the proposed development upon the historic environment should be included on any grant of planning permission.
- 5.7 The Council's **Flooding Officer** does not object to the application.
- 5.8 The Council's **Policy & Road Safety Manager** does not object to the application subject to the following conditions:
- Details of the proposed design of the junctions of the two pedestrian links to Milkhall Road should be submitted for approval. These details may require a short length (in the order of 3m) of pedestrian footway to be formed on Milkhall Road with sections of pedestrian guard rail to ensure that adequate visibility and pedestrian safety are designed in;
  - The proposed landscaped buildout shown on the layout on the frontage of plots 37/38 should be removed from the layout to allow a 5.5m wide road alignment to be achieved;
  - Technical details of the proposed culvert under the access road will be required and as part of the adopted road this structure will need to meet the design requirements for a highway structure;
  - Technical details of the proposed publicly available EV charging points should be submitted for approval. These charging points are best located on end-on parking bays but if the charging units are to be located on the standard 2m wide public footway then a localised widening of the footway will be required;
  - As the development requires the construction of a new junction onto the A701, additional sections of street lighting will be required on the A701 approaches to the junction. Details of the new street lighting should be submitted for approval;
  - The existing public footway along the A701 site frontage leading to the existing bus stop at the junction with Milkhall Road is to be upgraded to provide a suitable pedestrian route from the

development to the bus stop. Details of the upgrading should be submitted for approval; and

- Details of the design and location of the proposed new bus shelter on the A701 should be submitted for approval.

- 5.9 The Council's **Environmental Health Manager** does not object to the application subject to the inclusion of conditions on any grant of planning permission requiring the submission and approval of a scheme to deal with previous contamination and/or mining, remediation and validation of any remedial measures undertaken. They also require conditions to be included controlling construction activities within the site.
- 5.10 The Council's **Housing Planning and Performance Manager** does not object to the application.
- 5.11 The Council's **Education Resource Manager** advises that a development of 54 dwellings would give rise to 17 primary school pupils and 13 secondary school pupils. The site is in the catchment areas Cuiken Primary School, Sacred Heart RC Primary School, Penicuik High School and St David's RC High School. Developer contributions will be required towards the cost of additional primary and secondary school capacity.
- 5.12 The Council's **Land and Resource Manager** does not object to the application. The development would not affect any historic routes and provides little opportunity for new pedestrian and cycle routes.

## **6 REPRESENTATIONS**

- 6.1 The application has received 35 representations (all objections) which can be viewed in full on the online planning application case file. The primary reasons for objection are as follows:

### *Principle*

- The proposals are contrary to the local development plan as it will have a negative impact on the area;
- Wellington School is predominantly a green field, rather than a brown field site;
- The site is not allocated and not required to meet housing targets - the development should be considered as a windfall site;
- The proposed development is at odds with policy HOUS5 Low Density Rural Housing;
- The site was not adequately consulted upon when added to the MLDP; and
- The proposed access is not within the allocation.

### *Highways/Transport*

- Milkhall Road is a single track road with passing places. Narrowness of road has led to damage to private property. The

proposed cycle link on Milkhall Road will lead to inappropriate intensification of this route. Milkhall Road has no pavement;

- Milkhall Road will be used as a cut through to the A6094 and is not capable of supporting increased traffic volumes;
- The proposed development will have detrimental impacts through increased traffic on the local highway network;
- The development will lead to accidents at Leadburn Junction (A701/A703/A6094);
- Proposals do not take into account possible safety measures on the A701. There is insufficient visibility from the proposed access onto the A701;
- The rural location would proliferate private car journeys; and
- Milkhall Road is not gritted regularly in the winter.

#### *Environmental*

- The proposals do not take into account the Climate Emergency;
- Concern over light impact on biodiversity, protected species and habitat destruction contrary to Midlothian's Biodiversity Action Plan 2019-2024;
- Development would harm sensitive Peat Bog contrary to the Council's Biodiversity Plan and contradicts policy ENV5;
- Potential for asbestos dust from demolition;
- The development is at odds with the Scottish Government's aim to be carbon zero by 2045;
- Development conflicts with policies ENV1 – 25.
- Concerns that the Lead Burn will suffer further pollution as a result of development;
- Additional traffic will have detrimental impact on air quality; and
- The proposal is silent on any contribution to reduce and/or offset emissions.

#### *Landscape/Landscaping*

- The proposals would have a detrimental impact on the landscape and would detrimentally harm the Pentland Hills Special Landscape Area;
- The proposal would harm the Tree Preservation Order to the south, east and west of the site that provides wind shelter; and
- Proposals do not complement the existing landscape.

#### *Amenity*

- Houses adjacent to the site will now be overlooked;
- The development will lead to light pollution to neighbours;
- The development would erode the rural village character of Wellington;
- Views of the Pentland Hills would be lost;
- Concern that development will result in anti-social behaviour/crime; and
- The proposed development would have adverse noise impact on existing dwellings.

### *Flooding/Drainage*

- The natural drainage of the site will be harmed, particularly in the light of Climate Change impacts on flooding;
- Existing properties depend on foul water drainage infrastructure to the rear of the school, concern that development would cut off this provision;
- The proposed drainage solutions would be ineffective due to the site levels; and
- The Lead Burn will be at greater risk of flooding and will become further polluted.

### *Infrastructure/Facilities/Services*

- There isn't capacity in local NHS facilities;
- Water pressure/provision is insufficient in the area to cope with development;
- Electricity provision is not sufficient to meet the development's needs;
- The area has poor internet connectivity;
- There is no gas main;
- The proposal would result in the loss of open/play space available to the community contrary to policy DEV8; and
- There are limited amenities/facilities and public transport in the area.

### *Design*

- Development does not comply with policy ENV25;
- The proposed house types do not fit into existing development and is not of an appropriate scale;
- Development should be limited to the footprint of the previous school building only; and
- The proposed density is inappropriate for the rural setting.

### *Other*

- The refusal of application 16/00460/PPP prohibits the approval of the proposals;
- The proposed development would harm property values; and
- The proposed development would have an adverse impact on the outlook from existing dwellings.

## **7 PLANNING POLICY**

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan June 2013 (SESPlan 1) and the adopted Midlothian Local Development Plan 2017. The following policies are relevant to the proposal:

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan1)



- 7.2 **Policy 5 (HOUSING LAND)** requires local development plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing requirements for each period.
- 7.3 **Policy 7 (MAINTAINING A FIVE YEAR HOUSING LAND SUPPLY)** states that sites for greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying each of the following criteria: (a) The development will be in keeping with the character of the settlement and local area; (b) The development will not undermine Green Belt objectives; and (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

Midlothian Local Development Plan 2017 (MLDP)

- 7.4 **Policy STRAT 4: Additional Housing Development Opportunities** states that housing development will be supported on the sites identified as additional housing development opportunities in the MLDP settlement statements, provided it accords with other relevant policies. Reference should be made to policy DEV3 with respect to the proportion of affordable housing to be provided on these sites, and to policies IMP1 and IMP2 and the MLDP settlement statements for place-making and infrastructure requirements pertaining to each site.
- 7.5 **Policy DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.6 **Policy DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. 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.
- 7.7 **Policy DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 **Policy DEV6: Layout and Design of New Development** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, and passive

energy gain, positioning of buildings, open and private amenity space provision and parking.

- 7.9 Policy **DEV7: Landscaping in New Development** requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment.
- 7.10 Policy **DEV9: Open Space Standards** requires that the Council assess applications for new development against set open space standards and seeks an appropriate solution where there is an identified deficiency in quality, quantity and/or accessibility.
- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area.
- 7.13 Policy **TRAN5: Electric Vehicle Charging** seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals.
- 7.14 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals.
- 7.15 Policy **RD1: Development in the Countryside** states that development in the countryside will only be permitted if it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation or tourism; it accords with policies RD2, MIN1, NRG1 or NRG2; or it accords with the Council's Supplementary Guidance on *Development in the Countryside and Green Belt*. For housing, this is limited to homes required to support an established countryside activity.
- 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 **ENV5: Peat and Carbon Rich Soils** seeks to protect peat and carbon rich soils, only support their extraction in limited circumstances and mitigate the emission of the resultant CO<sub>2</sub>.
- 7.18 Policy **ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and

design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.

- 7.19 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.20 Policy **ENV10: Water Environment** requires that new development pass surface water through a SUDS to mitigate against local flooding and to enhance biodiversity and the environment.
- 7.21 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.
- 7.22 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.23 **Policy ENV16: Vacant, Derelict and Contaminated Land** supports the redevelopment of vacant and derelict land for uses compatible with their location. Developments will be required to demonstrate that the site is suitable for the proposed new use in terms of the risk posed by contamination and instability from historic uses.
- 7.24 Policy **ENV17: Air Quality** states that the Council may require further assessments to identify air quality impacts where considered requisite. It will refuse planning permission, or seek effective mitigation, where development proposals cause unacceptable air quality or dust impacts.
- 7.25 Policy **ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.

- 7.26 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.
- 7.27 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.
- 7.28 Policy **NRG6: Community Heating** requires that, wherever reasonable, community heating should be supported in connection with buildings and operations requiring heat.
- 7.29 Policy **IMP1: New Development** 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.
- 7.30 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.
- 7.31 Policy **IMP3: Water and Drainage** require SUDS to be incorporated into new development.

#### National Policy

- 7.32 **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 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 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 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 SPP introduces a *‘presumption in favour of development that contributes to sustainable development’* but goes on to state that:

*“The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost”*.

7.37 Paragraph 29 of SPP then goes on to state that decisions on sustainable development should be guided by the following principles:

- giving due weight to net economic benefit;
- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
- supporting good design and the six qualities of successful places;
- making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
- supporting delivery of accessible housing, business, retailing and leisure development;
- supporting delivery of infrastructure, for example transport, education, energy, digital and water;
- supporting climate change mitigation and adaptation including taking account of flood risk;
- improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;
- having regard to the principles for sustainable land use set out in the Land Use Strategy;
- protecting, enhancing and promoting access to cultural heritage, including the historic environment;
- protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;

- reducing waste, facilitating its management and promoting resource recovery; and
- avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

- 7.38 The Scottish Government policy statement **Creating Places** emphasises the importance of quality design in delivering quality places. These are communities which are safe, socially stable and resilient.
- 7.39 **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.
- 7.40 **The Scottish Government's Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.
- 7.41 The Scottish Government policy statement **Designing Streets** emphasises that street design must consider place before movement, that street design guidance (as set out on the document) can be a material consideration in determining planning applications and that street design should be based on balanced decision-making. Of relevance in this case are the statements that:

'On-plot parking should be designed so that the front garden is not overly dominated by the parking space.'

'Parking within the front curtilage should generally be avoided as it breaks up the frontage, can be unsightly and restricts informal surveillance. On-plot parking may be suitable in restricted situations when integrated with other parking solutions and when considered in terms of the overall street profile.'

## 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.

### The Principle of Development

- 8.2 The vision set out in the MLDP states "*Wherever possible, new housing will be located close to good community facilities, shops and employment opportunities, with efficient and high quality public transport connections.*" Furthermore, the MLDP sets out a Social Objective to, "*Create new and/ or extended communities that are more*

*self-contained with local access to jobs, services and facilities and a strong neighbourhood focus.”* The site cannot be said to be within close proximity to facilities, shops and employment opportunities. As such, the development of this site for housing would run contrary to these aims and objectives if taken in isolation. It is recognised that the site is in a less sustainable location to its urban counterparts. Despite this, the MLDP sets out that there would be benefits in supporting development at this site as an ‘Additional Housing Development Opportunity’. These benefits are partly realised by the site being brownfield land (in part). MLDP policy STRAT4 sets out that there is benefit in supporting the reuse of previously developed land. The school buildings represent previously development land, and the school playing field was filled/flattened. In addition, the sustainability of the site was addressed in the MLDP’s Report of Examination where the Reporter acknowledges that private cars would be depended on for this site, but concludes that the resulting use would not be sufficient justification to delete the site from the MLDP.

- 8.3 As such, the site is supported under MLDP policy STRAT4 and the site’s Ash5 allocation. The purpose of STRAT4 is set out within paragraph 2.3.11. Sites allocated under STRAT4 are not currently factored into the Council housing land supply due to identified ‘uncertainties’/constraints that would need to be overcome prior to development being considered acceptable at these locations.
- 8.4 These constraints are outlined at Appendix table 3C “Additional Housing Development Opportunities”. The outstanding constraints relating to this site are “access restrictions”. The sites allocation effectively means that should this restriction be overcome, development at this site will be supportable in principle, provided other relevant planning policies are complied with.
- 8.5 The proposed access is therefore a key consideration. Whilst Table 3C of the MLDP sets out a possible connection to the north of the site through the low density rural housing allocation, proposals seek to introduce a new access to the A701 to the west of the site. The proposed access is deemed to be safe and achievable and therefore the restriction identified with the site has been resolved. In light of this, the principle of residential development at the site is supported in accordance with MLDP policy STRAT4.
- 8.6 It is acknowledged that the proposed access does project beyond the spatial allocation to the west. There are a series of tests required to be met within MLDP policy RD1 to justify future uses within the countryside. Generally, this requires uses to be compatible with the essential characteristics of the countryside (i.e. agriculture, farm diversification horticulture, forestry or countryside tourism etc.). None of which can be met in this instance. Moreover, there are various requirements for housing proposals in the countryside, almost exclusively related to small-scale housing development. The crux of

these requirements set out extremely restrictive approaches that prevent housing unless a series of requirements are met - including relationships to the furtherance of a countryside activity and where any housing need cannot be met within an existing settlement. Despite the above, the provision of roads, access and drainage infrastructure within or over the safeguarded land to facilitate development plots within the allocated site and to allow for suitable means of access etc. from the A701 is considered to be acceptable.

- 8.7 Consideration is further given to the “development considerations” for site AHs5 in the MLDP Settlement Statements that suggests the possibility of a connection being made between the site and the A701. The MLDP further sets out that any such connection needs to be well screened and landscaped to minimise impact on the countryside. The proposals seek to implement significant landscaping along the proposed access route which would screen that aspect of the development. Whilst outside the allocation, the references within the MLDP to the access connection to the A701 are a material consideration. In this instance, when viewing both MLDP policy STRAT4 (and site specific development requirements) and MLDP policy RD1 it is considered that the principle of a connection to the A701, beyond the spatial limitations of the site allocation is acceptable.

#### Layout, Form and Density

- 8.8 The development requirements set out in the MLDP are the key starting place for developing the site layout as well as the information within Table 3C. In addition, the layout of the development is considered against MLDP policy DEV6 which sets out a number of criteria to ensure that development is of good design and high quality of architecture, in both the overall layout of development proposals and their constituent parts.
- 8.9 Proposed dwellings largely front onto the proposed access road forming the single vehicular junction with the A701. In addition, two shared surface routes form secondary access routes within the development. The use of shared surfacing aids in differentiating the street hierarchy within the site. Whilst this can be a more effective tool in larger scale development, it aids in providing a variation in surfaces. Dwellings front the proposed roads within the site with the exception of plots 22, 24 – 27 which front a shared drive/turning area to the north of the main access, and plots 43 – 46 which front a tertiary drive/access at the north east of the site. The commonality throughout much of the site, with these two instances of variation provide a consistent character to the development without being overly uniform.
- 8.10 An open space/play area is proposed at the heart of the development, as well as a woodland walk at the south of the site and green corridor at the east of the site. The provision of such spaces is considered to benefit the development and reflect its location and is considered



sufficient to meet the requirements of MLDP policy DEV9. Proposed pedestrian and cycle connections are proposed to Milkhall Road between plots 21 and 22 and 15 and 16, which promote permeability of the site and despite its rural context promote opportunities for travel by foot and cycling. An internal landscaped/woodland walk has been provided around the rear of plots 6, 9, 35 and 36. This will provide a more rural walking route for residents of the site. These connections are considered to promote permeability and enjoyment of the site.

- 8.11 The proposed development delivers off street parking for every dwelling. Where dwellings provide garages, whether integral or detached, these are set back from the road frontage well behind the principle elevations of the proposed dwellings. Whilst visitor parking is provided within the highway, the approach serves to make road frontages less car dominated and creates a more attractive street scene. Revisions to the layout sought the removal of a number of units to achieve:
- More breaks between properties;
  - Additional landscaped areas on corner plots; and
  - Additional landscaping between dwellings.
- 8.12 The layout proposes landscaping along the roads within the site. Prominent plots within the site benefit from street landscaping and landscaping has been provided between plot driveways (e.g. plots 21 and 20, 27 and 26, 29 and 30). This change is considered to effectively separate hard surfaces and parking areas to create a softer street scene.
- 8.13 Boundary treatments are yet to be specified, aside from proposed hedging that is set out within the submitted Woodland Mitigation and Management Plan (27.07.2021). Boundary treatment details will be secured by a condition on any grant of planning permission.
- 8.14 In terms of landscaping, the proposed development seeks to retain much of the existing landscaping on the site, and further proposes to reinforce the existing key landscape structures, perceived to be the TPO enclosing the sites east, south, and west boundaries (more specific landscaping matters are addressed later in this report). Further planting is provided along Milkhall Road to deliver additional screening. Significant landscaping is proposed along the new access connection the A701. The proposed development is considered to meet landscape screening requirements set in the allocation specific recruitments of the Ahs5 allocation.
- 8.15 MLDP Table 3C sets out an indicative capacity of 50-60 dwellings. Whilst it is clear that this does not mean that this quantum of dwellings would be approved verbatim, it does provide an indication of the scale of development that would be deemed appropriate in this location. The proposed development initially sought to deliver 54 dwellings on the site. However, over the course of the application, the layout has been

revised to provide 46 (including 12 affordable dwellings). The Ahs5 allocation sets out that the development should be of a lower density than in an urban context to reflect its rural location. The proposed development seeks to deliver circa 10.3 dwellings per hectare which is a reduction from 11.3 as originally submitted. This is considered to be a low density of dwellings as compared to an urban area and is considered appropriate for the site.

- 8.16 In regards the housing being low rise, as per the requirements of the allocation, all the proposed housing are bungalows, with a maximum height of 4.9m. The proposed heights are considered to be of a scale that would be screened by effective landscaping. The proposed development is therefore in compliance with that aspect of the allocations design requirements.
- 8.17 The Ahs5 allocation sets out that development should avoid the higher parts of the site to the east. The proposed development covers the majority of the site allocation, apart from the most eastern part of the site which slopes steeply downhill towards the Lead Burn. The site itself is flat with a minimal rise of circa 2.5m across the site towards the east. The highest parts of the site correlate with those areas of the former school building, at circa 255.85m. Finished floor levels at the east of the site are proposed to be between circa 255.5m and 254.9m. It is therefore not proposed that any land raising will take place. The proposed heights of the bungalows are considered to be below any height that would cause any concern with the development of the eastern areas of the site. The development of the eastern areas of the site would further make use of the school footprint and are therefore considered to be appropriate.
- 8.18 The development will consist of five housetypes. The bungalows are of a traditional form with pitched hipped/hip and valley roof forms. Housetypes E and F have integral single garages. The proposed materials will be from a limited palette and are suggested to be:
- Grey concrete roof tiles;
  - White rendered walls above a dado course of facing material; and
  - White UPVC windows.
- 8.19 MLDP policy DEV6 requires materials to be of a high quality. The proposed materials are not considered to be a very high quality. Whilst the suggested materials will likely be acceptable for a number of the units, it is considered that higher quality materials should further be provided within the site. As such, the applicant will be required by condition to submit a new palette of materials – further samples will be required. Furthermore, the development should deliver an area of higher quality within the new site. No such area has been defined within this application, but a condition is proposed in order to secure an area of higher quality covering 20% (9 units) of the site. It is considered that an area of improved quality would function well around

the proposed central open space within the development, but this detail will be subject to details submitted to discharge the relevant condition.

- 8.20 The MLDP requires good levels of amenity for residential development in terms of garden sizes, open space and the separation distances between dwellings to mitigate against overlooking, loss of privacy and creating a sense of overbearing on neighbours. The required spatial standards were set out in the superseded Midlothian Local Plan 2008 and are likely to be incorporated into the forthcoming supplementary guidance on 'Quality of Place'. These dimensional standards help those in the planning process quantify what good levels of amenity are and therefore it is reasonable to expect housing developments to meet these requirements unless there is justification not to do so. The requirements with regard usable private garden sizes should be: (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. It is noted that provided measurements (138sqm) for gardens attached to plots 40 and 44 appear to include areas of garden to the side of the dwelling. It is considered that these areas, though not occupied by parking/garages etc., are less useable as garden space. Without these areas included garden sizes for these plots are considered to be closer to 120sqm. Across the development there is a range of garden sizes ranging from the very generous (more than 450sqm) to smaller gardens (closer to 120sqm) – the provision is considered sufficient. The provision of larger gardens for many plots aids in reducing site density and the urbanisation of the rural setting.
- 8.21 Internally the development delivers good rear to rear separation distances between dwellings and the orientation of plots has been considered to avoid any potential overlooking or overshadowing of amenity space. Whilst some of the front to front distances are below that sought, the proposed house types being bungalows limits any further potential harm to dwelling and garden privacy. In considering the Ard Craig dwelling to the west of the site, a distance of circa 26m from the rear elevation of plot 26 is achieved (this is in excess of the 25m expectation). A dense belt of screening further separates the dwellings. The proposals are therefore not considered to have a detrimental impact on the amenity or privacy of this dwelling.
- 8.22 In summary, the proposed development does reflect a density of development higher than in the neighbouring area. Despite this, the proposals have sought to mitigate the impact of development by reducing the quantum of development below the MLDP suggested capacity and introducing; low level development, internal landscaping, additional boundary landscaping and large garden sizes for many of the dwellings. On balance the proposals are considered to be compliant with the MLDP allocation requirements and MLDP policies DEV6 and DEV7.

### Affordable housing.

- 8.23 MLDP policy STRAT4 sets out that additional housing sites will be subject to the provisions of MLDP policy DEV3 (Affordable and Specialist Housing). The policy requires 25% of the proposed development to be affordable housing. Subsequent to amendments to the proposed layout, namely the reduction of units from 54 to 46 units, proposals will be required to deliver 12 affordable homes within the development. These will be house types A and B, plots 35 – 46. The provision of the affordable housing contingent of the development will be secured through a planning obligation. The development is compliant with policy DEV3.

### Access and Transportation Issues

- 8.24 The proposal and its various access considerations have been reviewed by the Council's Policy & Road Safety Manager. In support of the proposals details of the access visibility splays and a Transport Statement were submitted with the application. The Transport Statement was compiled to assess the original 54 dwelling scheme. Throughout the course of the application the Policy and Road Safety Manager presented no in principle objection to the proposals. The visibility splays onto the A701 are sufficient (4.5m x 215m) to provide a safe access into the site. More detailed comments have resulted in a number of changes to the scheme.
- 8.25 In order to assess the likely trip generation the Transport Statement took a comparative assessment of traffic generation from the new housing development at Tipperwell Way in Howgate. The results were used to calculate the AM and PM peak time trip generations in and out of the proposed development. AM trips were 38 trips out of the development and 7 into the development. PM trips were 11 out of the site and 32 into the site. This number is likely reduced now that the quantum of dwellings has been reduced to 46. Junction traffic counts at the Tipperwell Way development were used to assess the likely direction of travel of future site users.
- 8.26 The Transport Statement sets out that the A6094 is considered to be the favoured north/south connection for new vehicles. As has been raised within public objections, future occupiers therefore may seek to utilise Milkhall Road to cut across to the A6094 before travelling north, or on returning to the site from the north. Milkhall Road is a single lane road with passing places. The Transport Assessment undertook automated traffic count surveys to assess existing traffic levels on Milkhall Road. It was assessed that the traffic flows were low (with the highest average over a 5-day flow being 78 vehicles). The Transport Statement admits that it is not possible to predict with certainty how many new road users of the new development would seek to utilise Milkhall Road. It was assessed that whilst there might be some desire from new users to utilise Milkhall Road to gain access to and from the

A6094, other route options did exist, namely the A701 north, or connecting with the A6094 at Leadburn. A regular bus service into Edinburgh would be within 400m of the site.

- 8.27 Conditions requiring improvements to the A701, including new lighting, street lighting and new bus shelter will be applied to any approval.
- 8.28 No objection to the conclusions of the Transport Statement were raised by expert consultees. On this basis it is concluded that the surrounding road network can accommodate the additional traffic likely to be generated by the proposal.

#### Landscape and Visual Impact

- 8.29 Whilst in the open countryside, the site is not within the Pentland Hills Special Landscape Area but is located immediately adjacent to its limits (A701). Despite this, development can still have a negative impact on the landscape value of an area and would need to comply with policy ENV7.
- 8.30 To support the proposed development a Landscape and Visual Impact Assessment (LVIA) has been submitted with the application alongside a visual montage of the proposed development with proposed screening. In addition a Woodland Impact and Analysis Plan along with a Woodland Mitigation and Management Plan was submitted.
- 8.31 The LVIA presents 10 photo montages of the site from the wider area as well as four from the site boundaries. The photos have had the proposed development superimposed onto them to visually assess the impact of development. It assesses the development to only have a likely impact on the wider landscape from the south west corner where the proposed new access is situated. The existing landscaping at the boundaries of the site is important in minimising the visual impact of development. The LVIA sets out that additional planting would be required to reinforce existing tree belts to the east, south and west, whilst a new tree belt should be delivered across the northern boundary of the site on the south side of Milkhall Road which is more sparsely planted. The proposals respond to the LVIA's recommendations to enhance existing site boundary planting. The submitted Woodland Mitigation and Management Plan sets out that extensive new planting will be delivered. In particular the sites new access road and northern boundary will be heavily planted by new woodland, whilst existing woodland at the south west of the site reinforced.
- 8.32 There may be some short term harm to the landscape as a result of views from the south west, but this will diminish as new planting establishes. In light of the proposed planting it is considered that the proposed development does not result in detrimental harm to the landscape and so complies with MLDP policy ENV 7.

## Contamination and Remediation

- 8.33 A Ground Investigation Report (GIR) was submitted in support of the proposed development. It assessed the site in respect of its historic background and potential harmful activities, presence of invasive plants, its geology, mining and mine entries and chemical and gas emissions, and need for peat removal. It confirms the presence of three invasive species that would have to be removed from the site with care. The report indicates that the site is underlain with made ground between 0.2m and 0.5m in thickness. The report further confirms the presence of peat on the site. No mining activities were identified through records or other investigations, but the report states, "as with any coalfield/former mining area, there is the potential for unrecorded mine entries to be present." In regards to chemicals, no major concerns were identified but an appropriate concrete specification is proposed due to pH values and sulphate concentrations of the site.
- 8.34 The Council's Environmental Health Manager has provided comments on the proposals in view of the above findings and recommends that conditions are proposed to require a remediation strategy and validation report.
- 8.35 In regards to Peat, policy ENV5 spatially designates areas of Peat and Carbon Rich Soil. Whilst the site is not within this spatial designation it is apparent from the GIR that peat is likely to be found on the site and requires removal in order to implement the access road in particular. The environmental value that peat plays in biodiversity and carbon sequestration is recognised. As such, the applicant will be required to prepare a Peat Management Plan to quantify how much peat requires to be removed and how it can be re-instated within the site. This can be secured by condition.

## Noise

- 8.36 MLDP policy ENV18 sets out that noisy development would be resisted where it would cause harm to neighbouring uses or sensitive receptors. The Council's Environmental Health Manager commented on the application to request a condition to require a Noise Impact Assessment to be provided to ensure that development did not breach the following noise thresholds;
- a) 50 dB LAeq(16hr) for daytime external garden amenity
  - b) 35 dB LAeq(16hr) for daytime internal living apartment
  - c) 30 dB LAeq(8 hr) for night time internal living apartment
- 8.37 In response, additional noise information was provided confirming the aforementioned thresholds were unlikely to be threatened. Subsequently, the Environmental Health Manager confirmed that in light of the new information, no condition was required. As such, the development is considered to comply with MLDP policy ENV18.

## Landscape and Arboriculture

- 8.38 The proposed access would result in the direct loss of 15 mature trees covered by a Tree Preservation Order (TPO) to the west of the site. It is proposed to remove a total of 57 trees within the main body of the site, but these are not covered by the TPO and are considered to have limited landscape value.
- 8.39 MLDP policy ENV11 (Woodland, Trees and Hedges) restricts the loss of TPO trees, but it does allow for exceptions where any lost trees would be replaced with an equivalent. The proposed development now seeks to provide a significant amount of replacement planting at the sites peripheries and within it, in order to mitigate the loss of trees, as well as to provide screening and shelter. The proposals represent a significant increase in canopy cover for the site.
- 8.40 The TPO was in part designated in order to preserve the shelter that the trees provided the site and local area. As such, there is a risk that the removal of some trees within the tree belt may expose other trees to wind damage - additional trees may be lost as a result of this. Furthermore, the construction process has the potential to impact/damage existing trees and root protection areas. It will need to be clearly shown that there is space to provide the road, footpath, services, grass/planting verge, swale verge, tree protection areas and tree planting root ball volumes along the proposed access road. Conditions are proposed to minimise any risks of tree loss through the construction of the site, and will require the replacement of established trees lost to wind damage within 10m of the proposed access.
- 8.41 Whilst the proposed development would result in the loss of trees within the TPO it is considered that the scale of the proposed new planting will adequately mitigate the loss of the TPO and other trees and provide screening for the proposed development. The proposed development will therefore adhere to policy ENV11 as an exception to the resistance to the loss of such trees also set out in the policy.
- 8.42 In addition to the screening value that the trees provide, trees further provide wider environmental and biodiversity benefits, particularly when it comes to climate change by storing carbon that is absorbed from the atmosphere. In 2019 Midlothian declared a Climate Emergency and in 2020 Midlothian's Climate Change Strategy was published. Within the strategy, goals were set out to increase canopy cover. The proposed development would secure the increase in canopy cover at the site over time. However, the role that mature trees play in carbon sequestration is unlikely to be compensated for, by the provision of new planting until the longer term. As such, in the short term there will be some impact from the development.
- 8.43 On balance it is considered that the quantum of planting will adequately mitigate the harms set out above and that the development is

acceptable. Such mitigation will only be effective through adequate provision for new planting and long term protection of woodland as secured in the conditions.

### Ecological Matters

- 8.44 The site is not subject to any spatial biodiversity designations, but is within 480m of the Milkhall Pond Biodiversity Site to the north east.
- 8.45 The former school structures were investigated for potential bat roosts and three of the six structures were identified to have roosts within them as well as having numerous external roost opportunities. Further reporting was carried out to assess habitat potential across the site and an Ecology Assessment was submitted to the application. In terms of habitat the site has mixed conditions but is not exceptional.
- 8.46 The reports sets out that:
- Lighting design for both the construction and operational phases needs to be taken into account for bats and other wildlife using the woodland corridor (which will remain);
  - Badgers are present and protection and mitigation will be required;
  - A Site Biodiversity Action Plan or similar, to include landscape and habitat design and management, species protection plans, and monitoring protocols is recommended.
- 8.47 Following the findings of the Ecological Assessment, protected species surveys were carried out and an Ecology Update submitted. This includes surveys for, Great Crested Newts, Breeding Birds, European Otter, European Water Vole and European Badger.
- 8.48 Pre-start checks required for otter, badger, nesting birds (if in the nesting season), and bats would be required. This does not exclude the need for licences. For those protected species that are present on the site, Species Protection Plans will be required prior to the commencement of development.
- 8.49 Nature Scot were consulted - they responded to set out that the recommendation of the Ecology Assessment Update should be adhered to and had no objections to the development.
- 8.50 It was determined that, subject to appropriate management, habitat mitigation/enhancement and all necessary licences, the proposed development would have limited impact on the biodiversity of the site and would thus comply with MLDP policy ENV15 and Midlothian's Nature Conservation Planning Guidance (2021).



### Flood Risk and Surface Water Drainage

- 8.51 Foul water will be drained via gravity into the existing Wellington School Waste Water Treatment Work, subject to further agreement from Scottish Water.
- 8.52 The site is outwith any flood risk area as denoted by SEPA's flood maps. Neither SEPA nor the Council's flooding consultee raised any objections in regards to flood risk. SEPA note that the proposed access crosses a minor watercourse and propose a condition to secure adequate culverts are delivered to avoid an inhibition of flow that might result in flooding.
- 8.53 As the proposed development will introduce hardstanding and other impermeable surfaces, the development will increase the possibility of surface water runoff, unless adequately mitigated. The proposed development will manage surface water through SUDS that will discharge into the Lead Burn. The rate of discharge will be controlled through an attenuation tank that will limit discharge to 2L/s. Attenuation tanks are proposed at a scale that would cope with a 1 in 200 year storm event plus the provision of an additional 40% climate change mitigation capacity.
- 8.54 Whilst the proposed drainage is considered to be sufficient to meet the required surface water needs of the site, the proposed subterranean attenuation tanks provide no biodiversity benefit that could be delivered by a SUDS detention basin/pond and associated landscaping. Whilst officers sought this to be included into the proposals, the applicant advised that because of the depth of the drainage infrastructure (6m), the SUDS basin/pond would require very steep banks and may be a health and safety concern on the site.
- 8.55 Whilst the added biodiversity benefits would not be realised, the proposed habitat enhancements being sought and conditioned as part of the development are considered to be sufficient in this instance. As such, the proposed drainage solution is considered acceptable.

### Feasibility of Communal Heating System

- 8.56 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. 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".

- 8.57 MLDP policy NRG6 states that community heating within new developments should be supported where technically and financially feasible. It remains to be demonstrated by the applicant that the proposed development does not offer the potential for a new district heating network to be created within the site. Accordingly, a condition will be required on a grant of planning permission requiring that a feasibility study for the provision of a community heating system for any new development is undertaken by a suitably qualified engineer, commissioned by the applicant, and submitted for the approval of the planning authority. Should this study show a community heating system can be introduced, this should be undertaken within an agreed timescale. If it shows it is not feasible to install a community heating network, this requirement would not be relevant.

#### Developer Contributions

- 8.58 If the Council is minded to grant planning permission for the development it will be necessary for the applicant to enter into a planning obligation to secure:
- A financial contribution towards additional primary education capacity;
  - A financial contribution towards additional secondary education capacity;
  - A financial contribution towards primary education school transport;
  - A financial contribution towards the A701 relief road/A702 link road;
  - Maintenance of open space/play areas; and
  - The provision of onsite affordable housing
- 8.59 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:
- necessary to make the proposed development acceptable in planning terms (paragraph 15);
  - serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans;
  - relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19);
  - fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23); and
  - be reasonable in all other respects.
- 8.60 The requirements as set out above for any proposed planning obligation would meet the above tests.

## Other Matters

- 8.61 Regarding matters raised in representations and by consultees not already addressed in this report:
- A number of commentators ascribed concern to the loss of open space as a result of development - the site is not formerly designated open space and so the restrictions of MLDP policy DEV8 do not come into effect;
  - Part of the development is outwith the sites allocation - the MLDP Report of Examination confirmed that it would be necessary to purchase additional land to facilitate access to the site and this was acceptable in allowing the sites allocation for housing;
  - It has been raised that application 16/00460/PPP (erection of one dwelling on land south west of the Wellington School site) was refused for reasons that might prohibit the proposed development being acceptable – the current application is for a different site and is allocated for housing. In addition, the MLDP has been adopted since the earlier refusal, the current plan sets out the policy position for consideration. Application 16/00460/PPP is not a material consideration which outweighs support for the application;
  - Lack of water pressure - Scottish Water advise that there is sufficient capacity within the system;
  - Poor internet connectivity – the development will be required to provide high speed broadband connections to meet the requirements of policy IT1;
  - Accuracy of the submitted reports - technical matters have been reviewed by the appropriate consultees; and
  - Appropriate examination of the MLDP - representations were made on the proposed allocation of the site within the emerging MLDP. These were considered by the Reporter who addresses the site at pages 607-608 of their report where they conclude that the site was appropriate for inclusion in the MLDP under policy STRAT4.
- 8.62 The following matters have been raised in representations which are not material considerations in the determination of the application:
- The impact of development on property values;
  - The impact on views enjoyed from existing properties; and
  - Whilst securing a development through good design is a material consideration, the principle of development leading to anti-social behaviour is not a material consideration.

## **9 RECOMMENDATION**

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

*The site is an allocated housing site subject to an appropriate solution to the site's access constraints. The proposals demonstrate a safe and deliverable access arrangement and the proposed development will be of an acceptable scale and character that responds both to the detailed*

*requirements of the development plan and the surrounding area. It will provide adequate open space, and parking provision; and will not have a significant detrimental impact on the residential amenity or the environment of the area. The proposal therefore complies with policies STRAT4, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, RD1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV16, ENV17, ENV18, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.*

Subject to:

- i) the completion of a planning obligation to secure:
  - A financial contribution towards additional primary education capacity;
  - A financial contribution towards additional secondary education capacity;
  - A financial contribution towards primary education school transport;
  - A financial contribution towards the A701 relief road/A702 link road;
  - Maintenance of open space/play areas; and
  - The provision of onsite affordable housing

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

- ii) the following conditions:
  1. Development shall not begin until 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, roads, parking areas and paths in relation to a fixed datum;
    - ii. existing trees, landscaping features and vegetation to be retained, removed, protected during development (to BS 5837:2012) and in the case of damage or loss, restored;
    - iii. proposed new planting including trees, shrubs, hedging and grassed areas;
    - iv. location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
    - v. schedule of plants to comprise species, plant sizes and proposed numbers/density;
    - vi. programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping shall be completed prior to the development being 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); unless a suitably qualified ecologist has carried out a walkover survey of the felling/removal area in the 48 hours prior to the commencement of felling/removal, and confirmed in writing that no breeding birds will be affected;

- vii. proposed car park configuration and surfacing;
- viii. details of the location, design, height and specification of proposed street lighting within the development;
- ix. proposed footpaths; and
- x. proposed cycle parking facilities

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 policy DEV7 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

2. Development shall not begin until details and, if requested, 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 agreed in writing with the planning authority.

***Reason:*** *In the interest of protecting the character and appearance of the area so as to comply with policies DEV2 of the Midlothian Local Development Plan 2017.*

3. 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. The footpath/cycle link shall be a minimum of 3m in width;
  - 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. proposed bus stops/lay-bys and other public transport infrastructure;
- ix. a programme for completion for the construction of access, roads, footpaths and cycle paths;

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.*

4. Prior to the commencement of development a layout indicating where an Area of improved Quality (AiQ) will be set out within the site shall be submitted for approval in writing to the planning authority. The AiQ will cover at least 20% of the proposed units and their associated boundary treatments. The layout will identify the high quality materials to be used within the AiQ, samples of which will be required in accordance with condition 5.

**Reason:** *In the interest of protecting the character and appearance of the area so as to comply with policies DEV2 and DEV6 of the Midlothian Local Development Plan 2017.*

5. 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 the building. The delivery of high speed fibre broadband shall be implemented as per the approved details or such alternative as may be approved in writing by the Planning Authority.

**Reason:** *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure; and to comply with policy IT1 of the Midlothian Local Development Plan 2017*

6. Development shall not begin until details of a scheme to deal with surface water drainage 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 that the development is provided with adequate surface water drainage; and to ensure that development complies with*

*policies ENV9, ENV10 and ENV15 of the Midlothian Local Development Plan 2017.*

7. Development shall not begin until an application for approval of matters specified in conditions for a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:
  - i. Details of construction access routes;
  - ii. signage for construction traffic, pedestrians and other users of the site;
  - iii. controls on the arrival and departure times for construction vehicles, delivery vehicles and for site workers (to avoid school arrival/departure times);
  - iv. details of piling methods (if employed);
  - v. details of any earthworks;
  - vi. control of emissions strategy;
  - vii. a dust management plan strategy;
  - viii. waste management and disposal of material strategy;
  - ix. a community liaison representative will be identified to deal with the provision of information on the development to the local community and to deal with any complaints regarding construction on the site;
  - x. prevention of mud/debris being deposited on the public highway;
  - xi. material and hazardous material storage and removal; and controls on construction, engineering or any other operations or the delivery of plant, machinery and materials (to take place between 0700 to 1900hrs Monday to Friday and 0800 to 1300hrs on Saturdays).

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

***Reason:*** *In order to control the construction activity on the site, ensure environmental impact during the construction period is acceptable and to ensure appropriate mitigation is in place.*

8. Prior to the commencement of development a Peat Management Plan will be prepared and submitted to the planning authority for approval in writing. The management plan will address any necessity to removal peat and carbon rich soils from the site and where possible show how it can be integrated back into the site.

***Reason:*** *To ensure compliance with policy ENV5 the MLDP 2017.*

9. The 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.

***Reason:*** To ensure compliance with policy ENV16 of the MLDP 2017.

10. On completion of the decontamination / remediation works referred to in Condition 10 above and prior to any dwelling house being occupied, a validation report or reports shall be submitted to the Planning Authority confirming that the works have been carried out in accordance with the approved scheme. No dwelling house shall not be occupied unless or until the Planning Authority have approved the required validation.

11. Prior to the commencement of development technical details of any bridges and culverts under the access road shall be submitted for approval in writing by the planning authority. Proposed bridges or culverts must be designed to convey the 1 in 200 year design flow. The design of the culvert will take into account the conveyance of added climate change flows. As part of the adopted road this structure with require to meet the design requirements for a highway structure.

***Reason:*** To ensure that development does not increase the risk of flooding on the site and to comply highway standards

12. A feasibility study for the provision of a community heating system for any will be undertaken by a suitably qualified engineer, commissioned by the applicant, and submitted for the approval of the planning authority. Should this study show a community heating system can be introduced, this should be undertaken within timescales to be agreed.

***Reason:*** in order to comply with condition NRG6 of the MLDP 2017.

13. Prior to the commencement of development cross sections of the new access road will be submitted for approval in writing by the planning authority. The cross sections will show proposed footpath, services verge, grass/planting verge, swale verge, tree protection areas and tree planting root ball volumes along the proposed access road.

***Reason:*** To ensure that there is appropriate space to deliver the proposed features.



14. Prior to the commencement of development a Site Biodiversity Action Plan (SBAP) will be prepared and submitted to the planning authority for approval in writing. It shall include:
- Reference to the recommendations set out in chapter 5.0 of the submitted Badger Survey (February 2020) and Ecological Assessment – Update (July 2021);
  - Landscape and habitat design and management;
  - Species protection plans for bats and badgers; and
  - Monitoring protocols.

Thereafter, development shall be carried out in accordance with the approved SBAP.

***Reason:*** *To protect and enhance protected species and other biodiversity on the site in accordance with policy ENV15.*

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. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing by the Planning Authority.

***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 Midlothian Local Development Plan 2017 and national planning guidance and advice.*

16. Details of the proposed design of the junctions of the two pedestrian/cycle links to Milkhall Road should be submitted to and approved in writing by the planning authority prior to the commencement of development. Unless otherwise agreed in writing, the detailed design will include 3m of pedestrian footway to be formed on Milkhall Road with pedestrian guard rail.

***Reason:*** *To ensure highway safety is achieved for road users and pedestrians.*

17. The proposed landscaped buildout shown on the layout on the frontage of plots 37/38 should be removed from the layout to allow a 5.5m wide road alignment to be achieved.

***Reason:*** *To ensure appropriate highway design and continuity design.*

18. Development shall not begin until details of the provision and use of electric vehicle charging stations 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 Midlothian Local Development Plan 2017.

19. Details of new street lighting on the A701 at the approaches to the proposed site access will be submitted to the planning authority for approval in writing prior to the commencement of development.

**Reason:** To ensure compliance with policy IMP2 of the MLPD 2017

20. Details of the design and location of the proposed new bus shelter (southbound) on the A701 should be submitted to the planning authority for approval prior to commencement of development.

**Reason:** To ensure compliance with policy IMP2 of the MLPD 2017

21. Technical details of the proposed upgrading to the existing public footway along the A701 leading to the existing Wellington School Bus Stop shall be submitted to the planning authority for approval prior to the commencement of development.

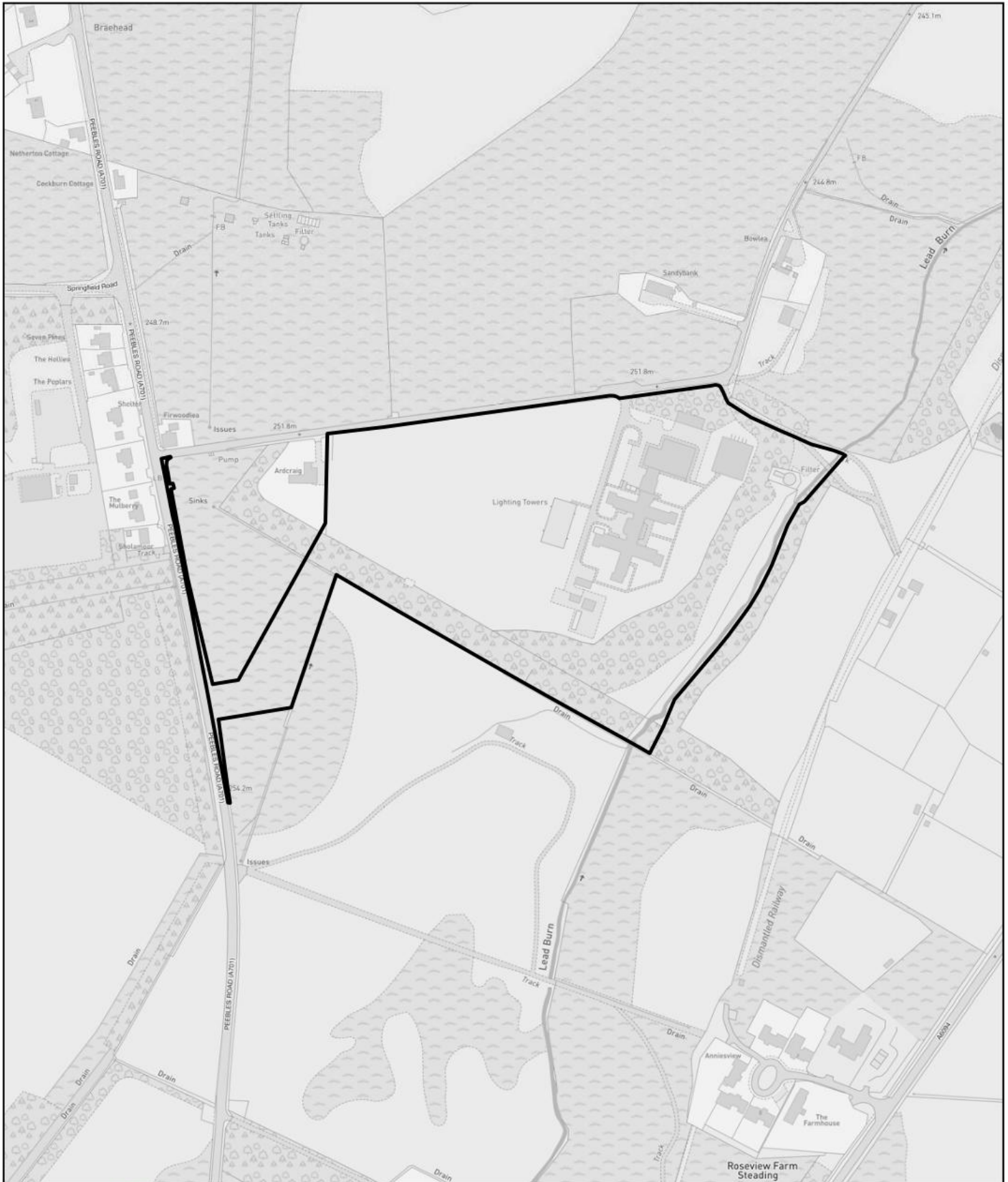
**Reason:** To ensure safe pedestrian access to the pedestrian transport connections.

22. Development shall not begin until a programme of archaeological works (field evaluation by trial trenching) in accordance with a written scheme of investigation which has been submitted by and approved by the planning authority. This will be carried out at the site by a professional archaeologist in accordance with details submitted to and approved in writing by the planning authority. The area to be investigated should be no less than 5% of the total greenfield site area with an additional 2% contingency should significant archaeological remains be encountered.

**Reason:** To ensure this development does not result in the unnecessary loss of archaeological material in accordance with policy ENV25 of the Midlothian Local Development Plan 2017.

**Peter Arnsdorf**  
**Planning, Sustainable Growth and Investment Manager**

<b>Date:</b>	12 November 2021
<b>Application No:</b>	20/00144/DPP
<b>Applicant:</b>	Lochay Homes Ltd
<b>Agent:</b>	Strutt and Parker
<b>Validation Date:</b>	9 March 2020
<b>Contact Person:</b>	Hugh Shepherd
<b>Email:</b>	<a href="mailto:hugh.shepherd@midlothian.gov.uk">hugh.shepherd@midlothian.gov.uk</a>
<b>Background Papers:</b>	Online planning application file
<b>Attached Plans:</b>	Proposed Site Layout RevM, Woodland Mitigation and Woodland Plan, House-type Plans



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

Residential development formation of access roads and car parking and associated works at Land At Wellington School, Penicuik,

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Scale: 1:4,000

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