



**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE  
(14/00444/PPP) FOR RESIDENTIAL DEVELOPMENT ON ALLOCATED  
HOUSING SITE H1, WESTER COWDEN, THORNYBANK, DALKEITH**

Report by Head of Communities and Economy

**1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1 The application is for planning permission in principle for residential development on Midlothian Local Plan allocated housing site H1, Cowden Cleugh, Dalkeith; which has an indicative capacity of 100 units. There have been no representations received. Consultation responses have been received from the Council's Head of Education, the Policy and Roads Safety Manager and the Council's Archaeological Advisor. The relevant development plan policies are Policy 5 of the Strategic Development Plan and policies RP5, RP20, RP28, RP31, HOUS1, HOUS4, IMP1, IMP2 and DP2 of the Midlothian Local Plan (2008). The recommendation is to grant planning permission subject to conditions and the prior signing of a legal agreement to secure developer contributions.**

**2 LOCATION AND SITE DESCRIPTION**

- 2.1 The site is a green-field to the east of the residential development at Wester Cowden, Thornybank, known as site N, allocated for housing in the 2003 Local Plan. The site extends to 2.4 hectares. Wester Cowden, Thornybank, forms part of the Council's established land supply and significant areas of the wider site have been constructed and occupied and other areas are currently under construction.**
- 2.2 Existing woodland bounds the site to the north and east. An old disused quarry bounds the site to the south. The quarry was the subject of planning permission 07/00546/FUL for infilling and restoration to public open space. This permission has not been implemented and has now lapsed.**
- 2.3 The site will be accessed from a single point at the north-west from the adjoining Wester Cowden, Thornybank, development. The development area to the immediate west is the subject of three detailed undetermined planning applications for residential development.**
- 2.4 The existing built form of Wester Cowden, Thornybank, comprises a mixture of two-storey detached, semi-detached and terraced houses and some three and four storey flatted blocks and townhouses at focussed locations.**

### 3 PROPOSAL

- 3.1 The application proposes planning permission in principle for residential development and for the formation of an associated access via the adjacent development site.
- 3.2 Although the application is for planning permission in principle the applicant has submitted an indicative masterplan comprising a design concept for the development of the site. The masterplan considers issues relating to design, access, landscape, open space, drainage/SUDS and phasing and indicatively shows up to 106 houses on the site. On the basis of a development of this size the housing density across the whole site would be 44 dwellings per hectare. The masterplan delineated the following mix of houses, all of which are two-storey:
- Detached 78%
  - Semi-detached 11%
  - Terraced/townhouses 11%
- 3.3 Two points of pedestrian connection are indicatively shown connecting to the existing settlement via the site of the, to be, restored quarry.
- 3.4 The applicant confirms that 25% of the dwellings will be affordable housing.
- 3.5 The application is accompanied by a pre-application consultation report, an ecological walkover survey report, a design and access statement and a coal mining risk assessment.

### 4 BACKGROUND

- 4.1 Pre-application consultation 13/00468/PAC for a residential development was received in June 2013.

### 5 CONSULTATIONS

- 5.1 **The Head of Education** has advised that the applicants will be required to make a developer contribution towards non-denominational primary school provision. A contribution is not required towards denominational primary school provision. A developer contribution will be required towards secondary denominational and non-denominational provision.
- 5.2 The Council's **Policy and Road Safety Manager** has requested that details of access, parking, footpaths, SUDS, public transport infrastructure and a Green Travel Plan are submitted as part of the matters specified in conditions applications.

- 5.3 The Council's **Archaeological Advisor** informs that the site is of potential archaeological significance. The surrounding area is rich in industrial archaeological remains associated with 19<sup>th</sup> century mining. Also, there are a number of recorded crop-mark enclosures recorded from aerial photographs, possibly dating to the prehistoric period. Accordingly, the area is regarded as having potential archaeological significance. As a consequence, there is a requirement for a programme of archaeological works (Archive Assessment and Evaluation) to be carried out to record the historical remains and to determine whether the development will disturb any buried archaeological deposits.
- 5.4 The **Coal Authority** informs that the site is in the likely zone of influence for coal working, which needs to be considered in relation to the determination of the planning application.
- 5.5 The **Scottish Environment Protection Agency (SEPA)** raises no objection to the application subject to the imposition of planning conditions requiring the following controls: (i) the carrying out of an appropriate risk assessment for the proposed stabilisation of mine workings and the carrying out of any recommended mine grouting prior to development commencing; and, (ii) details of sustainable urban drainage (SUDS) for the development being submitted for the prior approval of the planning authority in consultation with SEPA.

## **6 REPRESENTATIONS**

- 6.1 No representations have been received.

## **7 PLANNING POLICY**

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) (SESplan) and the Midlothian Local Plan (MLP), adopted in December 2008. The following policies are relevant to the proposal:

### South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 **Policy 5 (HOUSING LAND)** requires Local Development Plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing requirements for each period.

### Midlothian Local Plan (MLP):

- 7.3 Policy **RP5 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, individual trees (including areas covered by a Tree Preservation Order, areas defined as ancient and semi-natural woodland, or areas forming part of a designed landscape) and hedges which have particular amenity, nature conservation, biodiversity recreation, landscape character, shelter or

other importance. Where an exception to this policy is agreed, any trees lost will be replaced with equivalent.

- 7.4 Policy **RP20: Development within the Built-up Area** states that development will not be permitted within the built-up area where it is likely to detract materially from the existing character or amenity of the area.
- 7.5 Policy **RP28: Site Assessment, Evaluation and Recording** states that where any development proposal 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 impact of the proposal on the archaeological resource.
- 7.6 Policy **RP31: Open Space Standards** advises that the Council proposes to bring forward supplementary planning guidance based on the open space strategy outlining the minimum open space standards in respect of all new development, and until that is available the requirements for open space provision are as set out in policy DP2.
- 7.7 Policy **HOUS1: (Strategic Housing Land Allocations Proposal)** states that housing development to meet the Structure Plan strategic housing land requirements will be permitted on sites identified in the Local Plan Proposals Map provided it accords with Local Plan policies IMP1, IMP2, IMP3 and DP2. Reference should be made to policy HOUS4 with respect to the proportion of affordable housing to be provided on these allocated sites.
- 7.8 Policy **HOUS4: Affordable Housing** requires that on residential sites allocated in this Local Plan and on windfall sites identified during the plan period, provision shall be required for affordable housing units equal to or exceeding 25% of the total site capacity, as follows:
- for sites of less than 15 units (or less than 0.5 hectares in size) no provision will be sought;
  - for sites of between 15 and 49 units (or 0.5 to 1.6 hectares in size) there will be no provision for the first 14 units thereafter 25% of the remaining units will be for affordable housing
  - for sites of 50 units and over (or larger than 1.6 hectares in size), there will be a requirement for 25% of the total units to be for affordable housing.
- 7.9 Lower levels of provision, or a commuted sum, may be acceptable where this has been fully justified. Supplementary planning guidance with regard affordable housing provision provides advice on: the acceptable tenure split between social and low cost housing; possible delivery mechanisms; the scope for commuted sums; and other relevant matters as necessary. The Council's "Supplementary Planning Guidance on Affordable Housing" was published in March 2012.

- 7.10 Policy **IMP1: New Development**, this policy ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are transport infrastructure, 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.
- 7.11 Midlothian Local Plan 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 requirements, related to the scale and impact of the proposal. This includes essential roads infrastructure, protecting valuable environmental assets within or adjacent to the site and compensation for any losses including alternative provision where appropriate. In this case the need to upgrade junctions and access arrangements will come through a Traffic Assessment and specific requirements may arise from water and drainage and flood risk assessments.
- 7.12 Midlothian Local Plan Policy **DP2: Development Guidelines** sets out Development Guidelines for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings.

#### National Policy

- 7.13 The **SPP (Scottish Planning Policy)** sets out Government guidance for housing.

## **8 PLANNING ISSUES**

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

#### The Principle of Development

- 8.2 The principle of residential development on this site is established by its allocation for housing within the adopted MLP (2008), with an indicative capacity of 100 units. The site relates well to the existing and proposed houses at Wester Cowden.
- 8.3 The illustrative masterplan submitted with the application does not delineate how a development of up to 106 dwellings; 78% of which would be detached houses, could be accommodated on the site which

is allocated for 100 dwellings. However, a development greater than 100 dwellings may be acceptable, if a detailed proposal of good layout, form and design is in accordance with detailed development plan policies, in particular policy DP2.

- 8.4 The applicant has confirmed to the Planning Authority that the masterplan submitted with the application is solely for illustrative purposes only and it does not provide any indication of the number of units, scale, density or form the residential development would take. Therefore the masterplan is not to be given consideration in the assessment of this application. In granting planning permission in principle, permission is not granted for the details delineated/illustrated in the masterplan or for the number of units indicated. The number, positioning, height, scale, form, appearance of the residential buildings (houses and flats) and details of the position and layout of road infrastructure, open spaces, sustainable urban drainage and landscaping etc are all for consideration in a further application(s) for matters specified in conditions imposed on a grant of planning permission in principle.

#### Access and Transportation Issues

- 8.5 Details of the proposed new access points into the site from the adjoining development site should be submitted for the prior approval of the Planning Authority. Furthermore, suitable walking and cycling routes should be provided linking the new housing with the local primary school and the rest of Dalkeith. This would normally take the form of a 3m wide cycleway/footpath. All of these controls can be secured by condition.

#### SUDS and Flooding

- 8.6 It can be made a condition of a grant of planning permission that details of SUDS be submitted for the prior approval of the planning authority.

#### Coal

- 8.7 The applicant has demonstrated appropriate mitigation measures can be put in place to provide comfort for the Coal Authority.
- 8.8 The control alluded to by SEPA regarding the carrying out of an appropriate risk assessment for the proposed stabilisation of mine workings and the carrying out of any recommended mine grouting prior to development commencing, can be secured by condition.

#### Archaeology

- 8.9 The controls identified by the Council's Archaeological Advisor can be secured by condition.

### Developer Contributions

- 8.10 In accordance with policy HOUS4 the provision of 25% affordable housing is required to be provided on the site. The applicant has confirmed that the required affordable housing will be met on site. The nature of, and the delivery of the affordable housing requirement will be secured through a Section 75 Legal Agreement.
- 8.11 The development cannot be accommodated without increased primary and secondary educational capacity and, if approved, the applicant will be required to contribute towards the consequential cost of any additional school accommodation as part of the Section 75 legal planning agreement.
- 8.12 There is a requirement to provide play facilities for children. Equipped children's play areas exist elsewhere in Wester Cowden and a developer contribution should be sought to improve/maintain the existing play facilities at Wester Cowden. This can be secured as part of the Section 75 Legal Agreement.
- 8.13 A developer contribution is also required towards town centre improvements.

### Biodiversity

- 8.14 The ecological report concludes that there is negligible bat roost opportunity in the few trees on the site. It recommends that trees are inspected prior to development for evidence of any potential for bat roosting and mitigation measures formulated to protect the species should they be necessary.

## **9 RECOMMENDATION**

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

*The site is allocated for housing in the adopted Midlothian Local Plan 2008 to meet the Council's Strategic Housing requirements in accordance with the then Edinburgh and the Lothians Structure Plan 2015. Therefore the principle of residential development of the site is acceptable and complies with MLP Policies. The presumption for development is not outweighed by any other material consideration.*

Subject to:

- i) the prior signing of a legal agreement to secure the provision of affordable housing, and contributions towards education provision, children's play provision and maintenance of play equipment, and town centre improvements.
- ii) the following conditions:

1. The masterplan submitted with the application is not approved.

**Reason:** *The application is for planning permission in principle only and the details delineated within the masterplan are for illustrative purposes only.*

2. Development shall not begin until an application for approval of matters specified in conditions regarding the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of affordable housing, the provision of open space, structural landscaping, SUDS provision and transportation infrastructure. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

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

3. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- i existing and finished ground levels and floor levels for all buildings and roads in relation to a fixed datum;
- ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii proposed new planting in communal areas and open space, including trees, shrubs, hedging and grassed areas;
- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses on adjoining plots are occupied;
- vii drainage details and sustainable urban drainage systems to manage water runoff;
- viii proposed car park configuration and surfacing;
- ix proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
- x proposed play areas and equipment;
- xi proposed cycle parking facilities; and

- xii proposed area of improved quality (minimum of 20% of the proposed dwellings).

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

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

4. Development shall not begin until an application for approval of matters specified in conditions for a flood risk assessment for the development has been submitted to and approved by the Planning Authority. Any mitigation measures agreed shall be implemented in accordance with a timetable to be agreed in writing by the Planning Authority.

**Reason:** *To ensure that the dwellings built on the site are not at risk of flooding.*

5. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential units and other structures has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. These materials will also include those proposed in the area of improved quality (20% of the proposed dwellings). Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

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

6. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority.

Details of the scheme shall include:

- i existing and finished ground levels for all roads, footways and cycle ways in relation to a fixed datum;
- ii the proposed vehicular, cycle and pedestrian accesses into the site;
- iii the proposed roads (including turning facilities), footpaths and cycle ways including suitable walking and cycling routes linking the new housing with the local primary school and the rest of Dalkeith;
- iv proposed visibility splays, traffic calming measures, lighting and signage;
- v proposed construction traffic access and haulage routes;
- vi proposed car parking arrangements;
- vii a programme for completion for the construction of access, roads, footpaths and cycle paths; and

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.*

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

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

If the site investigation identifies the requirement for mine grouting then prior to development commencing a risk assessment for the proposed stabilisation of mine workings with Pulverised Fuel Ash (PFA) grout shall be submitted for the prior written approval of the planning authority.

**Reason for conditions 7:** *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

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

**Reason:** *To ensure the quality of the development is enhanced by the use of art to reflect its setting in accordance with policies IMP1 and DP2 of the Midlothian Local Plan and national planning guidance and advice.*

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

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

10. Development shall not begin until an application for approval of matters specified in conditions for a programme of archaeological works (archive assessment and evaluation) and scheme of investigation has been submitted to and approved in writing in by the planning authority. The approved programme of works shall be carried out by a professional archaeologist prior to any construction works, demolition or pre commencement ground works take place unless otherwise agreed in writing by the planning authority.

**Reason:** *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policy RP28 of the Adopted Midlothian Local Plan.*

**Ian Johnson**  
**Head of Planning and Development**

**Date: 11 November 2014**

**Application No:** 14/00444/PPP  
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**Background Papers:** 13/00468/PAC