

**APPLICATION FOR PLANNING PERMISSION 14/00215/S42 TO AMEND
CONDITION 9 OF PLANNING PERMISSION 11/00477/DPP (INFILLING OF
LAND) TO EXTEND THE DURATION OF THE TEMPORARY PERMISSION
AT LAND AT BLACKCASTLE FARM, TYNEHEAD, PATHHEAD**

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the continued infilling of land at Blackcastle Farm near Tynehead. There are no letters of representation and no consultations were required. The relevant development plan policies are RP1, RP5, RP7 and WAST3 of the Midlothian Local Plan and policy 14 of the Edinburgh and South East Scotland Strategic Development Plan. The recommendation is to grant planning permission subject to conditions.**

2 LOCATION AND SITE DESCRIPTION

- 2.1** The site comprises a generally rectangular field on the south side of the B6458. It extends to around 16 hectares. The land slopes up gradually away from the road towards the south. The middle of the field is slightly lower than the land at the boundaries. There is a small burn/drainage channel with a hedge and vegetation to either side running along the road side. The field is bounded by tree belts to either side (east and west), with the tree belt to the west being noticeably wider. The tree belt to the east side contains the field access.
- 2.2** The land was in agricultural use prior to the infilling works commencing.

3 PROPOSAL

- 3.1** The applicant wishes to extend the period permitted for the carrying out of infilling operations by a further 12 months due to the shortage of materials coming into the site. Application 11/00477/DPP expired on 14 April 2014.
- 3.2** The proposal is to continue the infilling of the land to improve the drainage properties of the field. The works comprise raising the level of the land by up to 2 metres, using inert stone and soil material. The ground is to be graded into the surrounding levels to the south, restored with preserved topsoil and planted with grass seed. To the north where it abuts a burn the resulting bank will be steeper than the original bank.

- 3.3 The site at the east end of the field has already been subject to a planning application and has been infilled. The field is 640 metres wide (along the road frontage) and it is 245 metres deep. Access will continue to be via the existing field access to the east of the site through an existing tree belt.
- 3.4 The applicant's original method statement advises that the infilling of the site will be done in 24 metre strips where the topsoil will be stripped back to a depth of 15 cm, then imported subsoil will be spread onto this exposed area to a depth of 2 metres at the north (road side) of the site, gradually tapering towards the south west corner of the site where there will be no increase in land levels. The works will also incorporate a 100 mm plastic porous drainage pipe with lateral feeders in the subsoil draining to the existing burn. Once complete the site will be restored with the retained topsoil to a depth of 15cm. Soil will be brought in from the B6458 road via the existing gate at the east end of the site.

4 BACKGROUND

- 4.1 Planning application, 11/00477/DPP, for the Infilling of land at Blackcastle Farm was approved subject to conditions and a legal agreement with the Council as the local roads authority on 13 April 2012. Consent was for a temporary period of 24 months.
- 4.2 A Pre-Application Consultation (11/00060/PAC) was carried out by the applicant prior to the submission of planning application 11/00477/DPP.
- 4.3 An application (10/00053/DPP) for the infilling of the land (1.9 hectares) on the eastern part of the site was granted planning permission subject conditions on 09 June 2010.

5 CONSULTATIONS

- 5.2 No consultations were required.

6 REPRESENTATIONS

- 6.1 No representations have been received in connection with this application.

7 PLANNING POLICY

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

Midlothian Local Plan

- 7.2 Policy **RP1 Protection of the Countryside** advises that development in the countryside will only be permitted if it is essential for the furtherance of agriculture, or other uses appropriate to the countryside. Development complying with the terms of Policy DP1 will also be permitted;
- 7.3 Policy **RP5 Woodland Trees and Hedges** does not permit development that would lead to the direct or indirect loss of woodland which has a particular value in terms of amenity, nature conservation, recreation, landscape character or shelter;
- 7.4 Policy **RP7 Landscape Character** which advises that development will not be permitted where it may adversely affect the quality of the local landscape. Provision should be made to maintain local diversity and distinctiveness of landscape character and enhance landscape characteristics where improvement is required;
- 7.6 Policy **WAST3 Sites for Waste Disposal** has some relevance and advises that proposals for waste disposal by landfill will only be permitted where it can be demonstrated that a significant environmental benefit can be achieved through landfilling. Development should also fulfil a set of requirements covering land use, amenity of neighbours, water pollution, high standards of restoration and aftercare, traffic and visual impact.
- 7.7 The chapter on Waste Management and Disposal, of the South East Scotland Strategic Development Plan, advises that there is no justification for supporting additional landfill capacity, other than where the Scottish Environment Protection Agency (SEPA) Landfill Capacity Reports indicate that there is a need for additional facilities or environmental benefits may be achieved through landfilling, in particular by facilitating the reclamation of derelict land or enabling the restoration of disused mineral workings to a productive after use.

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 previous grant of planning permission (11/00477/DPP) provides justification for the infilling operations to improve the ground conditions and drainage to enhance the agricultural productivity of the site. The current application is a resubmission of application 11/00477/DPP and there has been no significant change in development plan policy or any material consideration which outweighs the presumption in favour of the development.

- 8.2 The primary consideration is whether extending the site's operation by a further 12 months will have an unacceptable impact on amenity. The extension of time does not increase the volume of heavy goods vehicles entering the site or change the long term land form or use of the site. On this basis it is reasonable to support the extension of time to complete the ongoing works. Furthermore, any localised inconvenience is outweighed by the benefit of seeing the infilling process concluded and the piles of temporary stored material being graded out across the site.
- 8.3 There have been no objections to the site operating for a further period of 12 months. The agreement signed to accompany planning application 11/00477/DPP will need to be extended to cover this extension of time.

9 RECOMMENDATION

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

The proposed reengineering of the ground levels will improve the condition of the land for agricultural use and is therefore in accordance with Midlothian Local Plan policies RP1, RP5, and RP7.

Subject to:

The prior signing of an extension to the legally binding agreement with the local roads authority, under the Roads (Scotland) Act 1984, to fund any additional repairs required to this section of public road (B6458) attributable to exceptional traffic loads arising from the landfill operation;

And the following conditions:

1. The road sweeping statement dated 09 May 2014 shall be implemented in full for the duration of the planning permission.

Reason: *In the interest of road safety, and to reduce the possibility of loose material being carried from the site onto the public road.*

2. The resultant ground levels after infilling and restoration shall at no point exceed the original ground levels, prior to the granting of planning permission 11/00477/DPP, by any more than 2 metres.

Reason: *In order to protect the landscape character of the area, and to accord with the terms of the SEPA license exemption.*

3. No trees within or adjoining the site shall be removed or lopped without the prior written approval of the planning authority.

Reason: *In order to protect trees on site and in the interest of local landscape character.*

4. There shall be no works carried out, nor materials or soil stored beneath the canopy of any existing trees on site.

Reason: *In order to protect trees on site and in the interest of local landscape character.*

5. Planning permission is granted for a period of 12 months from the date of this planning permission. Within the 12 months the land shall be graded to match the approved levels and seeded with grass. All stored materials not used in the re-grading operations and machinery and vehicles used in the engineering operation shall be removed from the site.

Reason: *Due to the temporary nature of the proposed development and to limit the visual impact and the impact upon the amenity of the area.*

6. No operations shall take place outwith the hours of 07.00 to 18.00 on Mondays to Fridays and 07.00 to 13.00 on Saturdays. No work shall be carried out on Sundays, public holidays or bank holidays.

Operations include offloading and spreading of fill material, final restoration, initial preparation of the site, wheel washing, vehicle servicing, and the movement of vehicles entering or leaving the site.

Reason: *To minimise the effect the impact of the development on the amenity of residents living in the vicinity of the site or the haul route to the site.*

7. Within three months of the expiry of this planning permission, or at the cessation of infilling operations, whichever is the sooner, the applicant shall plant a hedgerow of indigenous species along the north facing embankment of the infill area adjacent to the roadside burn. The details of the hedge shall be submitted to and approved in writing by the Planning Authority.

Reason: *In order to ensure that the site is satisfactorily restored within the temporary period of consent.*

8. There shall be no materials other than clean subsoil and stone used as fill material, and this shall be inert and not requiring subsequent treatment for landfill gas.

Reason: *In order ensure there is no pollution of the ground or nearby watercourses and prevent any contamination that may lower the quality of the soil for agriculture of wildlife.*

Ian Johnson
Head of Communities and Economy

Date: 20 May 2014

Application No:	14/00215/S42 (Available online)
Applicant:	Paul Gray, 2 Smeaton Farm Cottages, Dalkeith
Agent:	-
Validation Date:	26 March 2014
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Background Papers:	10/00053/DPP, 11/00060/PAC, 11/00477/DPP