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**APPLICATION FOR DETAILED PLANNING PERMISSION (15/00029/DPP) FOR THE ERECTION OF 13 FLATTED DWELLINGS AND FIVE DWELLINGHOUSES, FORMATION OF CAR PARK AND ACCESS ROAD AND ASSOCIATED WORKS ON LAND AT THE JUNCTION OF BRYANS ROAD AND MORRIS ROAD, NEWTONGRANGE**

Report by Head of Communities and Economy

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**1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1** The application is for detailed planning permission for 13 flatted dwellings and five dwellinghouses on land within the built-up area of Newtongrange, as identified by the Midlothian Local Plan. There have been 62 representations received from 60 different objectors. Consultation responses have been received from the Council's Head of Education, the Policy and Roads Safety Manager, the Council's Archaeological Advisor and the Coal Authority. The relevant development plan policies are policies RP20, RP28, RP31, HOUS3, 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 application site is an L-shaped parcel of land located on the north side of the junction of Bryans Road and Morris Road, Newtongrange. Surrounding the site are buildings of a mixture of uses, age and design. Whilst the predominant land use in the area is residential there is a Police Station and commercial units in close proximity to the site.
- 2.2** The Police Station is located to the north-east of the application site and is part single-storey and part two-storey. It is of an unusual design, incorporating flat and mono-pitched roof designs.
- 2.3** To the east of the application site, across Morris Road, is an area which is covered by mainly self seeded trees.
- 2.4** There are residential properties to the west, north-west, north (beyond the Police Station), east (beyond the above-mentioned landscaped area) and south (across Bryans Road) of the application site. The houses are of a mix of styles and designs.

- 2.5 The application site wraps around the north-east and south-east boundaries of Bryans Farmhouse. This is a traditional residential property, constructed in natural stone with a natural slate roof. This dwellinghouse comprises two storeys and is set within a plot of land with its main garden grounds to the north-west and a large outbuilding to the south-east (used by previous occupants as a flower shop/business).
- 2.6 To the north-west of the application site are the residential properties on Reed Drive, comprising two-storey four-in-a-block flatted dwellings. These buildings have hipped roofs and are finished in render and either slate or clay roof tiles. The residential properties on Hamilton Crescent, to the south, comprise two storey terraced buildings finished in render and concrete roof tiles.
- 2.7 A new development is currently under construction to the south-east of the application site. The development comprises a two-storey block of flats and two-storey terraced dwellings. A mix of finishing materials are being used in this development, being predominantly smooth render and brick.
- 2.8 Until recently, January 2015, the application site comprised an assortment of buildings which had been used, over the years, as workshops and offices. Whilst some of the buildings were fairly attractive traditional structures the site had the appearance of being unmaintained. None of the buildings benefited from any statutory protection. The buildings were demolished at the beginning of 2015 and the site has been vacant, other than a caravan.

### **3 PROPOSAL**

- 3.1 The applicant proposes a residential development of 13 flats and five dwellinghouses.
- 3.2 The block of flats is proposed to be located to the south-east boundary of the application site, while a row of terraced houses will be positioned near to the north-west boundary with an area of parking between the two buildings.
- 3.3 The block of flats is proposed to be mainly three storeys in height, with a flat roof. There is to be a two storey element where the building is to be at its closest to the neighbouring residential property, Bryans Farmhouse. The eaves of the three storey part of the building are at 9 metres high and the two storey section reaches 5.6metres high, although it is appreciated that the finished floor level of the block of flats is to be slightly higher than the ground level at the adjacent Bryans Farmhouse.
- 3.4 The flatted block is to incorporate a feature element on the elevation fronting Bryans Road and will be finished with a mix of materials,

mainly comprising brick, timber and metal cladding. The fenestration is of irregular sizes, but mostly vertical in emphasis.

- 3.5 Eleven of the flats are to contain three bedrooms, while the remaining two accommodate two bedrooms. The block will also provide a large bin store area at ground floor level, adjacent to the vehicle access pend.
- 3.6 The row of five terraced dwellinghouses are to appear as two storeys high, but also have accommodation in the roofspace provided by the pitched roof and rooflights. The houses measure 5.6metres to eaves and 9.5metres to ridge. Each house will comprise a dinning/kitchen area, living room and four bedrooms and will be provided with a private rear garden.
- 3.7 The houses are traditional in their form but have a contemporary feel with regards their overall design, through the use of materials and approach to fenestration. The predominant finishing materials are proposed to be smooth render and brick.
- 3.8 Between the two buildings (flats and houses) there is proposed to be a vehicle parking area large enough to accommodate 27 cars. This car park is accessed via a pend through the flatted block, from Morris Road. Within this area it is proposed to site a cycle storage building.
- 3.9 The applicant has not given any details on how it is intended to provide affordable housing for this site.
- 3.10 The applicant has provided a Coal Mining Risk Assessment and a design statement. The design statement attempts to provide a rationale for the flat roofed design promoted for the flatted block. The statement points to a range of different building designs in the area and to an attempt to reduce the impacts of massing and overshadowing.

#### **4 BACKGROUND**

- 4.1 There have been two applications for residential development proposals for this site in relatively recent years. Both applications were for residential schemes and were submitted in 2007.
- 4.2 Application 07/00078/FUL was a scheme for 24 flatted dwellings. This application was refused by the Planning Committee as it would have resulted in an over-development of the site. The Planning Authority were concerned that the site had been considered in isolation, with little respect to the other buildings in the area. It was also considered that the building would have been overly dominant in the street scene.
- 4.3 Based on the outcome of the above-mentioned planning application, and the obvious appetite to develop the site, the Planning Authority drew up an informal development brief for the site. The brief was to be used as guidance in order to achieve an appropriate scheme.

- 4.4 Application 07/00333/FUL was a reduced proposal for 20 dwellings, comprising 15 flats and 5 houses. Again, this scheme was considered, by the Planning Authority, to be an over development of the site. Before the application was reported to Planning Committee for refusal the applicant decided to withdraw it.
- 4.5 Since 2007 there have been numerous approaches made to the Planning Authority regarding the site, but for unknown reasons (presumably due to viability) no development schemes have been progressed to application stage until now.

## 5 CONSULTATIONS

- 5.1 The Council's **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 non-denominational provision. There is a standard, Midlothian-wide, requirement for developers to contribute to denominational secondary school capacity.
- 5.2 The Council's **Policy and Road Safety Manager** has not objected to the planning application but has requested further details be submitted. It is noted that as part of the ongoing Newbattle High School redevelopment, the existing Bryans Road/Morris Road junction will be changed to a traffic signal controlled junction with additional traffic calming. These works will reduce vehicle speeds and provide improved pedestrian crossing facilities at this location. The proposed building is set back sufficiently from the junction and would not obstruct the existing visibility splay at the road junction.
- 5.3 The Council's **Archaeological Consultant** informs that the site is of potential archaeological significance. The site is in the location of the medieval chapel and graveyard dedicated to St Briox in the 12<sup>th</sup>/13<sup>th</sup> century. The churchyard was defined by large trees, which have since been felled, and is described as being to the north-west of Bryans Farm. A stone font was recovered from the farm in 1903. 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** concurs with the recommendations of the applicant's report, that coal mining legacy potentially poses a risk to the proposed development and that further intrusive site investigation works are required. The Coal Authority recommend that, if approved, a planning condition be secured which requires the submission of a further report on the exact position regarding coal mining legacy and that remedial works are undertaken.

- 5.5 **Newtongrange Community Council** have objected to the planning application. While they are pleased to see a former derelict site being put to use they are concerned regarding the proposals being promoted by the applicant at this time. They are concerned that the design and scale of the proposed development is out of character with Newtongrange. They are concerned that should such a development be allowed it will set a precedent for this to be followed elsewhere in Newtongrange, which would threaten the character of the settlement. They feel that the proposed building would be over dominant in relation to nearby buildings. They are concerned about the proposed vehicle access to the site and the impact that this could have on vehicle and pedestrian safety in the locality. The Community Council consider that the proposed car parking area is insufficient and that vehicles will spill on to the busy Morris Road. The Community Council state that no consideration has been given to bin storage.

## **6 REPRESENTATIONS**

- 6.1 There have been 62 letters of objection received from 60 different representors. Of the 62 letters 54 are in the format of a standard letter template. While the representors who have submitted copies of the standard letter of objection are sympathetic to the need for more housing in the area they raise concerns under the following bullet points:
- The proposed development, as a result of its size, height and position, will be out of character and overly dominant. They state that the building will detract from Bryans Farmhouse, which is the historic focal point in this area;
  - The proposed development is out of character with the area in terms of form, density and design. They do not think that a flat roof design relates to nearby buildings, which are of a more traditional design;
  - The proposed development projects much further towards the Morris Road/Bryans Road corner than the previous buildings. The proximity of the building to the junction will restrict visibility and increase risk to pedestrian and motorist safety. The objectors would like to see the development moved back in the site and away from this corner;
  - The proposed development is an overdevelopment of the site and parking and garden areas are small and may not meet recommended guidelines. They state that overspill parking on to Morris Road will impact on road safety and they are concerned about where children living on the site will play;
  - The objectors are concerned about the archaeological potential of the site and whether it will be recorded;
  - They state that the proposed development is too close to Bryans Farmhouse and may impact on amenity as a result of overshadowing and privacy;

- The proposed development may adversely impact on the childminding business being operated from Bryans Farmhouse. The community do not want to see a local business negatively affected;
- The objectors highlight the Scottish Government's aspirations with regards to energy generation from renewable sources and suggest that this development should take that in to consideration;
- The objectors consider the proposal to be an overdevelopment and, as such, not in compliance with policies DP2, HOUS3 and RP20 of the adopted Midlothian Local Plan and paragraph 184 of the Scottish planning Policy (renewable energy). In particular they are concerned that the development will detract materially from the existing character and amenity of the area.

6.2 The letters of objection not submitted on the standard letter template raise similar issues to those mentioned above. One objector suggests that the site be used for another purpose, such as a community facility or to attract visitors/customers from elsewhere. Another objector is concerned regarding the impact on the retaining wall between the proposed development and the properties on Reed Drive and the loss of the trees along this boundary. Another objector would like to see the site used for a community facility or other use which may attract visitors/customers to the area.

6.3 The neighbour at Bryans Farmhouse has submitted two detailed letters of representation which largely reflect the concerns raised above. However, she has some more detailed concerns about how the development may impact on her property and business. She is concerned that the proposed development will impact on her amenity, as a result of overshadowing and a reduction in privacy. She states that the development will also impact on the solar panels which she has attached to her outbuilding. She claims that the proposed development will adversely impact her childminding business as it will reduce privacy.

6.4 The neighbour's second letter was lodged after the applicant submitted some further details. The objector remained concerned, advising that the amendments to the drawings and scheme had not addressed her concerns.

## **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:

Midlothian Local Plan 2008 (MLP):

- 7.2 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.
- 7.3 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.
- 7.4 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.
- 7.5 Policy **HOUS3: Windfall Housing Sites** states that proposals for housing developments where they would involve the redevelopment of brownfield sites within the built-up area should be supported where:
- It does not lead to the loss or damage of valuable public or private open space;
  - It does not conflict with the established land use of the area;
  - It has regard to the character of the area in terms of scale, form, design and materials;
  - It meets traffic and parking requirements; and,
  - It accords with all other relevant Local Plan policies.
- 7.6 Policy **HOUS4: Affordable Housing** requires that on residential windfall sites identified during the plan period, provision shall be required for affordable housing units. In the case of this proposal, for 18 units, there will be no provision for the first 14 units thereafter 25% of the remaining units will be for affordable housing.
- 7.7 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.
- 7.8 Policy **IMP1: New Development**, seeks to ensure that appropriate provision is made for a need which arises from new development. Of relevance in this case are transport infrastructure, landscaping, 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.

- 7.9 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 deficiencies with regards to school capacities and contributions towards the Waverley/Borders rail line.
- 7.10 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.
- 7.11 The Council has prepared **Supplementary Planning Guidance on Affordable Housing and Developer Contributions**. The SPG on Developer Contributions sets out guidance on when and where developer contributions are payable.

National Policy:

- 7.12 The **SPP (Scottish Planning Policy)** sets out Government guidance on a broad range of topics, such as housing and placemaking.
- 7.13 The SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to be considered high quality, as such a development should be; distinctive; safe and pleasant; welcoming; adaptable; resource efficient; and, easy to move around and beyond. The aims of the SPP are developed within the local plan policies, in particular policy DP2.
- 7.14 The SPP clearly 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*.
- 7.15 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.

## 8 **PLANNING ISSUES**

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



### The Principle of Development

- 8.2 The site is within the built up area of Newtongrange where there is presumption in favour of appropriate development. The area, within which the application site is located, is principally residential in nature. As such, the site is not inherently unsuitable for a residential development and the consultations carried out have not indicated any overriding reasons why the site could not be redeveloped for residential purposes. The objectors to the scheme do not object to the principle of a residential development on the site. Residential use of the site is, in general terms, compatible with the character of the area.
- 8.3 The principal planning issues relating to the assessment of this proposal are therefore the appropriateness of the mass and proportions of the building, the elevation design and materials, layout and amenity space, access and parking and impact on the amenity of the local area. Consideration must also be given to the possibility of significant archaeological interest within the site and whether there are any legacy coal mining issues that require remediation.

### Site layout

- 8.4 The L-shaped nature of the site limits the options available when designing a residential development, as consideration must be given to good urban design principles and to ensuring any adverse impact on the amenity of the area is limited.
- 8.5 The applicant has sought to use the building lines established by the neighbouring properties. Therefore, the proposed block of flats is set back from Bryans Road, to roughly align with the building line of Bryans Farmhouse. The close proximity of the Police Station, and one of the (now demolished) buildings that previously occupied the application site, to Morris Road allows for the proposed block of flats to be positioned closer to this road.
- 8.6 The set back, of the proposed block of flats, from Bryans Road will ensure that existing views in to Bryans Farmhouse will be retained, allowing it to remain a focal point which many of the objectors refer to in their representations.
- 8.7 The area between the proposed block of flats and Morris Road is proposed to serve as amenity space for the residents of the flats. Policy DP2 of the local plan requires flats to be supplied with 50m<sup>2</sup> of communal amenity space each. The area of the application site allocated for gardens for the flats is slightly deficient in size, being approximately 20m<sup>2</sup> short of the standard. However this works out at a shortfall of 1.5m<sup>2</sup> per flat dwelling, which does not represent a significantly poor level of amenity so as to warrant refusal of the application.

- 8.8 To the rear, west, of the block of flats is an area of car parking and the access road. A cycle store and pedestrian footpath are also located in this area. The footpath leads to the row of five terraced houses at the north-west end of the site. These houses are located on the interior of the site and therefore have no requirement to reflect nearby building lines. However the layout and orientation of these houses are important factors to consider. The houses front on to the car parking area and each have an area of private garden ground to the rear.
- 8.9 The policy DP2 standards require private amenity space of 100m<sup>2</sup> for each of these houses. However, compliance with the standard means, for terraced dwellings, very long and narrow gardens which are of limited use. For this reason the Council has previously supported smaller private gardens than required by the DP2 standards for terraced houses. It would be appropriate, in the circumstances, to allow for a relaxation of the private garden standards, particularly as the houses comply with the standard for minimum rear garden length.
- 8.10 The layout of the proposed development responds to the constraints of the site and presents a solution which largely complies with the policies of the local plan.

### Design

- 8.11 Much comment has been made in the letters of representation about the design and scale of the proposed development, and it being 'out of character' with the local area. The objectors have mainly focussed on the inappropriate massing, design and siting of the proposed flatted block. However, consideration must be given to the development as a whole and whether the design is appropriate in this location and context.
- 8.12 At present the application site is vacant and contributes little to the character and appearance of the area. In addition, should the site remain vacant and in this condition it is likely that it will have a long-term negative impact on the character and amenity of the local area. Even prior the clearance of the site it contributed little to the appearance of the area, as it comprised a number of poorly maintained buildings of varying quality, in uses which were not entirely compatible with the surrounding residential area.
- 8.13 The application site is subject to a number of constraints that present a financial burden on any potential developer, such as the legacy coal mining issues and potential for archaeology. In any form of development the developer must assess whether or not a project is viable. Increasing unit numbers on a residential scheme is a way of improving viability. However, whatever difficulties the developer faces with regards the viability of a project the development must comply with the aims of the relevant planning policies.

- 8.14 It is the case that the traditional approach to building design in Scotland takes the form of structures with pitched roofs. However, flat roof buildings are widely accepted to positively contribute to a rich, diverse and interesting urban realm. Provided that they are of a strong modern design and respond to their context, flat roof buildings can add to the interest and appearance of an area.
- 8.15 In areas where the character of the area and adjacent buildings is of particular importance, such as within a conservation area, it is more important to conserve and protect that character. However, where an area has not been designated as a conservation area it provides more scope to introduce innovative and distinctive design solutions. There are numerous examples of situations, nearby, where contemporary flat roof buildings positively contribute to the urban realm, such as the Council's Fairfield House offices.
- 8.16 In the case of the proposed development the applicant has attempted to respond to context. The core, and original, part of Newtongrange comprises regular rows of single storey brick-built former miners' cottages, with two storey brick-built buildings at prominent positions (along the Main Street and at The Square). This is such a strong character that it has influenced the layout and form of the ongoing residential development to the south-east of the application site. This new residential development is a modern interpretation of the traditional Newtongrange terraces.
- 8.17 The applicant for this proposal has successfully taken reference from the increase in height of buildings in more prominent locations in the area and the main building material and has applied a modern interpretation to this approach at this prominent site. The use of brick as the main building material on the block of flats is reflective of the most obvious characteristics of Newtongrange town centre (and conservation area).
- 8.18 While flat roof buildings are not prevalent in the area there are a number of examples which demonstrate that they are not entirely absent. Both the nearby existing Newbattle High School and its replacement are flat roof buildings, one at four storeys and the other at three. There are no planning policies that dictate against the use of flat roof buildings and the Scottish Government website on 'Inspirational Designs' highlights numerous examples of modern flat roof buildings successfully contributing to their surroundings.
- 8.19 Again, while three storey buildings are not prevalent in the area they are not uncommon. There are a number of buildings over two storeys in prominent locations near to the application site, such as Newbattle High School (four storeys), the flats on the former cinema site in Newtongrange (three storeys), the flats on St Luke's Way (three storeys) and the flats on Blackcot Road, Mayfield (four storeys).

- 8.20 The proposed design of the block of flats will result in a distinctive building at a prominent site. The acceptability of the scheme depends on the strong design and the use of a brick, similar to that used in Newtowngrange town centre, to tie the development to the area and justify the design approach.
- 8.21 The proposed row of terraced houses appears to cause less concern to the objectors in terms of design, despite the roof design of these units also not matching that of the buildings immediately adjacent on Reed Drive. The houses are traditional in form but with a contemporary design. These houses will not detract from the character or appearance of the area.

#### Impact on amenity

- 8.22 In addition to contributing to the modern design of the block of flats the flat roof reduces the mass and height of the building and helps protect the amenity of the adjacent dwellinghouse.
- 8.23 The Vertical Sky Component is used to calculate the amount of skylight falling on a vertical window, such as the kitchen window of Bryans Farmhouse (which arguably could potentially be the worse affected window on the house as a result of the proposed block of flats). The block of flats is at sufficient distance and elevation so as to not compromise the amount of skylight enjoyed by this window.
- 8.24 The overshadowing of the Bryans Farmhouse property is calculated by using the 'sun on ground indicators'. This calculation shows that the shadow cast by the proposed block of flats is likely to fall on to the east elevation of the house each morning until around 9.30am. By approximately 10am each day the shadow will fall on to the existing outbuilding. Between approximately 10am and 1pm the shadow cast from the proposed block of flats will fall on to the outbuilding, thereby reducing the effectiveness of the solar panels which the neighbour has installed on the roof of this structure.
- 8.25 As mentioned above, the shadow cast by the block of flats is likely to impact on the kitchen window of the house until around 9.30am. The windows of the first floor bedrooms should be largely unaffected. In addition, it is likely that the impact of the three storey building, as proposed, would be similar to a more traditional two storey building with a pitched roof.
- 8.26 The two storey section of the block of flats is approximately 16.5m metres away from the closest windows on Bryans Farmhouse. The three storey section of the flats are approximately 22.5m away from the closest windows on Bryans Farmhouse. The windows of the block of flats closest to Bryans Farmhouse serve a stairwell, ensuite toilets and bedrooms. It is proposed to glaze some of the windows with obscured glass and direct some windows so that they are at an oblique angle to the farmhouse. It is recommended that obscured glazing be secured in

the ensuite and stairwell windows by condition and that it cannot be replaced at a later date with clear glass, in order to protect the privacy of the neighbouring property.

- 8.27 The windows of the terraced houses will not directly overlook the property at Bryans Farmhouse to a significant effect due to a combination of their orientation, the proposed erection of a fence and the obscured glazing. Some of the rear windows of this block have the potential to impact on the privacy of the properties to the rear, but the properties are located the requisite distance from the site boundary so as to comply with policy DP2 of the local plan. However, the situation could be improved with the increase in height of the boundary wall in this part of the site.
- 8.28 Bryans Farmhouse benefits from a large area of garden ground, most of which would be materially unaffected by the proposed development. The impacts on the amenity of the property at Bryans Farmhouse are not so sufficient to merit refusal of this planning application.
- 8.29 The same conclusion can be reached for the residential properties on Reed Drive. While there will be some overshadowing of the rear gardens of these properties early in the morning this will not last for long and does not result in such a poor level of amenity so as to warrant refusing the planning application.
- 8.30 The resident at Bryans Farmhouse has raised concerns regarding the potential impact of the development on the childminding business which she operates from the property. She is concerned that there will be an adverse impact on privacy. Given that the planning status of the property at Bryans Farmhouse is a dwellinghouse it has been assessed as such already within this report. Any use of the property as a childminding facility should be ancillary to the main use of the building as a house.
- 8.31 A large bin store has been located immediately adjacent to the vehicle access pend. This bin store should be of sufficient size to ensure that it can accommodate all bins related to this development. The bin store should be lockable, in the interests of security and safety.

#### Access and Transportation Issues

- 8.32 As part of the ongoing Newbattle High School redevelopment, the existing Bryans Road/Morris Road junction will be changed to a traffic signal controlled junction with additional traffic calming. These works will reduce vehicle speeds and provide improved pedestrian crossing facilities at this location. The proposed building is set back sufficiently from the junction and would not obstruct the existing visibility splay at the road junction.
- 8.33 The proposed development benefits from 150% off-street car parking provision. This complies with the standards required. In addition, the

developer proposes the provision of a cycle storage building for residents of the flats to use.

- 8.34 There is insufficient space within the parking and vehicle access area to accommodate a vehicle turning area. As a result larger vehicles, such as refuse vehicles will not be able to use the internal parking area. In any event the height of the access pend will restrict access by larger vehicles. Given the close proximity of the bin store to Morris Road the restricted access is unlikely to be an issue. While the pend height will restrict access for emergency vehicles it will be possible for fire crews to access the site.
- 8.35 The internal parking area and footpaths are to be illuminated by bollard-style lighting. Some of the bollards have been positioned in a way which would cause problems for opening doors of parked cars. In addition some of the bollards along the footpaths will not provide sufficient levels of light to ensure pedestrian safety.

#### SUDS and Flooding

- 8.35 The applicant has suggested that there will be two levels of treatment with regards to drainage. While it has been stated that there will be permeable paving over the car parking area and an attenuation storage/soakaway in the amenity area for the flats there is little supporting information which satisfies the Planning Authority that this would be sufficient. It is not clear where any drainage would flow to after attenuation, i.e. would the attenuation storage be linked to the public drainage system. 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

- 8.36 The Coal Authority has not objected to the application but has requested that additional information be submitted for assessment and approval. This can be secured by condition.

#### Archaeology

- 8.37 The objectors have raised concerns regarding the impact that the development may have on any archaeological potential which the site may possess. The Council's Archaeological Advisor has recommended some survey work be carried out to ensure that the site is surveyed and any archaeological finds are recorded. The controls identified by the Council's Archaeological Advisor can be secured by condition.

#### Developer Contributions

- 8.38 In accordance with policy HOUS4 the provision of 25% affordable housing is required to be provided by the developer. This equates to one residential unit, which could be provided off-site, and the delivery

of the affordable housing requirement can be secured through a Section 75 Legal Agreement.

- 8.39 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.
- 8.40 There is a requirement to provide play facilities for children. Equipped children's play areas exist elsewhere in Newtongrange and a developer contribution should be sought to improve/maintain these existing play facilities rather than provide new facilities on-site. This can be secured as part of the Section 75 Legal Agreement.
- 8.41 A developer contribution is also required towards the improvement of library facilities and the Borders Rail Link.
- 8.42 The applicant has agreed to entering in to a Section 75 Legal agreement with the Council to ensure developer contributions are provided.

#### Biodiversity

- 8.43 Unfortunately all buildings on site were demolished before the submission of this planning application or any biodiversity report was carried out with regards to assessing the buildings for bat roost potential. Ultimately it is the developer's responsibility to ensure that no bats, or their habitat, are harmed.

#### Other matters

- 8.44 A number of issues have been raised by objectors which have not yet been addressed in this report. One objector has raised a concern regarding the stability of a retaining wall. This is not a planning matter. Neither is the issue of potential structural damage being caused to the foundations of an outbuilding located adjacent to the application site.
- 8.45 One of the objectors has suggested that the site be used for a community facility or other use which may attract visitors/customers from elsewhere. The Planning Authority cannot insist that the site be developed in such a way unless there are planning policy grounds for doing so.
- 8.46 An objector has requested that the row of trees along the boundary with the properties on Reed Drive be retained. The developer has agreed to retain these trees where possible.

## **9 RECOMMENDATION**

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

*The proposed development accords with policies RP20 and DP2 of the adopted Midlothian Local Plan. The layout and detailed appearance of the development will add interest to the street scene and it will not have a significant adverse impact on the amenity of nearby properties. The presumption for development is not outweighed by any other material consideration.*

Subject to:

- i) the prior signing of a legal agreement to secure the provision of affordable housing, and contributions towards education provision, Borders Rail Link, children's play provision and maintenance of play equipment, and library improvements.
- ii) the following conditions:
  - 1. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
    - i existing and finished ground levels and floor levels for all buildings, open space 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, wildflowers and grassed areas;
    - iv location and design of any proposed walls, fences and gates, including those surrounding the bin storage area;
    - v schedule of plants to comprise species, plant sizes and proposed numbers/density;
    - vi programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses/buildings on adjoining plots are occupied. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August);
    - vii drainage details and details of sustainable urban drainage systems to manage water runoff;
    - viii proposed car park configuration and surfacing;
    - ix proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
    - x details of car park and footpath lighting.

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



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

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

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

3. The fence identified on the Morris Road and Bryans Road boundaries is not hereby approved.

**Reason:** *In the interests of protecting the visual amenity of the area.*

4. A 1.8m high fence shall be erected along the line identified in green on approved drawing no 14038/P02 rev C.

**Reason:** *In the interests of protecting the amenity of the neighbouring residential property.*

5. The windows identified in yellow on approved drawing no. 14038/P09 rev A shall be glazed with obscured glass. The obscured glass shall not be replaced with clear glass unless otherwise agreed in writing by the Planning Authority.

**Reason:** *In the interests of protecting the amenity of the neighbouring residential property.*

6. Details of the appearance of the proposed cycle store shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development on site. Details shall include the internal provision of Sheffield storage racks.

**Reason:** *To ensure that adequate cycle parking facilities are provided on site in order to encourage sustainable forms of transport.*

7. The buildings permitted shall not be occupied or brought into use until vehicular, cycle and pedestrian access details and routes have been

constructed in accordance with plans to be submitted and approved in writing. The plans shall include details of construction, visibility, traffic calming measures, lighting and signage.

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

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

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

9. No development shall take place on site until the applicants or their successors have submitted a detailed site investigation report, with regards coal mining legacy, following intrusive site investigation works, to the planning authority and that this report is agreed in writing by the planning authority. The site investigation report shall identify any need for remedial works to treat the areas of shallow mine workings and no development shall commence on site until the agreed mitigation measures have been carried out.

**Reason:** *The submitted Coal Mining Risk Assessment (Mineral Stability Desktop Report) identifies that further investigation work is required to be undertaken in order to establish the exact situation regarding coal mining legacy issues on the site. The above details are required in order to ensure that the site can safely be developed.*

**Ian Johnson**  
**Head of Communities and Economy**

**Date:** 19 May 2015

**Application No:** 15/00029/DPP

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**Validation Date:** 29 January 2015

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**Background Papers:** 07/00078/FUL & 07/00333/FUL