



**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE (16/00712/PPP)
FOR THE RESIDENTIAL DEVELOPMENT OF LAND AT DALHOUSIE DAIRY,
BONNYRIGG, MIDLOTHIAN**

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 An appeal has been lodged in relation to the planning application. The appeal is against the non determination of the planning application within the statutory time period (4 months). This report sets out the Council's proposed case at appeal.**
- 1.2 The application is for planning permission in principle for the residential development of land north of Dalhousie Dairy, Bonnyrigg. There has been 28 representations and consultation responses from the Scottish Environment Protection Agency (SEPA), The Council's Archaeological Advisor, the Coal Authority, Bonnyrigg and Lasswade Community Council, the Council's Head of Education, The Council's Policy and Roads Safety Manager, the Council's Environmental Health Manager, the Council's Networks & Structures Manager and the Midlothian Health and Social Care Partnership.**
- 1.3 The relevant development plan policies are policies 5, 7, 12 and 13 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies RP1, RP2, RP4, RP5, RP7, RP8, RP9, RP13, RP14, RP21, RP26, RP27, RP28, RP31, RP32, HOUS4, NRG3, TRAN1, IMP1, IMP2, DP2 and DP3 of the Midlothian Local Plan 2008 (MLP). Policies STRAT3, DEV1, DEV2, DEV3, DEV5, DEV6, DEV7, DEV8, DEV9, ENV2, ENV9, ENV10, ENV11, ENV15, ENV18, ENV23, ENV24, ENV25, NRG3, NRG4, NRG6, TRAN1, TRAN2, IT1, IMP1, IMP2 and IMP3 of the Proposed Midlothian Local Development Plan 2014 (MLDP) are significant material considerations**
- 1.4 The recommendation is that planning permission is refused and the appeal is dismissed.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site comprises 16.2 hectares of agricultural land split between two parcels bisected by the Pittendreich Burn and embankments. Both**

parcels of land are generally level although the Pittendreich Burn sits in a deep cutting. The site is currently undeveloped greenfield land.

- 2.2 The application site is located north of Dalhousie Dairy and to the immediate north-east of the built up area of the settlement of Bonnyrigg. The Pittendreich Burn and steep embankments run from west to east through the site and splits the site into two development areas. A National Cycle Route 1 (NCR1) runs along an embankment to the north of the site with an existing housing development beyond to the north-west. A green belt corridor which accommodates overhead pylons running from north to south, bounds the site to the east, beyond which is the A7. The southern section of the site has frontage onto the B6392 to the south-east. The existing Dalhousie housing development bounds the site to the south-west.
- 2.3 Views into the site from the north can be gained from NCR1. Views into the site can also be gained from streets within the existing Dalhousie residential development to the north-west. Views into the site are limited along its southern edge due to an embankment which obscures the site from the B6392. The banking along the western edge of the A7 obscure views into the site from the east. Extended views out can be obtained across much of the site. The primary views out are to the south.
- 2.4 The existing built form of the Dalhousie housing development to the west comprises a mixture of two-storey detached, semi-detached and terraced houses. An existing pedestrian underpass provides access from the housing development to the north into the site. There is an existing ramp up to NCR1.
- 2.5 All of the land the subject of the application is outwith the settlement boundary of Bonnyrigg and is designated as countryside, green belt and prime agricultural land in the adopted MLP. The site is however identified in the MLDP as a proposed housing site (Hs10).

3 PROPOSAL

- 3.1 The application is for planning permission in principle for the residential development of the site to provide for up to 300 dwellings, which would include 25% affordable housing units.
- 3.2 A Masterplan delineating a development layout and an accompanying Design and Access Statement and Masterplan Report have been submitted with the application. The applicant confirms that these are not simply for illustrative purposes; but instead, they are for consideration in the assessment of the application. Although the application is for the principle of 300 units the Masterplan delineates 263 house plots on the site - 235 to the north of the Pittendreich Burn corridor and 28 to the south of the Pittendreich Burn corridor. Additionally, it shows internal roads, pedestrian and cycle routes provided within the site up to the boundaries of the site. In addition, the Masterplan delineates the primary vehicular access to the site off the B6392 formed by the

upgrading of the existing access to Dalhousie Dairy located at a point along the south eastern boundary of the site. A separate pedestrian footway runs alongside that road. Furthermore a new road crossing is to be formed over the Pittendreich Burn to connect the southern and northern parts of the site. The crossing is to be formed on top of an arched culvert over the burn. A secondary vehicular access to the site from the existing housing development to the west is proposed by extending a section of Harmony Crescent. Also, a pedestrian/cycle link is proposed from the existing housing development to the west from Galdstone's Gait at a point close to the northern end of the west boundary. The layout incorporates a combination of traditional roads and footpaths as well as mixer courts/shared surfaces. A new connection to NCR1 is delineated at the north eastern corner of the development.

- 3.3 The Masterplan informs that the existing woodland within the Pittendreich Burn corridor is to be maintained and enhanced. A north/south linear green park is proposed which links the B6392 to NCR1. A woodland buffer is proposed along the eastern edge of the site to provide containment of the built development and to provide a buffer between the development and the existing overhead pylons.
- 3.4 It is stated in the Masterplan that the density of the development will be approximately 11 dwellings per acre to reflect the density of Bonnyrigg and the immediate area surrounding the site. The new development will be predominately two-storey. A mix of terraced houses, semi detached houses, bungalows and cottage flats are envisaged for the site.
- 3.5 The Masterplan informs that the proposed finishing materials include: render/pre-cast stone surrounds and feature panels and flat profiled roof tiles.
- 3.6 Surface water treatment is to connect into the existing sewer network. The Masterplan delineates potential sustainable urban drainage system (SUDS) ponds on the land between the woodland buffer along the eastern edge of the site and the A7.
- 3.7 It is stated in the Masterplan report that 25% of the units will be affordable housing in accordance with the Council's standards. A mix of terraced houses, semi-detached houses, bungalows and cottage flats is envisaged.
- 3.8 The application is also accompanied by:
 - (i) A pre-application consultation report;
 - (ii) A supporting planning statement;
 - (iii) A transportation assessment;
 - (iv) A flood risk assessment report;
 - (v) An ecology/wildlife report/survey;
 - (vi) A site investigation report; and
 - (vii) A desk based archaeological assessment.

4 BACKGROUND

- 4.1 The applicant carried out a pre-application consultation (ref.16/00161/PAC) for the site. A report on the pre-application consultation was reported to the Committee at its meeting of 19 April 2016. There was general agreement by Members that vehicular access to the wider Hs10 site should be taken from the B6392 and across the Pittendreich Burn rather than through the existing residential estate at Dalhousie.
- 4.2 An environmental impact assessment (EIA) screening opinion request, 15/00626/SCR, for a proposed residential development for the whole of site Hs10 was submitted 24 July 2015. The applicant was advised that an EIA was not required under schedule 2 of the EIA Regulations.
- 4.3 In February 2017 the Committee resolved to grant detailed planning permission (16/00855/DPP) for the erection of 28 houses and associated works on the southern part of site Hs10 subject to a Section 75 legal agreement to secure developer contributions; and, planning conditions. The legal agreement is at an advanced stage of preparation but has not been concluded and as such planning permission has not yet been issued.
- 4.4 There is currently before the planning authority an undetermined identical application to the current application for planning permission in principle (17/00298/PPP) for a residential development of the application site. This application is currently being assessed pending determination.

5 CONSULTATIONS

- 5.1 The **Scottish Environment Protection Agency (SEPA)** confirms that having considered the information submitted with the application, including the flood risk assessment, the design and access statement, the masterplan drawing etc. they have no objection to the principle of the development proposed in the application. With regards to the initially proposed design of the Pittendreich Burn crossing; which design was a pipe culvert, SEPA objected to that aspect of the proposed development on the grounds that that the design does not accord with their 'Construction of River Crossings Good Practice Guide'. Following the submission by the applicant of further information of the details of the culvert construction; which includes an amended design for an arched culvert, SEPA withdrew their objection.
- 5.2 **The Coal Authority** advises that the site falls within the defined Development High Risk Area and thus there is a potential risk posed to the development from past coal mining activity. Having reviewed the Phase II Site Investigation Report submitted with the application the Coal Authority recommend further intrusive site investigation works be undertaken prior to development commencing on site in order to establish the exact situation regarding coal mining legacy issues.

Accordingly, they request that the planning authority impose a planning condition(s) should planning permission in principle be granted, requiring further site investigation works be done prior to the commencement of development. Subject to the imposition of a condition to secure the required investigation the Coal Authority raises no objection to the proposed development.

5.3 **Bonnyrigg and Lasswade Community Council (BLCC)** raise concerns about the effect that the development will have on the rest of the town and so object to the application until a number of issues are addressed at the planning application stage. They state that Bonnyrigg has seen tremendous development and population growth in recent years and its facilities and infrastructure have struggled to keep up. BLCC consider that inadequate access to health services has become a major issue as has education, as well as policing capacity. The Community Council refer to little growth in local jobs and a High Street held down because of limited parking. In addition, the roads are inadequate for local needs. They state that these issues need to be addressed before they would be willing to welcome this development. It cannot be at the expense of the other residents of the town; and the quality of life in Bonnyrigg must also be taken into account. They welcome the proposal to access the site directly from the B6392 and to access the northern part of the site by way of a new bridge over the Pittendreich Burn corridor.

5.4 In addition, the BLCC highlight the following issues with the application drawings:

- The site layout shows very limited free space within the housing area, including for childrens play. Communal green spaces and adequate fenced play areas for young children are essential;
- It is important that all construction traffic access the site via the B6392 and that there should not be any further vehicular access via Harmony Crescent/Baird's Way until all houses are occupied and further consultations are made. If this access is given the Council must review the situation within a short period of time with a view to closing it to all but pedestrians and bicycles if the traffic on Baird's Way has increased significantly;
- Access to the railway walkway appears to be at the north-east corner of the estate only. This is fine for those going to Hardengreen/Eskbank and possibly the Doctors but it would be helpful to have access for those going west as well. HS10 development needs to be more linked to the existing town facilities. It will be necessary to improve the path at the Hardengreen end if pedestrians are to be persuaded to use this to reach Tesco, the railway station at Eskbank and the College. The path just stops without a joining pavement beside an area constantly used by vehicles. Not suitable for children or even parents with pushchairs. Either the Council or the developer must address this to encourage non car based journeys;
- The traffic analysis concludes that 400 cars will not have a

significant effect on the neighbouring junctions. The assumptions made in the analysis do not accord with the experience of those of us who live in the town. This survey does not appear to be adequate as it fails to acknowledge the problems that already exist in this area. Sheriffhall junction and the City Bypass are major bottlenecks at peak times. The consequences include large numbers of cars from Eskbank heading west through Melville Dykes Road and Lasswade. Hillhead (B704) where it joins Melville Dykes Road (at foot of Big Brae) is always backed up during rush hour, often right into the High Street. Polton Road has a similar problem. Until the problem that is Sheriffhall is addressed it is doubtful any more housing will be welcomed by local residents. Consideration should be given to stalling this development until a firm timescale is available for Sheriffhall and City By-pass improvement. Rat running through housing developments is a consequence of an inadequate road network;

- There are not adequate proposals to safeguard this wildlife corridor. It is even more incumbent upon the Council to do this in view of the original greenbelt status of this site. While the steep sides of the burn does to some extent protect it from children, the dogwalker path round the houses on the north side of the burn leaves the site open to too much dog disturbance. A dog and child proof fence should be included to protect the corridor on the north side. Indeed the nature of the ravine makes it dangerous for small children anyway;
- Building a community within the development would be much welcomed. The building of some form of small community facility is essential. This could be a small pavilion suitable for local groups to meet up. It would be possible to provide this with an extension to the Waverley Pavilion which would have the advantage of giving access to other surrounding areas as well;
- While the proposed woodland buffer is required to screen the site from traffic noise from the A7 it would be possible to consider more formal recreational facilities here for older children and other members of the community. The planning of this area needs to be included at an early stage and not once the houses are built. While dog walking may be a major part of its use more imaginative solutions should be included as well;
- All housing needs to be built already wired for superfast fibre broadband. This should be the responsibility of the developers;
- There are concerns about the difficulties that arise from a lack of joined up planning for long term maintenance. To address this BLCC would like to see a system whereby the communal maintenance is transferred to Midlothian Council for the long term;
- BLCC would like to see a range of house types in the development to suit the demography of the local population and that the affordable housing has an impact on the waiting list for social housing.

5.5 The **Midlothian Health and Social Care Partnership** is concerned about the impact of new house building on health and care services.

Midlothian has insufficient capacity in General Practice leading to five practices restricting access to new patients. This site is within the boundary of four general practices and the closest three practices to this site are operating lists that are restricted, which means that new patients need to contact a national service to be allocated a practice in this area. Whilst the Partnership has a plan to expand the capacity of general practice in Midlothian, this may be insufficient in this area depending on the rate of house building and lead to practices formally closing their lists leading to no provision for new patients.

- 5.6 **Scottish Natural Heritage (SNH)** was consulted on the application and they advise that standard mitigation measures and 'otter friendly' design measures are secured within a 'species protection plan' prior to determination of the application.
- 5.7 **Scottish Water** was consulted on the application and has made no comment.
- 5.8 The **Council's Policy and Road Safety Manager** raises no objection to the principle of the development. However recommends the following controls be secured by conditions imposed on a grant of planning permission: (i) Details of the proposed upgrading of the existing vehicle access off the B6392 be submitted for approval. It is envisaged that this will require some localised road widening of the B6392 to form a dedicated right turn lane into the site entrance and a pedestrian crossing island on the access road; (ii) Details of the proposed crossing of the Pittendreich Burn will require to be submitted for approval. They note that SEPA has confirmed that a bridge or arched/ bottomless culvert should be used and has directed the developer to SEPA's good practice guide; (iii) An existing short length of culvert runs along the western boundary of the site to the rear of Harmony Crescent. The condition and capacity of this culvert is unknown and the opening of it to form an open ditch would reduce the risk of future blockage and flooding. The developer should submit details of his proposal to address this issue; (iv) Residents and visitor parking within the development should be provided to meet current council standards which are based on the number of bedrooms rather than the number of housing units; (v) Good cycling / pedestrian access to the existing cycleway / footpath along the northern boundary of the site will be required. Additional access points will be required at the western and eastern edges of the development. Depending on ground levels these may require a long ramped approach; (vi) Details of the proposed road geometry, traffic calming, street lighting, drainage and other roads related items should be submitted to the Planning Authority for approval; (vii) Details of the SUDS required for the development should be submitted to the Planning Authority for approval; (viii) Upgrading of the current public transport infrastructure will be required at the existing bus stops adjacent to the site entrance on the B6392. The introduction of a signal controlled pedestrian crossing point linking the two bus stops will be required which would probably require the relocation of one of

the stops to accommodate the crossing. A new shelter would be required at the eastbound bus stop.

5.9 With regards to the crossing over the Pittendreich Burn the **Council's Networks & Structures Manager** has the following comments on the proposed development:

- (i) From a technical and flood risk perspective there is no objection in principle to adoption of a culvert structure, subject to specific design and specification requirements, and any requirements from other interested parties, including SEPA;
- (ii) The proposed structure will require Approval in principal under the Council's Technical Approval procedures, contained as Part VII of the Road Construction Consent procedures. In this case, the proposed structure would be classified as a Category 1 structure;
- (iii) In terms of design the preference would be not to use galvanised steel but reinforced concrete. This is to ensure long term durability with minimal maintenance, although the proposed steel product (Tubosider T200 R) is described in their literature as satisfying the same criteria. The design life will need to be 120 years. The Council have experience of similar corrugated galvanised steel pipe culverts with corrosion problems. If a corrugated steel pipe is to be proposed, it would better if it has a concrete invert to minimise abrasion and corrosion of the culvert invert. This would likely require approval from SEPA. SEPA may require the culvert to be an arch type, with an "open" invert. Again, structurally there is no objection in principle, however, the design is more complex and the ground conditions and foundation design need to be considered more carefully. The preference is a closed "box", with a "natural" bed lining of say 200mm depth, as provided on recent developer designed smaller box culverts;
- (iv) The development Site Investigation Report (DRM November 2015), does not appear to have any boreholes or trial pits at the proposed culvert location. Localised site investigation would be required to verify underlying strata and inform culvert foundation design. Separate flood relief culverts (higher up the embankment) may be requested by SEPA, to mitigate any residual risk of flooding due to the main culvert becoming blocked or impeded;
- (v) The proposed slope of the new embankment, and cutting through existing ground, are at the steepest gradient the Council would consider for maintenance. The preference would be for a flatter slope at 1 in 2.5 rather than the proposed 1 in 2. This amendment would result in the proposed culvert being longer than is currently indicated, and the embankment and cutting being wider at their base and top respectively (the proposed culvert as shown is estimated to be between 40m to 45m long);
- (vi) Reasonable pedestrian access to the proposed culvert for routine inspection and maintenance is required to be incorporated into the design and layout proposals. Access may take the form of an unmade path to either end of the culvert, and may require steps to

- be incorporated depending on gradient. Provisions for access should not encourage unauthorised entry to the culvert;
- (vii) A trash screen or grill at either end of the culvert is not preferred, to avoid the risk of a blockage occurring due to the potential for build up of debris. Installation of an advanced (roughing) screen, upstream from the culvert inlet, should be considered if the risk of debris in the watercourse is considered to be an issue at this location (reference CIRIA C689);
 - (viii) Drawing DME58-GEN-SK031 is noted as showing a section through the proposed culvert (Section 2-2). The culvert inlet, outlet, headwall and fencing layout and details should be shown, along with foundation and backfill specifications and requirements;
 - (ix) At road level, a vehicle barrier will be required along both edges due to the height of embankment. The vehicle barrier will be in addition to a pedestrian guardrail or fencing. Both should be provided at the rear of the footways and will require adequate horizontal space at the top of the road embankment to allow post containment forces and any resulting deformation due to impact. Alternatively, a combined vehicle and pedestrian parapet may be used, as installed at Dalmore Mill and Eskbridge Developments;
 - (x) The proposed road profile appears to satisfy the Council's RCC design requirements for a general access road, but the details and alignment should be considered and checked by our Road Safety and RCC Teams. The proposed profile suggests a balance of cut and fill material from the cutting and new embankment. Material gained from the cutting would require to comply with the Council's specification if it is to be used to construct the new embankment, and this will likely require the material to be graded, tested for compliance and mixed with imported material;
 - (xi) Scottish Water has known buried services, including a 1.5m diameter CSO pipeline, in the existing side slope along the north side of the watercourse. These would be buried below the proposed new road embankment and therefore SW's agreement would be required. Other buried services may be present and should be verified.

5.10 In an initial consultation response the Council's **Education Service** advised that based on a development of 300 dwellings there would arise a demand for the following number of pupils:

- Primary Pupils 141
- Secondary Pupils 99

5.11 The site lies within the following school catchment areas:

Non-denominational primary	Bonnyrigg Primary School
Denominational primary	St Mary's RC Primary School
Non-denominational secondary	Lasswade High School
Denominational secondary	St David's RC High School

- 5.12 Bonnyrigg Primary School is at capacity. A significant amount of new housing has already been allocated to the Bonnyrigg area therefore additional primary school capacity will be required.
- 5.13 At the time of submission of the planning application the agreed strategy for the provision of primary school places for the wider Bonnyrigg area to support delivery of the proposed MLDP was to extend Lasswade Primary School. However, further assessment concluded that it is not feasible to provide a larger primary school on the current school site, due to the design of the existing buildings and potential issues over ground conditions. As such, work progressed on identifying an alternative viable location for an extended Lasswade Primary School. One option being explored is to locate a new school within the wider Hs10 site.
- 5.14 A significant amount of new housing has already been allocated to Lasswade High School and additional secondary capacity will be required. A developer contribution will be required towards the cost of any additional provision.
- 5.15 With regard to Secondary Denominational provision a contribution towards St David's High School is required.
- 5.16 In December 2016 the Council considered a report on 'The School Estate Capacity and Pupil Intake Limits – School Session 2017/18'. The following recommendations were approved:
- a) *Designate the non-denominational primary school to be built on the site of the former Hopefield Primary School to be part of Burnbrae Primary School;*
 - b) *Note the following:*
 - *The intention to cap Primary 1 intake as shown in table 1.*
 - *The intake limit for Lasswade High School remains in place for August 2017.*
 - *The work to identify a viable location for an enlarged Lasswade Primary School.*
 - *Plans to progress additional primary school capacity for Mayfield and the decision to safeguard part of the current Newbattle High School site for this purpose.*
 - *Plans to progress the planning and procurement of additional Primary school capacity for Dalkeith.*
 - *The development of a Learning Estate Strategy.*
 - c) *Otherwise, note content of report.*

The decision to designate the non-denominational primary school to be built on the site of the former Hopefield Primary School to be part of Burnbrae Primary School is currently subject to statutory consultation under the Schools (Consultation) (Scotland) Act 2010. At this stage the Education Service hope to present the outcome of this consultation to Council in September 2017.

- 5.17 At this stage work to identify a viable location for an enlarged Lasswade Primary School is still ongoing and if a viable location is identified this may require a change of address and, if so, would be subject to statutory consultation under the Schools (Consultation) (Scotland) Act 2010.
- 5.18 In summary, the provision of primary school education within the Bonnyrigg schools catchments needs to be considered as a whole, and particularly in relation to the substantial amount of new housing being allocated across a range of sites. Accordingly, until there is certainty over the location of a new three stream primary school in the eastern part of Bonnyrigg to replace the existing Lasswade Primary School, planning permission cannot be granted for this or any other application for housing development on the HS10 site identified in the Finalised Midlothian Local Development Plan.
- 5.19 The **Council's Environmental Health Manager** raises no objection to the application subject to the imposition of a condition on a grant of planning permission requiring a scheme to deal with any contamination of the site/previous mineral workings being approved in advance by the planning authority. Furthermore, the condition should require any necessary measures to decontaminate/remediate the site being fully implemented prior to any part of the site being occupied. In addition, an assessment of road traffic noise be undertaken to identify any mitigation measures that may be necessary to ensure that the future occupants of the houses on the site enjoy adequate residential amenity.
- 5.20 An initial archaeology desk based assessment and setting impact assessment was submitted as part of the planning application. This work identified the potential for archaeological remains within the site, particularly relating to the prehistoric period and the scheduled ancient monument (cropmark) located immediately to the east of the site. In addition, archaeological work undertaken in advance of residential developments to the west and north-east of the proposed development site had identified archaeological remains associated with the 18th and 19th centuries. Accordingly, any groundbreaking works carried out as part of the development process are considered as having a potential archaeological impact and require a suitable mitigated response. Therefore, **the Council's Archaeological Advisor** recommends a programme of archaeological works be carried out (field evaluation by trial trenching) in accordance with a written scheme of investigation which is to be submitted by the applicant in advance of the works commencing. The area to be investigated should be no less than 5% of the total site area with an additional 2% contingency should significant archaeological remains be encountered. The results of the initial investigations may indicate that further work is required to mitigate the impacts of the proposed development.

6 REPRESENTATIONS

6.1 28 objections have been received. The points raised are as follows:

- Concerns that the entrance to the site Hs10, will be via Baird's Way/Gladstone Gait rather than off the B6392 with the resulting increased pedestrian safety risks for the existing residents of the neighbouring housing development;
- Concern that access to the site off the B6392 is not via a roundabout and the road safety implications of this;
- Currently the schools in the area are at, or over capacity and any new houses on Hs10 should also have a new school built to accommodate the additional children they will bring into the area. Alternatively funds should be secured from the developer to finance extensions to existing schools in the area;
- Concern that the GP surgeries in Midlothian are closed to new patients due to GP shortages and new houses;
- In general there is insufficient infrastructure in Bonnyrigg to support the development;
- Concerns about child pedestrian safety as a consequence of construction vehicles being driven in close proximity to existing residences.

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 Proposed Midlothian Local Development Plan 2014 has been submitted to the Scottish Ministers and is subject to an examination which is likely to be concluded in Summer 2017. As this plan is at an advanced stage of preparation and represents the settled view of the Council it is a material consideration of significant weight in the assessment of the application. 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.
- 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.

- 7.4 **Policy 12 (GREEN BELTS)** requires Local Development Plans to define and maintain Green Belts around Edinburgh whilst ensuring that the strategic growth requirements of the Strategic Development Plan can be accommodated. Local Development Plans should define the types of development appropriate within Green Belts.
- 7.5 **Policy 13 (OTHER COUNTRYSIDE DESIGNATIONS)** requires Local Development Plans to review and justify additions or deletions to other countryside designations fulfilling a similar function to those of the Green Belt as appropriate. Opportunities for contributing to the Green Network proposals should also be identified.

The Midlothian Local Plan 2008 (MLP)

- 7.6 Policy **RP1: Protection of 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, tourism, or waste disposal (where this is shown to be essential as a method of site restoration); it is within a designated non-conforming use in the Green Belt; or it accords with policy DP1.
- 7.7 Policy **RP2: Protection of the Green Belt** advises that Development will not be permitted in the Green Belt except for proposals that:
- A. are necessary to agriculture, horticulture or forestry; or
 - B. are for opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield; or
 - C. are related to other uses appropriate to the rural character of the area; or
 - D. are in accord with policy RP3, ECON1, ECON7 or are permitted through policy DP1.

Any development proposal will be required to show that it does not conflict with the overall objectives of the Green Belt.

- 7.8 Policy **RP4: Prime Agricultural Land** states that development will not be permitted which leads to the permanent loss of prime agricultural land (Classes 1, 2 and 3.1 of the Macaulay Institute Land Classification for Agricultural system) unless: A. the site is allocated to meet Structure Plan requirements; or B. there is a location justification for the development which outweighs the environmental or economic interest served by retaining the farmland in productive use; and C. the development accords with all other relevant Local Plan policies and proposals.

- 7.9 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;
- 7.10 Policy **RP7: Landscape Character** 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;
- 7.11 Policy **RP8: Water Environment** aims to prevent damage to water environment, including groundwater and requires compliance with SEPA's guidance on SUDs.
- 7.12 Policy **RP9: Protection of River Valleys** requires development within the river valley protection areas of the Rivers North Esk, South Esk and Tyne to have a specific locational need for the development, and where this is established, development must demonstrate that it will not have an adverse impact either on the landscape and conservation value of the valleys or impede potential public access opportunities;
- 7.13 Policy **RP13: Species Protection** requires that any development that would affect a species protected by law will require an appropriate level of environmental and biodiversity assessment. Where development is permitted, proposals will require: A. measures for mitigation; and B. measures for enhancement or sustainable habitat replacement, where appropriate;
- 7.14 Policy **RP14: Habitat Protection Outwith Formally Designated Areas** requires that where a development affects sites which contain habitat of some significance, effects on the habitat as well as mitigation measures will be taken into account;
- 7.15 Policy **RP21: Community Identity and Coalescence** states that development will not be permitted which would result in the physical or visual coalescence of neighbouring communities unless mitigation measures are proposed which would maintain visual separation and protect community identity. Such measures, which may include landscape buffer zones and other community woodland, shall be tailored to the particular circumstances of the location.
- 7.16 Policy **RP26: Scheduled Ancient Monuments** presumes against development that would have an adverse effect on a Scheduled Ancient Monument, or the integrity of its setting.
- 7.17 Policy **RP27: Other Important Archaeological or Historic Sites** states that development will not be permitted where it could adversely affect an identified regionally or locally important archaeological or historic site or its setting unless the applicant can show that: (A) there is a public interest to be gained from the proposed development which

outweighs the archaeological importance of the site; (B) there is no alternative location for the proposal; and, (C) the proposal has been sited and designed to minimise damage to the archaeological interest.

- 7.18 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.
- 7.19 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.
- 7.20 Policy **RP32: Public Rights Of Way and Other Access Routes**, protects established routes against development which could lead to the loss of a right of way, cycle path, bridleway, or other access route;
- 7.21 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.
- 7.22 Policy **TRAN1: Sustainable Modes of Transport** states that major travel-generating uses will only be permitted where they are well located in relation to existing or proposed public transport services, are accessible by safe and direct routes for pedestrians and cyclists, and accord with the Council's Local Transport Strategy. All major travel-generating developments shall be accompanied by a Transport Assessment and a Green Travel Plan, setting out what provisions or measures shall be taken to provide for, and encourage the use of, alternative forms of travel to the private car;
- 7.23 Policy **NRG3: Energy for Buildings (dwellings)** The Council will require predicted CO₂ emissions associated with the life cycle of all new buildings and conversions to be minimised as far as is practicable. Proposals must compensate for any failure to optimise useful gains from passive solar energy by demonstrating achievement of a reduced level of CO₂ emissions. Proposals with a total cumulative floorspace

of 500 m2, and windfall development of any size, should incorporate on-site zero and low carbon equipment contributing at least an extra 15% reduction in CO2 in terms of the 2007 building regulations carbon dioxide emissions standard;

- 7.24 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;
- 7.25 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 education provision, 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;
- 7.26 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.
- 7.27 Policy **DP3: Protection of the Water Environment** sets out development guidelines regarding flooding, treatment of water courses, drainage and Sustainable Urban Drainage Systems (SUDS).

Midlothian Local Development Plan (MLDP)

- 7.28 Policy **STRAT3** states that strategic land allocations identified in the plan will be supported provided they accord with all other policies. The development strategy supports the provision of an indicative 300 housing units on the site (Hs10).
- 7.29 Policy **DEV1: Community Identity and Coalescence** states that development will not be permitted where it would result in the physical or visual coalescence of neighbouring communities unless adequate mitigation measures are proposed.

- 7.30 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.
- 7.31 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% form sites allocated in the MLDP.
- 7.32 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.33 Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.
- 7.34 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.35 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that Plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan. However supplementary guidance has not yet been prepared.
- 7.36 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*.
- 7.37 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...
- 7.38 **Policy ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS).
- 7.39 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.

- 7.40 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.41 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.
- 7.42 Policy **ENV23: Scheduled Monuments** states that development which could have an adverse effect on a scheduled monument, or the integrity of its setting, will not be permitted.
- 7.43 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.
- 7.44 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.
- 7.45 Policy **NRG3 Energy Use and Low & Zero-Carbon Generating Technology** requires that each new building shall incorporate low and/or zero-carbon generating technology projected to contribute an extra percentage reduction in greenhouse gas emissions beyond the emissions standard to which the building is subject under the Building Regulations.
- 7.46 Policy **NRG4: Interpretation of Policy NRG3** interprets Policy NRG3.
- 7.47 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.48 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 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.

- 7.49 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.
- 7.50 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.
- 7.51 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.52 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area, including the A7 urbanisation scheme.
- 7.53 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.54 Supplementary Guidance and other non-statutory planning guidance referred to in the MLDP; which includes; inter alia the following topics, has not yet been brought forward by the Council:
- Affordable and Specialist Housing;
 - Quality of Place;
 - Open Space Standards;
 - Midlothian Green Networks;
 - Community Heating;
 - Developer Contributions.

Scottish Planning Policy

- 7.55 The **SPP (Scottish Planning Policy)** sets out Government guidance for housing.
- 7.56 **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.

- 7.57 **The Scottish Government's Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

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 not allocated for housing in the current Midlothian Local Plan (2008), and as such the proposed housing development is contrary to the development plan.
- 8.3 The application site is located within the green belt, as indicated in the MLP, and as such any development on the site should comply with policy 12 of SESplan and policy RP2 of the MLP. Development will not be permitted in this area unless it is essential for the furtherance of agriculture, horticulture, forestry, outdoor sport or outdoor recreation and is related to other uses appropriate to the rural character of the area. The policy does not support residential developments in the green belt and the proposed development is not required in connection with an established use in the green belt. Thereby the proposed development is contrary to development plan policy.
- 8.4 The proposed development is also contrary policy RP1 (Protection of the Countryside) of the adopted MLP as the development is not required for the furtherance of an agricultural use or other use appropriate to the countryside. Furthermore, the proposed development would result in the permanent loss of prime agricultural land contrary to adopted MLP policy RP4 (Prime Agricultural Land).
- 8.5 However, there are significant material considerations which could outweigh this policy position. The emerging MLDP allocates site Hs10 for an indicative 300 dwellings. The allocation forms part of the Council's settled preferred development strategy. Site Hs10 is one of a suite of sites in the A7 corridor identified in the development strategy to meet the strategic housing land requirements of SESplan. The MLDP is currently subject to examination, scheduled for conclusion in the Summer of 2017, and formal adoption later in 2017.
- 8.6 Scottish Government Reporters considering two recent housing appeals; land north and south of Lasswade Road, Esbank (reported to Committee at its meeting of January 2016) and land west of The Cottage, Hardengreen, Dalkeith (reported to Committee at its meeting of August 2016) concluded that Midlothian did not have an effective

housing land supply (sufficient land allocated to build houses within a defined five year period). Since these appeal decisions Midlothian has deposited its MLDP with the Scottish Government and as such those proposed sites in the plan can now be considered in an assessment of its housing land supply.

- 8.7 In summary on this particular matter it is reasonable to conclude that the advanced stage of the MLDP and the allocation of the site for housing in that Plan, means that the principle of housing development can be acceptable and supported.

Housing Land Supply

- 8.8 The issue of housing land supply has been examined by way of a hearing (9 March 2017) as part of the MLDP Examination. The Council will not receive the Reporters decision on the matters deliberated on housing land supply until the end of the Examination, which is scheduled for July 2017.
- 8.9 The site in question is allocated in the proposed MLDP and included in the Housing Land Audit 2016 (the house building programme in Midlothian for 2016, which identifies sites which are under construction or are scheduled for an onsite start in the next 5 years). As such it is already counted as part of the five year effective housing land supply. The Council acknowledges there is a shortfall in the housing land supply for the period up to 2019, however, notwithstanding the outcome of the examination the site would not add any extra capacity to the land supply up to 2019 and, given the relatively short period of time remaining between now and then, it is debateable as to what level of contribution it could effectively make towards the effective housing land supply. In the period 2019 - 2024 there is a reasonable surplus in the land supply which would not trigger approved Strategic Development Plan policy (Policy 7) under which additional sites would be required at short notice.
- 8.10 In their appeal statement the applicants state that: "It is evident that the Council supports the principle of development of a proposed allocated housing site and given the provisions of SESplan could grant planning consent in advance of the adoption of the LDP without undermining the plan's strategy or plan making process." In response to this statement it is worth noting that planning consent could only be granted where the proposal satisfactorily meets the criteria set out in SESplan policy 7, and only where it is demonstrated that it can meet the requirements of the Proposed MLDP. Granting planning permission in principle for the proposed development in advance of the plan being adopted is not without risk and uncertainty, most particularly in respect of ensuring sufficient developer contributions are secured.

Education

- 8.11 The position in relation to schools provisions, most notably in the primary sector, is set out in paragraphs 5.10 to 5.18 of this report. Arising from that analysis the following conclusions can be drawn.
- 8.12 The overriding issue is that at this present time there is not a committed solution for the provision of additional non-denominational primary education capacity for approximately 300 houses that would potentially arise from a residential development of the site. Accordingly, it would be premature for the Council to grant planning permission in principle for the proposed development. Furthermore, the Council is unable to confirm to the applicant the amount of developer contribution that they would be required to pay towards an as yet unknown education solution. The amount of contribution would include land acquisition costs. Until there is a committed education solution the Council cannot seek to secure a binding agreement with the applicant to fund their proportionate contribution towards the delivery of that solution. In these particular circumstances the proposed development does not accord with criterion c. of Strategic Development Plan Policy 7 and is therefore contrary to the provisions of the Strategic Development Plan.

Masterplan

- 8.13 The Masterplan, Design and Access Statement and Masterplan report submitted with the application delineates/details how a development of 300 dwellings and associated development could be accommodated on the site. The applicant has confirmed to the Planning Authority that the Masterplan submitted with the application is to be a material consideration and is not solely for illustrative purposes only. Therefore, if the Council were minded to grant planning permission in principle, permission it would be granted for the details delineated/detailed on the Masterplan and within the Design and Access Statement and Masterplan report, including the number of units indicated. It is on this basis that the application stands to be determined.
- 8.14 With regards to phasing of the development the Masterplan report delineates that the southern part of the site; including the access off the B6392, being completed in phase 1, which is acceptable in planning terms. In addition, phase 2 which includes the formation of the crossing over the burn corridor and the linear park is acceptable. However, the planting of the woodland buffer on the eastern edge of the site is proposed in phase 3, which is not acceptable in planning terms. Such structural landscaping for the site should be completed in first phase of development as it has to be established early in the development in order to mitigate the visual impact of the development. In addition, the affordable housing area(s) is not delineated on the phasing plan. It is reasonable for the Council to expect affordable units to come forward on the site as early as practicable. Furthermore, the

phasing does not address the timing of delivery of safe routes to school and other pedestrian and cycling connections through the site.

- 8.15 The development has been designed as a traditional street layout. The primary route through the development will run from the primary access at the B6392 in the south to the north of the site. The primary street is defined by an avenue of tree planting, which would provide an attractive route through the development. The general form of the linear park through the site is acceptable in principle. The orientation of buildings onto the spine road and linear park and the burn corridor is welcomed.
- 8.16 The Masterplan informs of a proposed play strategy consisting of a mix of formal, informal and naturalistic play provision comprising: (i) an informal 'kick about' pitch in the main open space within the north-south linear park; (ii) a more formal play area in the western part of the linear park; and, (iii) a linear play park adjacent to the Pittendreich Burn. The Masterplan envisages that the latter would contain a number of natural features which will be integrated within the landscape and will provide fun interaction for children. Reclaimed timber and other materials would be used to create a play area which complements the landscape setting to the north. Proposals (i), (ii) and (iii) could be supported in principle. However the play strategy does not include a proposal for children's play on the southern part of the site which is separated from the remainder of site Hs10 by the Pittendreich Burn and will continue to be so until a road crossing over the burn is formed. Even if planning permission in principle were granted and subsequently matters specified in condition on a grant of planning permission in principle were approved, it could be some time before the burn crossing is formed and open space on the northern part of site Hs10 is formed and made available for use. The houses on the southern part of the site comprise family houses of 3, 4 and 5 bedrooms. It is reasonable to assume that these houses could be occupied by families with children of school age. Therefore, a fairly large communal usable open space for children's play is required on the southern part of the application site. Given that such an open space is not delineated on the Masterplan the play strategy component of the Masterplan is not acceptable in planning terms.
- 8.17 The Masterplan indicates that the site would be developed with predominately two-storey buildings. Building of two-storeys in height would generally be appropriate on most of the build areas of the site. However, two-storey buildings on the southern part of the site in the vicinity of the burn crossing could be unduly high depending on the finished levels once the crossing embankments are formed. It remains to be demonstrated that the erection of buildings on this part of the site would be acceptable in planning terms.
- 8.18 The proposed Area of Improved Quality (AIQ) comprises buildings fronting on to the linear park and on the southern part of the site the buildings fronting onto the spine road. In principle the location of the

AIQ within the scheme is acceptable. However, the Masterplan does not explain how the building development within the AIQ will be improved in both design and materials. The materials section of the Masterplan does not specify materials to be used in the different parts of the site, including the AIQ. Therefore, it cannot be relied upon to guide the development of the site.

- 8.19 The Masterplan report sets out in broad terms the landscape strategy for the development site. On the proviso that the proposed tree buffer along the eastern edge of the site is planted the proposed residential development of the site would not result in the physical or visual coalescence of Bonnyrigg and Eskbank/Dalkeith. However, in general, the landscape strategy is too broad to be relied upon as a comprehensive guide for how the landscape for the development should be formed. Moreover, it does not detail how the development of the site shall be carried out in a manner to safeguard the existing green networks in the area or how it will contribute to components of the green network. If the Council were minded to grant planning permission it should be subject to a planning condition(s) requiring the following: (i) mitigation to protect existing areas of woodland; (ii) details of proposed new landscaping within the development to be approved in advance by the Planning Authority; (iii) mitigation measures to be carried out to safeguard biodiversity and natural heritage; and, (iv) measures to ensure sustainability in landscape terms.
- 8.20 The formation of the crossing over the burn will require engineering works including cutting, filling and embankment formation. It is likely that at least four of the proposed houses; which are those closest to the watercourse, could not be constructed until after the proposed road crossing has been completed owing to the proximity of them to/part of them being built on the cutting/filling/embankments. If these four houses were built in advance of the road crossing being constructed then they could thwart the future formation of the crossing. Therefore, if planning permission in principle were to be granted it should be subject to a condition requiring that construction on those plots does not commence until after the road crossing is constructed in its entirety. Furthermore, given that full details of the design of the road crossing including levels of the embankments have not yet been approved by the Council, if planning permission in principle were granted it should be subject to a condition that houses on the said plots are not built unless and until full details including final levels of those plots and the finish levels of the adjoining land has been submitted to and approved in advance by the Planning Authority.
- 8.21 The Masterplan report details proposals for refuse and recycling and archaeology, the details of which are generally acceptable in principle.
- 8.22 The Masterplan report does not detail how low and zero-carbon generating technology and also community heating would be delivered for the proposed development. Given this, the requirements of MLDP

Policies NRG3, NRG4, and NRG6 have not been addressed in the application.

8.23 There are a number of other concerns with the Masterplan and Masterplan report; which are as follows:

- The layout generally has a uniform density. Furthermore, other than the spine road/linear park, there are no discernible character zones;
- The layout of the development located on the south side of the Pittendreich Burn does not provide a strong frontage onto the principal access road; but instead, houses have blank gables facing onto the road which is weak in urban design terms;
- Owing to virtually all of the houses having front double driveways accessed directly off the street the design of the development is car dominated to the detriment of residential amenity;
- The MLDP will require new development sites to fully incorporate green network opportunities in their design and implementation. This can potentially be delivered through a combination of path networks, open space and sustainable urban drainage systems. The Masterplan does not include a proposal for a cycleway/footway to be formed from the site to the A7, which is essential to form an integral part of the green network in this part of Midlothian and to contribute towards the delivery of the Midlothian Green Network as required in the MLDP;
- The Masterplan report does not detail how the proposed development will have regard to principles of sustainability set down in MLDP Policy DEV5;
- No area on the site has been delineated for a three-stream primary and nursery school to accommodate the children that would arise from site Hs10 and from other strategic housing allocations within the emerging MLDP;
- The Masterplan report does not include details of 'percent for art' for the development.

8.24 For all of the above reasons the Masterplan, design and access statement and Masterplan report are not acceptable in planning terms.

Access and Transportation Issues

8.25 The proposal for the primary access to serve the proposed development of some 300 units is off the B66392; achieved by upgrading the existing access to Dalhousie Dairy and incorporating a burn corridor crossing to access the northern part of the site. The Transportation Assessment submitted with the application is modelled on this basis. The TA demonstrates to the satisfaction of the Council's Policy and Road Safety Manager that that proposed access arrangement is acceptable in terms of traffic capacity. Such an access would be acceptable in both pedestrian and traffic safety and residential amenity terms. Full details of the construction of the crossing over the burn; including associated ground works, design,

landscaping etc could be secured by a condition(s) imposed on a grant of planning permission in principle.

- 8.26 The application was preceded by a pre-application consultation (PAC) comprising a public event which resulted in 79 responses from local residents and a further 15 responses were received after the consultation had closed. In the applicant's supporting statement accompanying the application they state that they have considered the concerns of the local residents and elected members, which are set out in the PAC report, and have proposed that the site would be served by a primary vehicle access from the B6392 incorporating a burn corridor crossing to the northern part of the site. However in the applicant's Grounds of Appeal Statement they state that "in respect of the burn crossing, it is a matter for the appeal Reporter to consider whether it is justified having regard to the evidence and whether it is necessary to impose a suspensive condition requiring its construction and indeed whether such a conditions would be justified." This statement could infer that the applicant is; contrary to the proposal in the application, not resolved to provide the crossing over the burn. Notwithstanding, the application stands to be determined as submitted; which includes the proposal for the upgrading of the access to Dalhousie Dairy off the B6392 and the formation of the crossing over the burn. It is necessary, reasonable and enforceable in planning terms for the Council to impose a suspensive condition on a grant of planning permission in principle requiring that the site is accessed directly off the B6392 and that the crossing over the burn is formed. In considering the reasonableness of imposing such a condition the Planning Authority has had due regard to the alternative access arrangement alluded to by the applicant; which is accessing the site via existing roads within the neighbouring housing development to the west. The non-acceptability of that option is explained below.
- 8.27 The use of Baird's Way as a principal access to the site raises both pedestrian and road safety concerns and residential amenity concerns. The reasons for these concerns are as follows: (i) Baird's Way and Harmony Crescent are meandering roads containing several speed reducing measures including raised tables and road narrowings along their lengths in order that low speeds are maintained, and thus they would not be suitable as an access for construction vehicles; (ii) Baird's Way and Harmony Crescent are bisected by a linear park which is the principal open space within the area; (iii) there is a formal equipped children's play area located adjacent to the east of Baird's Way, an equipped children's play area adjacent to the west of Baird's Way and an equipped children's play area located adjacent to the west of the Harmony Crescent; and, (iv) there are a number of existing footways both running alongside and bisecting Baird's Way that residents of existing houses to the east of Baird's Way have to use to access on foot the town centre and also the catchment schools, which are Bonnyrigg Primary School and Lasswade High School. Given these particular circumstances there are potential pedestrian safety risks that would arise from the inevitable increase in volume of vehicles, resulting

from the proposed development. Furthermore, there would be undue nuisance and disturbance during periods of construction if construction vehicles were permitted to use Baird's Way, Harmony Crescent and Gladstone's Gait. The use of these existing roads as the access to the site is not acceptable in planning terms and should not be supported.

- 8.28 All of the recommended controls outlined by the Council's Policy and Road Safety Manager relating to site access, public transport infrastructure on the B6392 and pedestrians and cycle routes to and from the site could all be secured by a condition imposed on a grant of planning permission in principle. Subject to these controls the future occupants of the houses would have safe and convenient access to and from the site.
- 8.29 If the Council chooses to support this application for planning permission in principle, developer contributions would be required towards the urbanisation of the A7 as defined in the MLDP.

SUDS and Flooding

- 8.30 Where the Pittendreich Burn cuts through the site its southern bank forms a steep slope between it and the development area of the site. The Pittendreich Burn is some 12 metres below the level of the site where development is proposed. SEPA confirm that they are satisfied that the site is sufficiently elevated above the watercourse to address the flood risk concerns. A detailed SUDS scheme for the development could be secured by a condition imposed on a grant of planning permission in principle.

Ground Conditions

- 8.31 The control referred to by the Council's Environmental Health Manager in respect of ground contamination/previous mineral workings and the same control in respect of previous mineral workings recommended by the Coal Authority could be secured by a condition imposed on a grant of planning permission in principle.

Noise

- 8.32 The recommendation by the Council's Environmental Health Manager for a noise assessment of the potential noise nuisance to the future occupants of the houses from road traffic on nearby roads could be secured by a condition imposed on a grant of planning permission in principle. Any noise mitigation recommended in the report should be carried out prior to the first occupation of the houses affected.

Ecology

- 8.33 The report on the ecological survey of the whole of site Hs10 does not recommend against the development on grounds of impact on biodiversity. The report informs that the main areas of habitat interest

are the wooded Pittendreich Burn corridor and the relatively unmanaged area of grassland to the northeast of the wooded corridor (outside the application site). The burn corridor is a sensitive habitat which can be carefully managed during the development of the site. It is set down in a cutting, and is very densely scrubbed through with a mix of trees and shrubs. The proposed Midlothian Local Development Plan for Dalhousie Mains Hs10 states that:

“There is a need to protect and enhance existing planting along the south-eastern edge and along Pittendreich Burn which should be utilised as part of the green network/open space in a similar manner to the existing Dalhousie housing area. The burn crosses the south eastern part of the site and flood risk assessment will be required to ensure mitigation to avoid flood risk. SEPA requires the inclusion of a buffer strip alongside the watercourse, and that consideration be given to watercourse restoration.”

- 8.34 The ecological survey report recommends a number of controls to safeguard/enhance the biodiversity value of the Pittendreich Burn corridor. These recommended controls could be secured by a condition imposed on a grant of planning permission in principle. The report states that otters are using the burn corridor. However, no holts or lying up places were recorded. The Pittendreich Burn lies close enough to the Dalhousie Burn which in turn runs to the River South Esk. Therefore, it is likely that otters are crossing from the watercourses to the Pittendreich Burn as they move through territory. To safeguard otters; which are a European protected species, it should be made a condition of a grant of planning permission in principle that prior to works commencing on the application site the part of the Pittendreich Burn and burn corridor which lies within site Hs10 are checked by a qualified ecologist for otter holts or lying up places. If any are found then measures should be taken to mitigate the impact of the development on the otters.

Developer Contributions

- 8.35 Site Hs10 (Dalhousie Mains, Bonnyrigg) is proposed to be allocated for housing in the Proposed Midlothian Local Development Plan (2014) with an indicative unit capacity of 300 units. This application is for planning permission for 300 residential units. If the Council is minded to grant planning permission in principle for the development it will be necessary for the applicants to enter into a Section 75 planning obligation in respect of the following matters:

- Education provision;
- Affordable housing;
- Borders Rail;
- A7 Urbanisation;
- Children’s Play;
- Maintenance of Open Space.

- 8.36 For the reasons given in the education section of this report the willingness of the developer to fund additional education infrastructure does not overcome the overriding concern that at this time there is not yet a committed solution for the provision of additional non-denominational primary education capacity for the approximately 300 houses that would arise from a residential development of the site.

Borders Rail

- 8.37 The site is in the A7/A68 Borders Rail corridor and is specifically identified in the Proposed MLDP as being required to contribute towards the Borders Rail. As a consequence the applicant would be required to contribute towards the Borders Rail line.

A7 Urbanisation

- 8.38 The MLDP identifies the urbanisation of the A7 as being one of the infrastructure requirements of the plan with site Hs10 being required to contribute to that scheme.

Affordable Housing

- 8.39 In accordance with MLP policy HOUS4 and MLDP policy DEV3, sites of 50 units and over (or larger than 1.6 ha in size), are subject to a requirement for 25% of the units to be affordable. In the case of a site of 300 units this would equate to 75 units.
- 8.40 Affordable Housing by definition is to be 'housing of a reasonable quality that is affordable to people on modest incomes (Supplementary Planning Guidance (SPG) Affordable Housing Adopted 6 March 2012, paragraph 3.1).
- 8.41 The location and specification of the affordable housing units within the development would be subject to the agreement of the Council as Local Housing and Planning Authority, and in accordance with the permitted plans for the site.
- 8.42 The developer would be required to enter into an agreement with the Council or a Registered Social Landlord to construct and develop the 75 affordable units in accordance with plans and specifications agreed by Midlothian Council.

Open Space Maintenance

- 8.43 The responsibility for the maintenance of the open space (including any childrens play area and SUDS) shall be the developers/owners and provision would be made in the deeds of sale of all housing units to contribute to the ongoing maintenance of these areas through a regular "factoring" charge. The developer would demonstrate to the satisfaction of the Council how the area would be maintained in perpetuity.

Archaeology

- 8.44 The control required by the Council's Archaeological Advisor in the consultation response could be secured by a condition imposed on a grant of planning permission in principle.

Other Matters raised by Representors and Consultees

- 8.45 Issues raised by the representors and by consultees have been largely addressed above. With regards to the matters raised which have not been addressed above:
- 8.46 The concern raised by Midlothian Health and Social Care Partnership about the existing capacity of general practice in Midlothian and the impact of new house building on health and care services is a matter which would need to be addressed by the Partnership through the provision of sufficient health service capacity. That can involve liaison with the Council as planning authority but it is not, on its own, a sufficient basis on which to resist or delay the application.

9 RECOMMENDATION

- 9.1 It is recommended that:

- a) Planning permission in principle be refused for the following reasons:

1. There does not exist at this present time a committed education solution to accommodate all of the school children that would arise from the residential development of the site, in particular non-denominational primary school children. Until there is a committed education solution it would be premature to grant planning permission in principle for this application.
2. For the following reasons the proposed development does not accord with the approved Edinburgh and South East Scotland strategic Development Plan, specifically it is contrary to Policy 7 of the Plan in that: (i) there does not exist at this present time a committed education solution to accommodate all of the school children that would arise from the residential development of the site; (ii) the amount of education contribution the applicant would be required to contribute towards to ensure the delivery of a yet unknown education solution; including land acquisition costs, is unknown; and (iii) until there is a committed education solution the Council cannot seek to secure a binding agreement with the applicant to fund their proportionate contribution towards the delivery of that solution.

3. The Masterplan/Design and Access Statement and Masterplan report are not acceptable in planning terms for the following reasons:
- i. The phasing of the development delineated in the Masterplan is not acceptable in terms of the phase of the delivery of structural landscaping, affordable housing and safe routes to school and other pedestrian and cycling connections through the site.
 - ii. The Masterplan does not include a proposal for childrens play on the southern part of the site, to the detriment of the residential amenity of the future occupants of the houses on that part of the site;
 - iii. The landscape strategy detailed in the Masterplan is too broad in scope to guide an appropriate landscape scheme for the site;
 - iv. The Masterplan delineates house plots in close proximity to the burn crossing which; if formed and buildings erected on them, could thwart the formation/erection of the burn crossing;
 - v. The Masterplan delineates a development layout that is uniform in terms of density. In addition, owing to the proliferation of double driveways across the whole site the layout would be car dominated to the detriment of residential amenity. Furthermore, other than the spine road/linear park, the scheme has no discernible character zones. If built out accordingly it would result in a uniform, harsh development that is not distinctive in character and would be detrimental to the amenity of the area. Moreover, the layout of the development located on the south side of the Pittendreich Burn does not provide a strong frontage onto the principal access road; but instead, houses have blank gables facing onto the road, which is unacceptable in urban design terms.
 - vi. The Masterplan report does not detail how low and zero-carbon generating technology and also community heating would be delivered and incorporated into the proposed development.
 - vii. The materials section of the Masterplan does not specify materials to be used in the different parts of the site, including the Area of Improved Quality. Therefore, it is too general to be relied upon to guide the future development in the site;
 - viii. The Masterplan report does not detail how the proposed development will have regard to principles of sustainability set down in MLDP Policy DEV5.

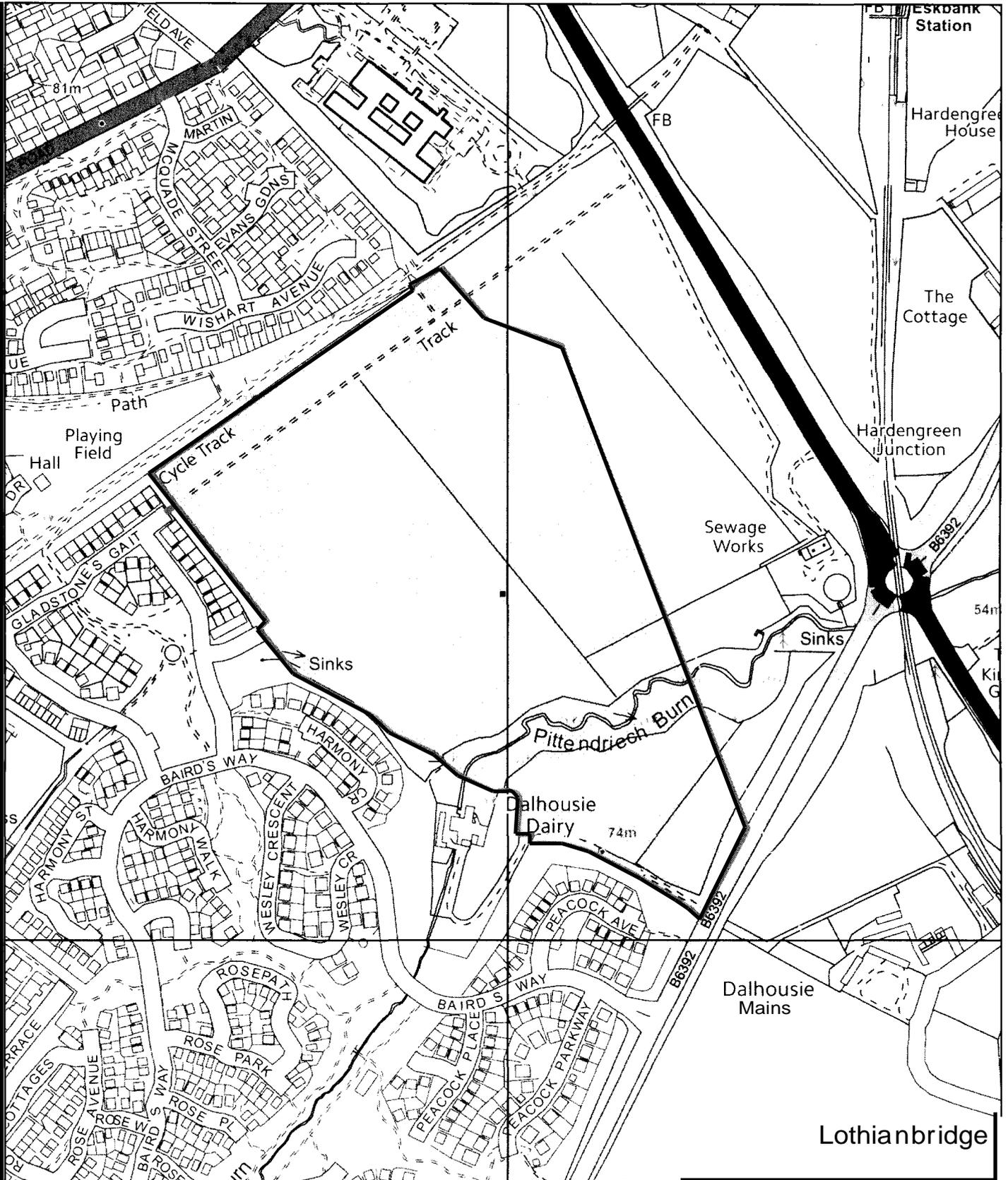
- ix. The Masterplan does not detail how the development of the site shall be carried out in a manner to safeguard the existing Green Networks in the area or how it will contribute to components of Midlothian Green Network.
 - x. The Masterplan report does not include details of 'percent for art' for the development.
4. Given reasons for refusal 3 above the proposed development is contrary to adopted Midlothian Local Plan Policies RP7, RP31, NRG3, IMP1, IMP2 & DP2; and, Proposed Midlothian Local Plan 2014 Policies DEV2, DEV5, DEV6, DEV7, DEV8, DEV9, ENV2, ENV7, NRG3, NRG4, NRG6, IMP1 & IMP2.
- b) Authorisation is given by the Committee for the Planning Authority to write to the Scottish Government Department of Planning and Environmental Appeals Division (DPEA) to request that the appeal against the non determination of the planning application within the statutory time period (4 months) is dismissed.

Ian Johnson
Head of Communities and Economy

Date: 25/05/2017

Application No: 16/00712/DPP
Applicant(s): Grange Estates (Newbattle) Limited, Westwood House, Royston Road, Deans Industrial Estate, Livingston, EH54 8AH

Validation Date: 14th October 2016
Contact Person: Adam Thomson
Tel No: 0131 271 3346
Background Papers: 15/00626/SCR, 16/00161/PAC, 16/00855/DPP & 17/00298/PPP



Midlothian

**Education, Economy
& Communities**
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File No. 16/00712/PPP

Scale: 1:5,000

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