

Notice of meeting and agenda



Planning Committee

Venue: Council Chambers, Midlothian House, Dalkeith, EH22 1DN

Date: Tuesday, 22 August 2017

Time: 14:00

John Blair
Director, Resources

Contact:

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

Clerk Email: mike.broadway@midlothian.gov.uk

Further Information:

This is a meeting which is open to members of the public.

Audio Recording Notice: Please note that this meeting will be recorded. The recording will be publicly available following the meeting. The Council will comply with its statutory obligations under the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002.

1 Welcome, Introductions and Apologies

2 Order of Business

Including notice of new business submitted as urgent for consideration at the end of the meeting.

3 Declarations of Interest

Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

4 Minutes of Previous Meeting

- | | | |
|------------|---|---------------|
| 4.1 | Minutes of Meeting held on 6 June 2017 - For Approval | 5 - 20 |
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5 Public Reports

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|------------|---|----------------|
| 5.1 | Proposed Revision of the Council's Scheme of Delegation for the Determination of Planning Applications – Report by Head of Communities and Economy. | 21 - 30 |
| 5.2 | Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage – Report by Head of Communities and Economy. | 31 - 36 |
| 5.3 | Appeals and Local Review Body Decisions - Report by Head of Communities and Economy. | 37 - 52 |
| | Pre-Application Consultation Reports - Report by Head of Communities and Economy. | |
| 5.4 | Proposed Installation of sustainable urban drainage system (SUDS) and foul water drainage system at Easter Bush Campus, Bush Farm Road, Roslin (17/00339/PAC). | 53 - 56 |
| 5.5 | Proposed Residential Development, Community Facilities, Primary School, Open Space and Associated Infrastructure at Site Hs12 Hopefield Farm 2, Bonnyrigg (17/00367/PAC). | 57 - 60 |
| 5.6 | Proposed Residential Development at Land at Site Hs11, Dalhousie South, Bonnyrigg (17/00402/PAC). | 61 - 64 |
| 5.7 | Proposed Extension to the Existing Sand Quarry at Upper Dalhousie, Rosewell (17/00565/PAC). | 65 - 68 |

Application for Planning Permission Considered at a Previous Meeting
– Report by Head of Communities and Economy.

- 5.8** Application for Planning Permission for the partial change of use of land and buildings for wedding events (part retrospective) at 32A Damhead, Lothianburn 17/00219/DPP **69 - 90**

6 Private Reports

No private reports to be discussed at this meeting.

Plans and papers relating to the applications on this agenda can also be viewed online at www.midlothian.gov.uk.

Minute of Meeting



Planning Committee

Date	Time	Venue
6 June 2017	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Alexander	Councillor Baird
Councillor Cassidy	Councillor Curran
Councillor Hackett	Councillor Imrie
Councillor Johnstone	Councillor Lay-Douglas
Councillor McCall	Councillor Milligan
Councillor Montgomery	Councillor Muirhead
Councillor Munro	Councillor Parry
Councillor Russell	Councillor Smaill
Councillor Winchester	

1. Election of Chair

In terms of Standing Order 7, the Committee was invited to elect a Chair.

Councillor Hackett, seconded by Councillor Muirhead, moved the appointment of Councillor Imrie as Chair.

Councillor Parry, seconded by Councillor Johnstone, moved the appointment of Councillor Cassidy as Chair.

On a vote being taken 5 members voted for Councillor Cassidy and 10 for Councillor Imrie.

Councillor Imrie was duly elected as Chair of the Planning Committee.

2. Apologies

Apologies received from Councillor Hardie.

3. Order of Business

The order of business was confirmed as outlined in the agenda that had been circulated with the following amendments:

- The 'To Follow' paper in relation to agenda item 5.11 – Application for Planning Permission for Residential Development on Land North of Dalhousie Dairy, Bonnyrigg 16/00712/PPP had been circulated to Members under separate cover on Wednesday 30 May 2017.
- The Chair had agreed to accept as an urgent item of additional business a report by the Head of Communities and Economy - Application for Planning Permission for Erection of three Office/Laboratory Buildings; Formation of Access Roads, Car Parking and Associated Works, at Edinburgh Technopole, Bush Farm Road, Roslin - for reasons that the Council required to act quickly in the best interests of the economy of Midlothian, most particularly in the retention and expansion of existing, as well as the location of major new, businesses in Midlothian.

4. Declarations of interest

Councillor Baird declared a non pecuniary interest in agenda item 5.9 - Pre-Application Consultation Report regarding proposed residential development at land east of Lawfield Road and north of Ash Grove, Mayfield (17/00296/PAC) – on the ground that the proposed development site was visible from his property. He indicated that he felt the nature of his interest was such that he did not feel it necessary to withdraw and he would remain in attendance during the debate, and contribute to any discussion of this item.

Councillors Muirhead and Johnstone both declared non pecuniary interests in agenda item 5.12 - Application for Planning Permission for the Erection of 11 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 16/00809/DPP – on the grounds that they had been approached by the applicant and an objector respectively, albeit neither had offered an opinion on the application. Both Members indicated that they felt the nature of their respective interest was such that they did not feel the need to withdraw and they would remain in attendance during the debate, and contribute to the consideration of this item.

5. Reports

Agenda No	Report Title	Presented by:
5.2	Overview of the Committee – Membership and Terms of Reference	Mike Broadway

Executive Summary of Report

The Clerk gave an overview of the Planning Committee highlighting in particular the membership and terms of reference as detailed in the Scheme of Administration (relative to Standing Order 7).

Decision

The Committee noted the overview.

Agenda No	Report Title	Presented by:
5.3	The Planning System in Scotland: An Introduction for Elected Members	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, by the Head of Communities and Economy, providing an introduction to the Planning System for elected Members.

Appended to the report was a copy of a Guide prepared by The Improvement Service for elected Members entitled '*The Planning System in Scotland: An Introduction for elected Members*', which provided information/guidance on:-

- Planning – purpose and significance;
- The planning process – summary;
- Development plans;
- Development management;
- Appeals and reviews;
- Enforcement;
- Code of Conduct; and
- Planning a councillor's perspective.

Summary of Discussion

The Committee, having heard from the Planning Manager, welcomed the Improvement Service guide.

Decision

After further discussion, the Committee noted the contents of the report.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.4	Midlothian Local Development Plan Update	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.2 of the Minutes of 19 April 2016, there was submitted report dated 23 May 2016, by the Head of Communities and Economy providing an update on current progress in the preparation of the Midlothian Local Development Plan (MLDP), and advising on the remaining stages to the point of final adoption by the Council.

The report explained that following submission of the Proposed MLDP to Scottish Ministers on 9 September 2016, a Reporter had been appointed by the Scottish Government's Department of Planning and Environmental Appeals (DPEA) to conduct an Examination in Public into the unresolved objections. The examination had now reached an advanced stage and the DPEA had set a target date of 9 July 2017 to conclude the examination and submit the report of the Examination to the Council. Assuming the examination was concluded by the target date then it was anticipated that a report would be presented to Council around September/October seeking approval to undertake the necessary steps to adopt the Proposed MLDP as may be modified by the Reporter's recommendations.

Decision

Having heard from the Planning Manager, the Committee noted the update on the Midlothian Local Development Plan.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.5	Planning Performance Report	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, by the Head of Communities and Economy, updating the Committee on planning applications, planning appeals and reviews, enforcement and planning customer service performance against key outcome indicators for the period 2016/17.

The report identified that overall performance continued to be maintained at a high level through 2016/17 with 81% of planning applications being determined within target. This compared to 81% in 2015/16, 82% in 2014/15, 84% in 2013/14, 73% in 2012/13, 70% in 2011/12, 65% in 2010/11 and 55% in 2009/10. In addition to the handling of planning applications, the report also highlighted the work undertaken by the Planning team in relation to planning appeals/reviews, enforcement of planning control, the preparation of development/design briefs and responding to a wide range of associated enquiries giving planning advice to the public and others.

Summary of Discussion

Having heard from the Planning Manager, the Committee discussed the report. In response to a question regarding whether it was possible to apply for planning permission for a site that you didn't own, the Planning Manager confirmed that it was possible to do so however there was a requirement as part of the application process to notify the landowner. Third party landownership issues were a common source of complications when it came to planning applications.

Decision

- (a) noted the contents of the report; and
- (b) agreed to continue to receive annual Planning performance reports.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.6	Major Developments: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, by the Head of Communities and Economy, updating the Committee on 'major' planning applications, formal pre-application consultations by prospective applicants and the expected programme of applications due for reporting.

Summary of Discussion

The Committee, heard from the Planning Manager who explained that the primary purpose of the report was to keep Members informed on the procedural progress of major applications. With respect to a suggestion regarding an expanded commentary on each application, the Planning Manager agreed to take this on board.

Decision

- (a) To note the current position in relation to major planning application proposals which were likely to be considered by the Committee in 2017; and
- (b) To note the updates for each of the applications.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.7	Appeal and Local Review Body Decisions	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 March 2017, by the Head of Communities and Economy, detailing the notices of review determined by the Local Review Body (LRB) at its meeting in March 2017, and advising of the outcome of an appeal determined by Scottish Ministers.

Appended to the report was a copy of the appeal decision notice from the Scottish Government, Planning and Environmental Appeals Division, dated 3 April 2017, upholding an appeal by PSL Land Ltd against non determination for planning permission in principle for a mixed use development comprising film and TV studio including backlot complex, mixed employment uses retail/office/commercial, hotel, gas and heat power plant/energy centre, film school and student accommodation, studio tour building, earth station antenna and associated infrastructure (15/00364/PPP) subject to securing developer contributions and conditions, most notable being the safeguarding of the proposed realignment of the A701 identified in the proposed Midlothian Local Development Plan.

Summary of Discussion

The Committee, having heard from the Planning Manager, welcomed the Ministers' decision, in particular the safeguarding of the proposed realignment of the A701.

Decision

- (a) To note the decisions made by the Local Review Body at its meetings on 7 March 2017; and

- (b) To note the outcome of the appeal determined by Scottish Ministers

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.8	Guidance on the role of Councillors in the consideration of Pre-Application Consultations for Major Developments	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 3 of the Minutes of 7 October 2014, there was submitted report, dated 23 May 2017, by the Head of Communities and Economy, advising the Committee of the recommended procedures for Councillors in the pre-application process. Appended to the report was a copy of 'Guidance on the Role of Councillors in Pre-Application Procedures' published by the Scottish Government in conjunction with the Commissioner for Ethical Standards in Public Life in Scotland and COSLA.

The report explained that the Guidance was designed to enable Councillors to be confident about expressing a provisional 'without prejudice' view and to raise material considerations with regard to a major application that they wish the applicant and/or officers to consider, whilst being safeguarded from challenge on grounds of partiality.

Summary of Discussion

The Committee, having heard from the Planning Manager, acknowledged the challenges and pitfalls posed by constituents and/or developers expecting their local elected representatives to have a provisional view on a major planning application proposal within their locality.

Decision

- (a) noted the established guidance and Committee procedures set out in the report; and
- (b) agreed to receive regular reports regarding any formal pre-application consultations by prospective applicants.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.9	Pre-Application Consultation: Proposed Residential Development at Land East of Lawfield Road and North of Ash Grove, Mayfield (17/00296/PAC)	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, by the Head of Communities and Economy advising that a pre application consultation had been submitted regarding a proposed residential development at land to the east of Lawfield Road and to the north of Ash Grove, Mayfield (17/00296/PAC).

The report advised that in accordance with the pre-application consultation procedures noted by the Committee at its meeting today (paragraph 5.8 above refers) the pre application consultation was being reported to Committee to enable Members to express a provisional 'without prejudice' view on the proposed major development. The report outlined the proposal, identified the key development plan policies and material considerations and stated a provisional without prejudice planning view regarding the principle of development for the Committee's consideration.

Summary of Discussion

Having heard from the Planning Manager, the Committee in discussing the proposals questioned the ability of local infrastructure to support a residential development at this location, in particular the ability of the local road network to adequately support the additional traffic movements likely to be generated; access to the site itself; pressure on health facilities and education; and also the loss of countryside, the site being designated in both the existing and emerging Local Plans as countryside.

Decision

- (a) To note the provisional planning position set out in the report;
- (b) To note the comments made by Members; and
- (c) To note that the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.10	Application for Planning Permission in Principle (13/00780/PPP) for the Erection of 60 Dwellinghouses; Erection of Warehouse; Extension to Existing Petrol Filling Station Kiosk and Associated Works at Land at Fordel, Dalkeith	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 1 of the Appendix to the Minutes of 27 May 2014, there was submitted report, dated 23 May 2017, by the Head of Communities and Economy providing an update with regards to the above application.

The report reminded Members that the Committee had previously agreed to grant planning permission in principle, subject to suitable conditions, and the prior signing of a legal agreement to secure developer contributions towards essential infrastructure and the provision of affordable housing. Following the agreement of Heads of Terms with the applicants a draft legal agreement had been prepared, however despite repeated attempts it unfortunately remained unsigned by the applicants and as a consequence planning permission had not yet been issued.

Summary of Discussion

Having heard from the Planning Manager, the Committee discussed the need to progress the legal agreement given the clear directions from Scottish Ministers to Councils to resolve legacy cases (Planning applications which remain undetermined after more than a year).

Decision

- (a) Agreed that unless there was a satisfactory planning obligation completed and registered by 6 September 2017 then the application be refused due to the absence of the required planning obligation to meet the needs and consequences of the proposed residential development and as such the development would be contrary to policies IMP1, IMP2 and HOUS4 of the Midlothian Local Development Plan 2008 and Policies IMP1,IMP2 and DEV3 of the Proposed Midlothian Local Development Plan; and
- (b) Agreed that the Committee be kept informed of progress and advised of the final outcome in respect of this application.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.11	Application for Planning Permission (16/00712/PPP) for the Residential Development of Land at Dalhousie Dairy, Bonnyrigg	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 25 May 2017, by the Head of Communities and Economy concerning the above application.

The report advised that an appeal against the non determination of the planning application within the statutory time period (4 months) had been lodged by the applicants and set out the Council's proposed case at appeal.

Summary of Discussion

The Committee, having heard from the Planning Manager, discussed the actions of the applicants in appealing the application to the Scottish Minister, which after the encouragingly responsive approach they had earlier demonstrated with regards to the proposed access arrangements to the site, was considered disappointing. The status of the site in terms of it being an allocated housing site in the emerging Midlothian Local Development Plan was acknowledged. However it was felt that there were still a number of issues that required to be resolved before any further development could proceed, not the least of which was the provision for education. Other matters include the need to address the impact on health and social care services, the possible provision of a roundabout at the main access point onto the B6392, and also design/ layout issues arising from the submitted Masterplan.

Decision

- (a) That 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.

Action
Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.12	Application for Planning Permission (16/00809/DPP) for the Erection of 11 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.	Peter Arnsdorf

Executive Summary of Report
There was submitted report, dated 23 May 2017, by the Head of Communities and Economy concerning the above application.

Summary of Discussion
Having heard from the Planning Manager, the Committee discussed the proposed development in particular consideration was given to the proposed roof design, the positioning, scale and height of the proposed flatted block; the potential impact of any overspill on-street car parking on the adjoining road network; the ability of service and emergency vehicles to access the site through the proposed access pend, the safety of the access arrangements and whether or not there was sufficient garden ground. Members were not necessarily opposed to the redevelopment of the site, however they did feel that the current scheme would result in an overdevelopment of the site to the detriment of the character and amenity of the neighbouring area.

Decision
The Committee agreed that planning permission be refused for the following reasons:

1. The proposed development by means of: the number of residential units proposed, the massing and bulk of the flatted block, the below policy standard of the gardens sizes of the dwellinghouses and the design of the flatted block, results in an overdevelopment of the site to the detriment of the character of the area and the amenity of neighbours and future occupants of the proposed dwellinghouses contrary to policy RP20 of the Midlothian Local Development Plan (2008) and policy DEV2 of the Proposed Midlothian Local Development Plan.
2. The size, form and design of the proposed flatted block in terms of its: three storey height, massing and bulk and flat roof, conflicts with the two storey pitched roof style of nearby buildings to the detriment of the character and amenity of the area contrary to policies RP20 and HOUS3 of the Midlothian Local Development Plan (2008) and policy DEV2 of the Proposed Midlothian Local Development Plan.
3. The gardens of the proposed dwellinghouses are below the required spatial standard, as set out by policy, to the detriment of the amenity of the future occupants of the dwellinghouses contrary to policy DP2 of the Midlothian Local Development Plan (2008).
4. The proposed developments design in terms of a vehicular access via a pend, with reduced visibility, would increase the risk of an accident as vehicles enter and exit the site.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.13	Application for Planning Permission (16/00727/DPP) for the Erection of 9 Dwellinghouses; Formation of New Access Road and Car Parking and Associated Works at Land West of the Laird and Dog Hotel, High Street, Lasswade.	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, by the Head of Communities and Economy concerning the above application.

Summary of Discussion

Having heard from the Planning Manager, the Committee discussed the potential impact that the proposed development would have on the neighbouring area. Concerns were expressed regarding the height and size of the proposed building, the number and design of the units, and the access arrangements both during construction and in the longer term.

Decision

The Committee agreed that planning permission be refused for the following reasons:

1. The proposed development by means of: the number of residential units proposed, the massing and bulk of the residential units, the juxtaposition between the residential units and the design of the residential units, results in an overdevelopment of the site to the detriment of the character of the area contrary to policy RP20 of the Midlothian Local Development Plan (2008) and policy DEV2 of the Proposed Midlothian Local Development Plan.
2. The size, form and design of the proposed residential units in terms of their: three storey height, massing and bulk, flat roofs, use of contemporary materials and uniformity, conflicts with the traditional style of nearby buildings, the irregular roofscape and height of nearby buildings and irregular street pattern to the detriment of the conservation area contrary to policies RP22 and DP5 of the Midlothian Local Development Plan (2008) and policy ENV19 of the Proposed Midlothian Local Development Plan.
3. The proposed development would result in an increased use of an access which does not meet the required visibility standards and as such would increase the risk of an accident as vehicles enter and exit the site to join the High Street as it weaves its way through Lasswade with a high volumes of users. This detriment to highway safety will increase during the construction of the proposed residential development.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.14	Application for Planning Permission (17/00219/DPP) for the Partial Change of Use of Land and Buildings for Wedding Events (Part Retrospective) at 32A Damhead, Lothianburn.	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 23 May 2017, by the Head of Communities and Economy concerning the above application.

Summary of Discussion

Having heard from the Planning Manager, the Committee acknowledged that the application had generated considerable comments both in support of, and opposition to, the proposals and that before taking a decision there would be merit in visiting the site.

Decision

The Committee agreed to continue consideration of the application to allow a site inspection visit to take place.

Action

Head of Communities and Economy/Democratic Services

Adjournment and Reconvention

At this point (3.28pm) the Committee adjourned for a short break to allow Members time to read the additional tabled report. When the meeting resumed at 3.40pm the following Members were in attendance:-

Councillors Imrie (Chair), Alexander, Baird, Cassidy, Curran, Hackett, Johnstone, Lay-Douglas, McCall, Milligan, Montgomery, Muirhead, Munro, Parry, Russell, Smaill and Winchester.

Agenda No	Report Title	Presented by:
5.15	Application for Planning Permission (16/00727/DPP) for the Erection of 3 Office/Laboratory Buildings; Formation of Access Roads and Car Parking; and Associated Works at Edinburgh Technopole, Bush Farm Road, Roslin.	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 5 June 2017, by the Head of Communities and Economy concerning the above application.

Summary of Discussion

Having heard from the Planning Manager, the Committee discussed the proposals and the importance of the Bush site as a major centre for academic teaching and research/business/commercial uses based around the life sciences. As the proposals accorded with the relevant provisions of the current and emerging MLDP, and given the economic development importance of the site, Members were of the view that there appeared to be no compelling reason not to approve the application. The fact that Transport Scotland had objected was a matter of some regret, however the need to address transport issues in the area was well documented and in light of the importance of the Bush, a phased programme of works to address essential road infrastructure needs was urgently required. In this regards, it was felt that an early all party meeting with the appropriate Ministers should be sought.

Decision

The Committee thereby agreed that planning permission be granted for the following reason:

By virtue of its scale, location, design and use the proposal complies with policies RP1, RP2, RP3, IMP1 and IMP2 of the Midlothian Local Plan and policies STRAT1, ECON2, IMP1 and IMP2 of the Proposed Midlothian Local Development Plan 2014.

subject to:

- (a) Referral of the application to Scottish Ministers; and
- (b) The prior signing of a legal agreement to secure the provision of developer contributions towards A701 Relief Road and A702 Link; and A701 public transport, walking and cycling improvements. The legal agreement shall be concluded prior to the issuing of the planning permission. The applicants will be given a 6 month time period to work with Midlothian Council to conclude the agreement with the sanction of the Council potentially refusing permission if the applicant does not conclude the agreement; and
- (c) A schedule of conditions which will be agreed with the Chair of the Planning Committee.

It was further agreed that an all party meeting with the appropriate Ministers should be sought as a matter of urgency.

Action

Head of Communities and Economy

The meeting terminated at 3.51pm.



PROPOSED REVISION OF THE COUNCIL'S SCHEME OF DELEGATION FOR THE DETERMINATION OF PLANNING APPLICATIONS

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 This report advises Members of the Council's scheme of delegation with regard the determination of planning applications and seeks Committee approval for an amended scheme of delegation for planning matters, under which specific types of planning applications are delegated to the appointed officer to determine.
- 1.2 Following a Planning Service Review the Development Management and Planning Policy and Environment teams have been conjoined into a single Planning team with a new structure being implemented from March 2016. As part of the new structure, roles and responsibilities and associated job titles have changed. As a consequence the approved scheme of delegation needs to be updated to identify the correct appointed officers who are delegated to determine applications.
- 1.3 The proposed updating of the scheme of delegation does not change which applications Elected Members delegate to officers to determine.
- 1.4 Additional minor amendments are also proposed to improve the clarity of the scheme for applicants and other interested parties.

2 BACKGROUND

- 2.1 Planning authorities use powers of delegation so that certain decisions can be taken by officials instead of being considered by Elected Members. Delegation to officials is an important means of adding efficiency to administrative processes and the Scottish Government wants to encourage an appropriate level of delegation to officials to support the role of the planning system in increasing sustainable economic growth.
- 2.2 The current scheme of delegation for the determination of planning applications was agreed by the Council at its meeting of 24 September 2013 and referred to the Scottish Ministers' for approval. This approval was subsequently granted and is in accordance with The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 (*hereafter referred to as the regulations*). The regulations came into effect on 30 June 2013.
- 2.2 The regulations require the planning authority to prepare a scheme of delegation at intervals of no greater than every five years.

3 PROCEDURES

- 3.1 Prior to the adoption of an amended scheme, the scheme must be approved by the Scottish Ministers.
- 3.2 The proposed amendment to the scheme of delegation does not affect the procedure where a Member can 'call in' an application in their Ward to be determined by the Committee within a month of an application being validated or within 5 working days of an application being circulated prior to determination under the 'Information to Members' procedure outlined in Appendix 2 of the scheme.
- 3.3 The proposed revised scheme showing proposed amendments is attached as Appendix A. If ultimately approved by the Scottish Ministers, there may need to be consequential amendments to the Council's Standing Orders and Scheme of Administration for approval by Council.

4 RECOMMENDATION

- 4.1 It is recommended that Committee:
 - i) approves the amended 'Revised Scheme of Delegation for the Determination of Planning Applications for Planning Permission' as set out at Appendix A of this report; and
 - ii) agrees that this amended 'Revised Scheme' be formally submitted to Scottish Ministers for approval.

Ian Johnson
Head of Communities and Economy

Date: 8 August 2017
Contact Person: Peter Arnsdorf, Planning Manager
peter.arnsdorf@midlothian.gov.uk
Tel No: 0131 271 3310

Background Papers: a) the Town and Country Planning (Scotland) Act 1997 as amended b) Planning Etc. (Scotland) Act 2006, and c) Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

Scheme of Delegation for the Determination of Applications for Planning Permission: Prepared in Accordance with the Provisions of the Planning Etc. (Scotland) Act 2006 and The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013.

Part A.

The following applications for planning permission shall be determined by the Planning Committee of the Council:

- i. any application for planning permission in principle (PPP) and for detailed planning permission (DPP) which comprises a 'National Development' or a 'Major Development' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 [\(or any subsequent or replacement regulations\)](#);

A copy of the schedule in those Regulations which lists those developments which are classed as major comprises the Appendix to this scheme of delegation.

- ii. any application that the appointed officer is minded to approve under the terms of this scheme of delegation but which is the subject of an extant objection from a statutory consultee that would result in referral of the application to Scottish Ministers under the provisions of Circular 3/2009, Notification of Planning Applications [\(or any subsequent or replacement guidance with regard the notification of planning applications\)](#);
- iii. any application that the appointed officer is minded to approve under the terms of this scheme of delegation but which would constitute a significant departure from the provision of the Council's Development Plan; and
- iv. any application which would normally be determined by the appointed officer under the terms of this scheme of delegation but which has been the subject of notification that it is to be determined by the Planning Committee of the Council: such notification to be made in writing within one month of the date of validation of the application (except where the provisions of Annex 2 apply) and to be known as 'Notification of Member Referral': such notification shall only be valid if submitted by a Member in whose Ward the application site lies in whole or in part, and includes a statement of the reasons in planning terms for the notification.

Part B.

The following applications for planning permission shall be delegated for determination by the appointed officer of the Council. The appointed officer of the Council is the officer appointed in terms of Section 17 of the Planning etc (Scotland) Act 2006 (Section 43A (1) of the Town and Country Planning (Scotland) Act 1997), as a person holding the position of Director Education, Communities and Economy, Head of Communities & Economy, Planning and Development, Development Management Manager, Principal Planning Officer or Senior Planning Officer Planning Manager, Lead Officer Local Developments, Lead Officer Major Applications and Enforcement, Lead Officer Planning Obligations, Lead Officer Conservation and Environment and Lead Officer Development Plans.

- i. any application which does not fall within any of the categories comprising Part A of this scheme of delegation;
- ii. any application for development not defined as a 'Local Major Development' in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 (or any subsequent or replacement regulations);
- iii. any application to vary or amend a condition on an extant planning permission; and
- iv. any application to vary an extant planning permission.

SCHEDULE OF MAJOR DEVELOPMENTS

*Description of Development**Threshold or criterion***1. Schedule 1 development**

Development of a description mentioned in Schedule 1 to the Environmental Impact Assessment (Scotland) Regulations 1999 (3) (other than exempt development within the meaning of those Regulations).

All Development.

2. Housing

Construction of buildings, structures or erections for use as residential accommodation.

(a) The development comprises 50 or more dwellings; or
(b) The area of the site is or exceeds 2 hectares.

3. Business & General Industry, Storage and Distribution

Construction of a building, structure or other erection for use for any of the following purposes-

- (a) as an office;
- (b) for research and development of products or processes;
- (c) for any industrial process; or
- (d) for use for storage or as a distribution centre.

(a) The gross floor space of the building, structure or other erection is or exceeds 10,000 square metres; or

(b) The area of the site is or exceeds 2 hectares.

4. Electricity Generation

Construction of an electricity generating station.

The capacity of the generating station is or exceeds 20 megawatts.

5. Waste Management Facilities

Construction of facilities for use for the purpose of waste management or disposal.

The capacity of the facility is or exceeds 25,000 tonnes per annum.

In relation to facilities for use for the purpose of sludge treatment, a capacity to treat more than 50 tonnes (wet weight) per day of residual sludge.

6. Transport and Infrastructure Projects

Construction of new or replacement roads, railways, tramways, waterways, aqueducts or pipelines.

The length of the road, railway, tramway waterway, aqueduct or pipeline exceeds 8 kilometres.

7. Fish Farming

The placing or assembly of equipment for the purpose of fish farming within the meaning of section 26(6) of the Act.

The surface of water covered is or exceeds 2 hectares.

8. Minerals

Extraction of minerals

The area of the site is or exceeds 2 hectares

9. Other Developments

Any development not falling wholly within any single class of development described in paragraphs 1 to 8 above

(a) The gross floor space of any building, structure or erection constructed as a result of such development is or exceeds 5,000 square metres; or
(b) The area of the site is or exceeds 2 hectare

Annex 1: Decisions and Determinations on Other Matters

The Planning Committee shall be required to consider and determine:-

- i) the making of a Tree Preservation Order;
- ii) confirmation of a Provisional Tree Preservation Order; and
- iii) the formal reporting of planning enforcement matters to the Procurator Fiscal.

The following matters are delegated to the appointed officer:-

- i) the serving of a Provisional Tree Preservation Order;
- ii) the investigation of formal planning enforcement proceedings through the issuing of enforcement notices, stop notices, temporary stop notices, fixed penalty notices, planning contravention notices and Section 179 (amenity) notices;
- iii) determination of any application for a certificate of lawful development;
- iv) determination of any application for listed building consent;
- v) determination of any application for conservation area consent;
- vi) determination of any application for [express](#) advertisement consent;
- vii) determination of any application to carry out works to trees;
- viii) [discharge and modifications to Planning Obligations;](#)
- ix) [applications made under Section 42 of the Town and Country Planning \(Scotland\) Act 1997 as amended;](#)
- x) [Environmental Impact Assessment \(EIA\) Screening and Scoping requests;](#)
- xi) [applications/consents made under Section 36 and 37 of the Electricity Act 1989;](#)
- xii) [Matters Specified in Conditions applications;](#)
- xiii) [Planning Certificate applications made under Section 50 of the Licensing \(Scotland\) Act 2005;](#)
- xiv) [determination of prior notification applications;](#)
- xv) [determination of non material variations to applications; and](#)
- xvi) [the discharge of planning conditions](#)

Annex 2: Information to Members

Applications for planning permission which fall to be determined under Part B of the Scheme of Delegation (i.e. are delegated for determination by officers), and to which any of the following criteria are relevant will be drawn to the attention of Members:-

- i) the application has attracted ten or more written objections from individual households or other premises; or
- ii) the application is the subject of formal written objection from a community council within whose area the application site lies either in whole or in part; or
- iii) the application seeks to vary a planning permission originally granted by the Planning Committee; or
- iv) where the appointed officer recommends that the application be approved the application can only be approved subject to the requirement for a legal planning obligation agreement.

Information will be provided to all Members no later than five working days prior to the date of formal determination, thereby providing the opportunity for a local Ward Member to consider submission of a formal 'Notification of Member Referral' in accordance with Part A viiiiv) of the Scheme of Delegation. For the avoidance of doubt the time limit period for notification specified in Part A viiiiv) will not apply in cases notified under the provisions of this Annex.

Local Ward Members will be informed of any formal planning enforcement proceedings which have been undertaken within their respective Wards: such proceedings being the issuing of an Enforcement Notice, a Stop Notice, a Temporary Stop Notice, a Breach of Condition Notice, a Fixed Penalty Notice or a Section 179 (amenity) Notice.

Unless otherwise specified all communications to Members under the terms of this Annex shall be by email.

Annex 3: Representations Received on Planning Applications

A representation on a planning application shall only be competent if it comprises a written submission in the form of either a letter or an e-mail. In the case of a letter the correspondent will require to include their name, full address and signature. In the case of an e-mail a name and full address will be required.

~~Any representations which may be received after the following dates will not be taken into account in the assessment and determination of planning applications:-~~

- ~~i. In the case of planning applications which are to be reported to the Planning Committee, 5.00 p.m. on the Monday of the week preceding the meeting of the Committee; where that day is a public holiday then the deadline will be 5.00 p.m. on the immediate preceding working day. This deadline also applies where the Committee defers determination of an application to a later date.~~
- ~~ii. In the case of applications due for approval under delegated powers subject to a legal agreement, the day that notice is given to Members advising that the application is to be approved subject to the signing of a legal agreement.~~

Planning applications are determined in accordance with the Town and Country Planning (Scotland) Act 1997 as amended (*hereafter referred to as the Act*) and associated regulations and Scottish Government advice in particular the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (*hereafter referred to as the Regulations*).

The Act requires the planning authority to “take into account any representations relating to that application which are received by them before the expiry of any period prescribed” by the Act and Regulations (21 days for notifications and 14 days for consultations). Furthermore, the Act states “no such application shall be determined until after the expiry of any period which may be so prescribed”. (*The notification and consultation requirements vary for listed building consent applications, advertisement consent applications and applications to modify or discharge a planning obligation*).

It is Midlothian’s practice to consider any representations received prior to the final drafting of an applications ‘report of handling’ which is either the Committee report or the delegated officer’s report which sets out the planning assessment of the application. This in effect means that representations received after the prescribed period are considered if the officer’s assessment of the application has not been concluded. Representations received after the publication of the Committee agenda, but before the meeting of the Committee, are assessed and if appropriate the Committee are verbally updated at the meeting. The Committee (the decision maker) has the discretion to decide if they wish to consider ‘late’ representations received after the prescribed period. It is expected that it will wish to do so where the representation is material and could affect the planning assessment of the application. This would be consistent with the planning authority’s statutory duty to take into account all considerations which are both material and relevant to the application known at the time. In

exceptional circumstances, this may mean that officers recommend that an application be deferred to a future meeting pending further detailed assessment. If deadlines for the submission of late representations are strictly adhered to there is a risk that the planning authority would be failing in its duty to consider all relevant material considerations.



MAJOR DEVELOPMENTS: APPLICATIONS CURRENTLY BEING ASSESSED AND OTHER DEVELOPMENTS AT PRE-APPLICATION CONSULTATION STAGE

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 This report updates the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.

2 BACKGROUND

- 2.1 A major application is defined by regulations and constitutes proposed developments over a specified size. For example; a development comprising 50 or more dwellings, a business/industry use with a gross floor space exceeding 10,000 square metres, a retail development with a gross floor space exceeding 5,000 square metres and sites exceeding 2 hectares. A major application (with the exception of a Section 42 application to amend a previous grant of planning permission) cannot be submitted to the planning authority for determination without undertaking a formal pre application consultation (PAC) with local communities.
- 2.2 At its meeting of 8 June 2010 the Planning Committee instructed that it be provided with updated information on the procedural progress of major applications on a regular basis.
- 2.3 The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants is outlined in Appendices A and B attached to this report.

3 PREMATURE APPLICATIONS

- 3.1 A consequence of the Midlothian Local Development Plan: Proposed Plan being at an advanced stage is premature planning applications being submitted by a number of applicants on a number of sites. These are identified in Appendix A by the statement "Subject to progress on Midlothian Local Development Plan" and relate to sites which are not currently allocated for development in the adopted 2008 Midlothian Local Plan but are proposed in the Midlothian Local

Development Plan (MLDP). These sites are subject to representations from local communities and interested parties and are subject to examination by Scottish Government Reporters. The Reporters findings were published on 10 July 2017 and will be reported to Council in September 2017.

- 3.2 In the interests of fairness and transparency it is proposed not normally to report these applications to Committee until the proposed MLDP has progressed through the examination process and the Council has adopted the plan, unless the Committee wish to consider an application in advance of the adoption of the MLDP or there are extenuating circumstances. At its meeting in January 2016 the Committee expressed a preference to determine those applications where there is a risk that applicants may appeal against non determination, an option open to applicants if an application is not determined within the set timeframe (four months from the date of validation for a major application) or an agreed extended time period.
- 3.3 If an appeal against non determination is submitted it would be determined by Scottish Ministers after consideration of relevant planning policies and other material considerations. Paramount in the consideration would be the potential for an application to undermine the development plan process if considered in advance of the adoption of the MLDP and whether Midlothian has a sufficient housing land supply as defined in Scottish Government Planning Policy.

4 RECOMMENDATION

- 4.1 The Committee is recommended to note the major planning application proposals which are likely to be considered by the Committee in 2017 and 2018 and the updates for each of the applications.

Ian Johnson
Head of Communities and Economy

Date: 8 August 2017
Contact Person: Peter Arnsdorf, Planning Manager
peter.arnsdorf@midlothian.gov.uk
Tel No: 0131 271 3310

Background Papers: Planning Committee Report entitled 'Major Developments: Applications currently being assessed and other developments at Pre-Application Consultation stage' 8 June 2010.

APPENDIX A

MAJOR APPLICATIONS CURRENTLY BEING ASSESSED

Ref	Location	Proposal	Expected date of reporting to Committee	Comment
14/00910/PPP	Land at Cauldcoats, Dalkeith	Application for Planning Permission in Principle for residential development, erection of a primary school and mixed use developments. The site is identified for an indicative 350 residential units as a phase 1 with longer term safeguarding for a phase 2.	Subject to progress on Midlothian Local Development Plan See comment	Pre-Application Consultation (14/00553/PAC) carried out by the applicants in October/November 2014. This application is held in abeyance because of a landownership certification issue which means the application cannot be determined. The applicant is endeavouring to resolve the issue. Once resolved the application will be assessed and reported to Committee.
16/00134/DPP	Land north of Oak Place, Mayfield	Erection of 169 dwellinghouses, 30 flatted dwellings and associated works	See comment	Pre-Application Consultation (13/00522/PAC) carried out by the applicants in August/September 2013. This application has been significantly amended during its assessment and as such a new planning application is required.
16/00861/DPP	Land west of Corby Craig Crescent Seafield Moor Road, Bilston	Erection of 176 dwellinghouses, 36 flatted dwellings and associated works	Subject to progress on Midlothian Local Development Plan October 2017	Pre-Application Consultation (15/00936/PAC) carried out by the applicants in November and December 2015 and January 2016.
16/00893/PPP	Land At Salter's Park, Dalkeith	Application for Planning Permission in Principle for residential development, employment uses and associated works	Subject to progress on Midlothian Local Development Plan October 2017	Pre-Application Consultation (14/00833/PAC) carried out by the applicants in November and December 2014 and January 2015.
17/00068/DPP	Land Between Deanburn and Mauricewood Road Penicuik	Erection of 552 residential units; formation of access roads, SUDs features and associated works	October 2017	Pre-Application Consultation (15/00987/PAC) carried out by the applicants in February/March 2016. This application will supersede applications 05/00784/FUL, 06/00474/OUT and 06/00475/FUL which are for residential development across the site. The applicant will withdraw

				these applications as and when permission has been granted for this application.
17/00273/S42	Land between Loanhead Road and Edgefield Industrial Estate Loanhead	Section 42 application to amend condition 1 of planning permission in principle 09/00354/OUT – this would secure the delivery of 92 dwellinghouses	October 2017	Condition 1 of planning permission 09/00354/OUT relates to the time period to implement the permission and to submit subsequent Matters Specified in Conditions (MSC) applications to seek approval for the details of the scheme. This application replaces application 16/00800/S42
17/00298/PPP	Land north of Dalhousie Dairy Bonnyrigg	Application for Planning Permission in Principle for residential development. The site is identified for an indicative 300 residential units.	October 2017	Pre-Application Consultation (16/00157/PAC and 16/00161/PAC) carried out by the applicants in March/April 2016. This application is a repeat application of 16/00712/PPP submitted to continue negotiations with the Planning Authority whilst the appeal against 16/00712/PPP is being considered. Application 16/00712/PPP was reported to Committee at its meeting in June 2017.
17/00409/DPP	Land at Wellington Farm, Old Craighall Road, Millerhill	Erection of 116 residential units; formation of access roads, SUDs features and associated works	Subject to progress on Midlothian Local Development Plan November 2017	Pre-Application Consultation (14/00415/PAC) carried out by the applicants in June - September 2014.
17/00408/DPP	Land at Old Craighall Road, Millerhill	Erection of 125 residential units; formation of access roads, SUDs features and associated works	Subject to progress on Midlothian Local Development Plan November 2017	Pre-Application Consultation (14/00415/PAC) carried out by the applicants in June - September 2014.
17/00435/DPP	Land at Newbyres Site B, River Gore Road, Gorebridge	Erection of 125 residential units; formation of access roads, SUDS features and associated works	November 2017	Pre-Application Consultation (13/00609/PAC) carried out by the applicants in August - November 2013.

APPENDIX B

NOTICE OF PRE-APPLICATION CONSULTATIONS RECEIVED AND NO APPLICATION HAS BEEN SUBMITTED

Ref	Location	Proposal	Date of receipt of PAC	Earliest date for receipt of planning application and current position
15/00774/PAC	Site Hs14, Rosewell North, Rosewell	Residential development The site is identified for an indicative 60 residential units.	22 September 2015	15/12/15 - no application yet received. A pre-application report was reported to the November 2015 meeting of the Committee.
16/00266/PAC	Land At Rosslynlee Hospital Roslin	Residential development The site is identified as an additional housing opportunity with an indicative 120 - 300 residential units.	08 April 2016	04/07/16 - no application yet received. A pre-application report was reported to the May 2016 meeting of the Committee.
16/00267/PAC	Land At Rosslynlee Hospital Roslin	Residential development - change of use, alterations, extensions and partial demolition of the former hospital, including new build development. The site is identified as an additional housing opportunity with an indicative 120 - 300 residential units.	08 April 2016	04/07/16 - no application yet received. A pre-application report was reported to the May 2016 meeting of the Committee.
16/00830/PAC	Land east of junction with Greenhall Road Barleyknowe Road Gorebridge	Residential development This site is not allocated for housing	24 November 2016	10/02/17 - no application yet received. A pre-application report was reported to the January 2017 meeting of the Committee.
17/00296/PAC	Land to the east of Lawfield Road and to the north of Ash Grove, Mayfield	Residential development This site is not allocated for housing	19 April 2017	06/07/17 - no application yet received. A pre-application report was reported to the June 2017 meeting of the Committee.
17/00339/PAC	Easter Bush Campus, Bush Farm Road, Roslin	Installation of sustainable urban drainage system (SUDS) and foul water drainage system	1 May 2017	26/07/17 - This pre application is reported to this meeting of the Committee .

17/00367/PAC	Site Hs12 Hopefield Farm 2 Bonnyrigg	Residential development The site is identified for an indicative 375 residential units.	9 May 2017	02/08/17 - This pre application is reported to this meeting of the Committee.
17/00402/PAC	Site Hs11 Dalhousie South Bonnyrigg	Residential development The site is identified for an indicative 360 residential units.	19 May 2017	12/08/17 - This pre application is reported to this meeting of the Committee.
17/00565/PAC	Land south west of Upper Dalhousie Sand Quarry, Rosewell	Extension to existing sand quarry	13 July 2017	06/10/17 - This pre application is reported to this meeting of the Committee.
17/00606/PAC	Land south east of Auchendinny, The Brae Auchendinny	Residential development The site is identified for an indicative 350 residential units.	27 July 2017	20/10/17 -



APPEALS AND LOCAL REVIEW BODY DECISIONS

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 This report informs the Committee of notices of reviews determined by the Local Review Body (LRB) at its meeting in June 2017; and three appeal decisions received from Scottish Ministers.

2 BACKGROUND

- 2.1 The Council's LRB considers reviews requested by applicants for planning permission, who wish to challenge the decision of planning officers acting under delegated powers to refuse the application or to impose conditions on a grant of planning permission.
- 2.2 The decision of the LRB on any review is final, and can only be challenged through the Courts on procedural grounds.
- 2.3 Decisions of the LRB are reported for information to this Committee.
- 2.4 In addition, this report includes a decision on appeal which has been considered by Scottish Ministers.

3 PREVIOUS REVIEWS DETERMINED BY THE LRB

- 3.1 At its meeting on 13 June 2017 the LRB made the following decisions:

	Planning Application Reference	Site Address	Proposed Development	LRB Decision
1	17/00081/DPP	31 Broomhill Avenue, Penicuik	Extension to dwellinghouse	Permission granted at LRB meeting of 13.06.2017
2	17/00096/DPP	Rosehill, 27 Park Road, Dalkeith	Extension to building and alteration to wall	Permission granted at LRB meeting of 13.06.2017

4 APPEAL DECISIONS

- 4.1 An appeal against a refusal of planning permission for the erection of a retail unit and associated works at land south west of Tesco superstore, Dalkeith has been dismissed. The Reporter appointed by the Scottish Ministers concluded that the proposed development would conflict with policies relating to retail development and landscaping. A copy of the appeal decision accompanies this report.
- 4.2 An appeal against a refusal of listed building consent to remove a 'personal' condition from a grant of consent for the erection of a conservatory at West House, Crichton house, Laird's Entry, Crichton, Pathhead has been upheld and consent granted. The Reporter appointed by the Scottish Ministers concluded that the conservatory attached to the listed building did not detract from the building to a significant degree to justify its removal once the ownership of the property had changed as required by condition 6 of the original grant of listed building consent. A copy of the appeal decision accompanies this report.
- 4.3 An appeal against a refusal of listed building consent for the erection of an extension to building and alterations to wall at Rosehill, 27 Park Road, Dalkeith has been upheld and consent granted. The Reporter appointed by the Scottish Ministers concluded that the extension and alterations to the wall would have a neutral impact on the listed building and would not be detrimental to the Conservation Area and as such is acceptable. A copy of the appeal decision accompanies this report. The associated planning permission was granted by the LRB at its meeting of 13 June 2017.

5 RECOMMENDATION

- 5.1 The Committee is recommended to note the decisions made by the Local Review Body at its meeting in June 2017 and the appeal decisions by Scottish Ministers.

Ian Johnson
Head of Communities and Economy

Date: 8 August 2017
Contact Person: Peter Arnsdorf, Planning Manager
peter.arnsdorf@midlothian.gov.uk
Tel No: 0131 271 3310

Background Papers: LRB procedures agreed on the 13 June 2017.



Decision by Padraic Thornton, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-290-2039
- Site address: Lands south-west of Tesco superstore, Dalkeith, EH22 3LD.
- Appeal by Mr Bryan Wilson (SC Dalkeith Limited) against the decision by Midlothian Council.
- Application for planning permission 16/00618/DPP dated 8 September 2016 refused by notice dated 12 January 2017.
- The development proposed: Erection of retail unit, formation of access and car parking.
- Date of site visit by Reporter: 14 June 2017

Date of appeal decision: 13 July 2017

Decision

I dismiss the appeal and refuse planning permission.

Reasoning

1. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise.
2. Having regard to the provisions of the development plan the main issues in this appeal are whether or not the development complies with policies in relation to retail development, and in relation to landscape including trees.
3. The proposal is to construct a single storey retail unit with a gross floor area of 1630 sq. metres on a site of a little over half a hectare a short distance to the south-east of the roundabout at the junction of the A7 and the A6094 (Eskbank/Bonnyrigg Road). Eighty car parking spaces would be provided to the north-west of the proposed building. The building and the car parking would be located in close proximity to the boundary with the A7 which runs in a cutting along the south-west side of the site. There is a large Tesco store with extensive car parking facilities located a short distance away to the north-east.
4. The current development plan for the area comprises of the Strategic Development Plan for Edinburgh and South East Scotland 2013 (SESPlan) and the Midlothian Local Plan 2008. The proposed Midlothian Local Development Plan 2014 is currently with the Scottish Ministers for examination.



Retail policy issues:

5. Policy 3 of the SESPlan sets the strategic context for the retail policies of the local plan. Planning authorities are required to identify town and commercial centres and clearly define their roles. They are also required to support and promote the network of centres identified in a table which contains a hierarchy of centres scaling down from Edinburgh City Centre. Planning authorities are required to promote a sequential approach to the selection of locations for retail proposals and justify any exceptions to this identified in the development plan. The policy relates mainly to development plan provisions and is not directly relevant to consideration of the current application. It does, however, require the adoption of a sequential approach to the choice of retail locations.

6. Paragraph 3.5.5 of the 2008 local plan identifies Midlothian's strategic town centres as Dalkeith, Penicuik and Bonnyrigg. It is stated that shopping policies 2, 4 and 5 are designed to encourage the development of major retail proposals within or on the edge of these town centres. Where no alternative sites are available in these centres major retail development is supported in Straiton Retail Park subject to various criteria. It is stated that major retail proposals will only be considered outside these town centres where it can be shown that there are no suitable sites in the centre and that various criteria can be met. Paragraph 3.5.3 of the plan states that the council was promoting an initiative aimed at revitalising Dalkeith town centre. A draft master plan had been prepared which would cater for around 3,700 sq. metres of retail space in a mixed use development.

7. The site of the proposed development is located within the built up area of Dalkeith but well outside the town centre as indicated on the maps contained in the 2008 local plan. It is also at a considerable distance from the identified town centre of Bonnyrigg and is on the opposite side of the A7 from Bonnyrigg. It is located on the outer edge of the built up area of Dalkeith/Eskbank.

8. Policy SHOP 5 of the current local plan sets out the policy for major retail and commercial leisure development outside strategic town centres and Straiton. It is stated, in the policy, that such development will only be permitted if there are no alternative sites available within, on the edge of or sufficiently close to form an effective extension to the town centre to accommodate the proposed development or meet the identified needs. The policy also requires that such development must satisfy a qualitative or quantitative deficiency which cannot be met within or on the edge of the town centre and the development must not individually or cumulatively undermine the vitality and viability of the existing town centres.

9. Having regard to the size and nature of the town centres of Dalkeith and Bonnyrigg I consider that the proposed development should be assessed as a major retail development although the development plan does not clearly define this. I consider accordingly that policy SHOP 5 is relevant to the proposal. In so far as a need has been identified for the development it is to curtail leakage of expenditure on comparison goods from the Midlothian area. The documentation indicates such leakage although the hierarchy of centres set out in SESPlan would indicate that the strategic plan envisages some of the expenditure being directed towards the higher order centres such as Edinburgh city centre.

10. I am not convinced that the identified need can only be met by a development such as that proposed. The sale of comparison goods does not necessarily require a very large unit with extensive car parking such as is proposed in the current application. If such was the case most town centre sites would be ruled out and the range of town centre retail outlets would be seriously limited. This would be contrary to policy in relation to the promotion and strengthening of town centres. I am not convinced that suitable outlets could not be provided in the town centre of Bonnyrigg or particularly in the larger centre of Dalkeith where I noted a number of vacant units during my inspection of the area. The appellant's calculations indicate a diversion of £1.26 million expenditure on comparison or non-food goods per year from Dalkeith which is estimated to be about 6.8% of annual non-food goods turnover in the town. I consider that the development proposed would be in conflict with policy SHOP 5 as I am not convinced that there are no sites available in the town centres to serve the need and I consider that the development would both individually, and cumulatively with the existing large Tesco store, undermine the vitality and viability of the existing town centres.

11. Policy SHOP 7 deals with the issue of the provision of neighbourhood shopping facilities. It could be argued that such neighbourhood facilities are required to serve the existing and proposed residential developments in the area. I accept the appellant's submission that the development is not designed as a neighbourhood shopping facility and in the circumstances I do not consider that policy SHOP 7 is particularly relevant to the application. The policy does not, however, give any support for the development.

12. A full Retail Impact Assessment of the proposal has not been submitted with the application. The appellant relies to a large extent on the assessment submitted with the application for an Aldi shop on the site of the former Mayshade garden centre on the north-west side of the roundabout at the A7/A6094 junction. The appellant submits that this application was supported by the planning authority. He submits that similar considerations apply in the current case. I note that the report on the Aldi application stated that the development proposed was not in conformity with development plan policy in relation to retail development. The recommendation to grant permission was based on the understanding that Class 1 use had been established on the site and a certificate of lawfulness to this effect had been issued. This was considered to be a significant material consideration. Similar considerations do not apply to the current application. I also note that the Aldi application was withdrawn and planning permission was not granted for the development proposed.

13. The Proposed Midlothian Local Development Plan 2014 is currently with Scottish Ministers for examination. This proposed plan is not part of the current development plan but it is a material consideration. Policy TCR 2 of the proposed plan deals with the location of major retail and leisure facilities. It is stated that the sequential approach will be applied to the identified town and commercial centres. (The location of the proposed development is not identified as such a centre). It is stated that the council will support a retail development at an out of centre location in the corridor from Gorebridge/Redheugh to Newtongrange. This should be primarily of a convenience nature and may be in the form of a new town centre at Redheugh. It is stated that the council does not support major retail development at any other out of centre locations. I consider that the development proposed would not be in conformity with the proposed plan. Issues relating to the overall allocation

of lands in the proposed plan for retailing purposes are ones more appropriate for consideration in the plan examination.

14. It is stated in paragraph 4.6.3 of the proposed plan that in Dalkeith the re-development of the post war buildings in the central triangle with modern shops or refurbishment of the existing buildings together with the provision of other uses, improved car parking and further residential development on the upper floors is supported. This indicates potential and need for re-development and investment in the town centre of Dalkeith. I have concluded in paragraph 10 that the proposed development would detract from the vitality and viability of existing town centres such as Dalkeith.

15. Scottish Planning Policy (SPP) promotes a town centre first policy when planning for uses which attract significant numbers of people. A sequential approach is proposed for plan making and development management. The sequential approach requires that locations are considered in order, from town centres down to out of centre locations that are, or can be made, easily accessible by a choice of transport modes. I do not interpret this as indicating that locations removed from town centres may not on occasion be considered suitable. I am not convinced however in the current case that there is a particular demonstrated need for a facility of the nature and scale proposed. In this regard it is submitted by the appellant that the proposed store operator has a similar facility in Straiton Retail Park which is only a short distance away to the north-west of Bonnyrigg. The proposal would not be in conformity with the general thrust of the SPP's promotion of town centres.

Landscape Impacts:

16. The site is located on the outer edge of the built up area and is in close proximity to areas identified in the development plan as parts of the green belt with policies for protection. This part of the green belt, which is quiet narrow to the west of the site of the proposed development, is the separation between Bonnyrigg to the south-west and Eskbank/Dalkeith to the north-east. The location, in close proximity to the green belt and countryside, as indicated in the consultation response from the landscape officer of the council, is important when considering the impact of the development on landscape and visual amenity.

17. The lands are currently open and un-developed with a relatively large group of trees in the eastern section and some tree screening along the south-western and north-western site boundaries. The proposed development would occupy almost the entire footprint of the site. The building and carpark would be located in very close proximity to the south-western boundary of the site where the site abuts the A7 which is in a cutting at this location.

18. The proposed building would have a ridge height of about 7.8 metres above floor level and the eaves level would be about 5.9 above same. The building would extend for about 50 metres along the A7 site frontage. I consider that the building would be visually very dominant in views from the A7 and from other vantage points to the west including from the road, car park and open area to the front of the Midlothian Regional Hospital which has been constructed in part of the green belt to the west of the A7. It would also be visually very dominant in views from the pedestrian/cycle path which crosses over the A7 a short

distance to the south-east of the site. I consider that the building and car park, which would be lit at night, would have the effect of significantly reducing the visual separation between Eskbank and Bonnyrigg and the development would be visually obtrusive and out of character in the landscape at this location.

19. I consider that any development on this site should be adequately landscaped in order to assimilate it into the environment. I consider that this would not be possible with the current proposal due to the size of the building and extent of car parking proposed. (I have taken account of the minor reduction in ground level proposed at the A7 roadside frontage of the proposed building in this assessment). I agree with the assessment of the council that the existing screen of trees along the A7 boundary would be unlikely to survive due to its close proximity to the development works proposed. I also noted during my site inspection that the screen is thin and low in the section of the frontage close to the pedestrian/cycle path over the A7. This would provide little screening even if it survived the development works.

20. Policy RP 7 of the development plan states that development will not be permitted where it may adversely affect the quality of the local landscape. The policy also requires that new development maintains the distinctiveness of landscape character. I consider that the development proposed would be visually dominant and discordant on the edge of the built up area, abutting the countryside and green belt. The proposal does not allow for adequate landscaping to assimilate the development into the landscape. The development would accordingly not be in conformity with policy RP 7 of the local development plan.

21. Policy RP 5 of the development plan states that development will not be permitted where it would lead directly or indirectly to the loss of or damage to woodland, groups of trees, trees and hedges which have potential amenity, nature conservation, landscape character, shelter or other value. I consider that the trees along the A7 frontage have significant amenity and landscape value due to the sensitive location at the edge of the built up area as referred to above. I consider that the proposed development would cause significant damage to the trees. I consider accordingly that the development would be in conflict with policy RP 5.

Conclusion:

22. I conclude that the proposed development would be in conflict with development plan policies relating to retail development, and to the protection of the landscape and of trees. I consider that overall the development does not accord with the provisions of the plan and there are no material considerations which would still justify granting planning permission.

Padraic Thornton

Reporter



Decision by Stephen Hall, a Reporter appointed by the Scottish Ministers

- Listed building consent appeal reference: LBA-290-2021
- Site address: West House, Crichton House, Laird's Entry, Crichton, Pathhead, Midlothian, EH37 5UX
- Appeal by Gareth Hateley against the decision by Midlothian Council
- Application for listed building consent 16/00857/LBC dated 7 December 2016 refused by notice dated 24 January 2017
- The works proposed: Removal of condition 6 attached to listed building consent 09/00498/LBC to allow the retention of conservatory
- Date of site visit by Reporter: 18 May 2017

Date of appeal decision: 8 June 2017

Decision

I allow the appeal and vary listed building consent 16/00857/LBC by deleting condition 6.

Reasoning

1. The determining issues in this appeal are the effect of the conservatory on the listed building and the ongoing justification for the original planning condition. I have also applied the duty set out in section 14(2) of the Listed Building and Conservation Areas Act to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
2. Crichton House is a category A listed building, described in the statutory listing as a 3-storey L-plan laird's house dating from around 1650, with an 18th century 2-storey wing to the west. At some point in the past the east and west wings of the building have been subdivided to form separate dwellings. A substantial hedge now separates the rear gardens of the two properties. .
3. The conservatory to which this appeal relates is attached to the rear (south-east, non-principal) elevation of the west wing. With the exception of the modern conservatory, this elevation appears to have largely retained its original form. It is faced with white harling and appears to have retained its original openings and fenestration, though it is understood that the rooflights are modern.
4. The conservatory, which was consented in 2009, is located to the right of the elevation. It is around 12 square metres in area, has a simple lean-to form, and is constructed of

white-painted timber. Its construction has required very little physical alteration to the fabric of the original house, and would, I consider, be relatively easily reversible. The glazing of the conservatory consists of large panes with relatively thick glazing bars, in contrast to the finer detailing of the original windows.

5. Policy RP24 of the Midlothian Local Plan allows for extensions to listed buildings only where their siting, scale, design, materials and detailing do not detract from the original character of the building. The Historic Environment Scotland guidance note on extensions notes that most historic buildings can be extended sensitively, but extensions should: protect the character and appearance of the building; be subordinate in scale and form; be located on a secondary elevation; and be designed in a high-quality manner using appropriate materials.

6. Applying these policy tests, I note that the conservatory is located on the secondary frontage of the subordinate and more recent part of the building. Its modest size and simple form render it a clearly subordinate feature on this elevation. The transparency of the design means that the original façade of the building remains clearly visible. It has been built using traditional materials and has had minimal impact on the physical fabric of the original building. A substantial hedge largely screens the conservatory from the garden of the east wing of the house, from which the more imposing older part of Crichton House would be viewed and appreciated.

7. The conservatory is located on a previously unaltered elevation of the house, but I do not find this fact in itself places the development in contravention of any policy. Rather, the Historic Environment Scotland guidance suggests extensions are best located on secondary frontages such as this. While I acknowledge that the detailing of the glazing bars fails to match the fenestration of the original house, overall I consider that the retention of the conservatory would not have a significant impact on the historic interest of the building. I conclude that the policy tests set out in paragraph 5 above have been met, and that the conservatory extension serves to preserve the building and its features of architectural and historic importance.

8. Circular 4/1998 relates to the use of conditions in planning permissions, but I consider it also to be of relevance to listed building consents. The appellant argues that condition 6 of the 2009 consent is contrary to the provisions of the circular due to its being unenforceable, unreasonable, not relevant to planning and ultra vires. I consider that, because conditions run with the land, and in this case condition 6 does not say who is to remove the conservatory, that condition 6 is therefore enforceable against subsequent occupiers.

9. Paragraph 92 of the circular states that personal conditions will scarcely ever be justified in the case of permanent buildings. The conservatory is of relatively lightweight construction, but it does nevertheless have the characteristics of a permanent building. I agree that it is generally unsatisfactory to require an authorised permanent structure to be removed following a change in ownership. However, the exact circumstances pertaining at the time of the 2009 application are not before me. On balance I am prepared to accept that exceptional reasons may have existed at the time to justify the unusual use of a personal condition in this case.

10. However, I have already found that the conservatory complies with the policy and statutory tests applying to extensions to listed buildings. I therefore take the view that

condition 6 of the 2009 consent is unnecessary in terms of Circular 4/1998 because it would not have been necessary to refuse the application had the condition not been imposed. For this reason I conclude that listed building consent 16/00857/LBC should be varied by the removal of condition 6.

11. I have found no evidence of discrimination or bias by the planning authority that would suggest the council may be in contravention of the Human Rights Act 1998.

Stephen Hall
Reporter



Decision by Steve Field, a Reporter appointed by the Scottish Ministers

- Listed building consent appeal reference: LBA-290-2022
- Site address: Rosehill, 27 Park Road, Dalkeith, Midlothian, EH22 3DH
- Appeal by The Society of the Sacred Heart against the decision by Midlothian Council
- Application for listed building consent 17/00092/LBC, dated 16 February 2017, refused by notice dated 13 April 2017
- The works proposed: extension to building and alteration to wall
- Application drawings: listed in the schedule at the end of this notice
- Date of site visit by Reporter: 3 July 2017

Date of appeal decision: 12 July 2017

Decision

I allow the appeal and grant listed building consent subject to the condition below. Attention is also drawn to the advisory note at the end of this notice.

Condition: prior to the commencement of development, samples of the proposed stone and slate and detailed specifications of the door, rainwater goods, rooflights and gated opening in the boundary wall shall be submitted for the consideration and written approval of the planning authority. Thereafter, the development shall take place only in accordance with any written consent provided.

Reason: in order to protect the appearance and character of the listed building and conservation area.

Reasoning

1. The determining issue in this appeal is whether the proposed extension would preserve the listed building. I am required to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
2. As Rosehill is situated in a conservation area, I am also required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
3. Rosehill is a nineteenth century, 2-storey, asymmetrical, gabled villa set back from but fronting Park Road. It is built of sandstone with a slate roof. A number of extensions



were added during the period 1984 – 2012, largely to accommodate use of the building as a care home. The building is category ‘C’ listed.

4. As well as the proposed extension, the listed building application also relates to a proposal to create a new, gated pedestrian opening in the stone wall that bounds the site to the north-west. This opening would replace an existing opening that would be closed off by the proposed extension. The detailing of this operation can be addressed by condition. This part of the proposed development has not been contested by the planning authority and, based on my observations, I agree that this aspect of the proposed development would preserve the listed building. My consideration below, therefore, focuses on the proposed extension.

5. The proposed store extension would be attached to the south-west gable of a large extension to Rosehill built in 1995 to provide care home accommodation. Considerable thought was clearly given to ensuring that the care home extension complements the key features of the original building with use of traditional materials, choice of roof pitch and skew treatments and specification of doors, windows, and rainwater goods all drawing from the design of the nineteenth century villa. The proposed extension that is the subject of this appeal would be constructed with stone walls, slate roof, rainwater goods and door and doorway treatment to match the care home extension. The design also incorporates two rooflights in the south-east elevation which are unobtrusive and small in scale. I consider these design details to be acceptable features of the proposed extension. What is at issue, therefore, is whether the location, scale and form of the proposed extension have an acceptable impact on the listed building.

6. The roof design of the proposed store extension would not follow that of the care home extension in that what is proposed is a flat roof with slated sides pitched to mirror the 1995 extension. This is a similar arrangement to that used on extensions to the north-west and south-west elevations of the original Rosehill villa. I note that these extensions were built before the building was listed but they do, nonetheless, provide part of the context for the proposed extension and, in that context, the proposed extension would not look out of place.

7. Furthermore, the scale of the proposed store extension is modest in relation to the care home extension to which it would be connected and to the building complex overall. Viewed from the car park to St David’s Church, it would be partly obscured by the existing stone wall and set against the higher and wider gable of the care home. It would not be visible in views to the principal elevation of Rosehill facing south-east onto Park Road; nor would it be visible from King’s Park to the north-east as it would be screened by the care home extension.

8. Finally, the proposed extension would be physically remote from the original part of Rosehill that attracted the category ‘C’ listing so would not detract from the architectural features of special interest referred to in the listed building designation.

9. Overall, I consider that the proposals would have a neutral impact on the listed building and would, therefore, preserve the special architectural features of the building and its setting.

10. This part of the Eskbank and Ironmills Conservation Area is characterised by large Victorian merchants' villas, of which Rosehill is one, set in extensive, well-treed gardens. Other distinct features are views to St. John's Church and across King's Park to the town centre. The small size of the proposed extension, particularly in relation to the extended Rosehill building complex, and the limited public views to the site lead me to conclude that it would preserve the appearance and character of the conservation area.

11. I have considered Midlothian Local Plan policies RP24 Listed Buildings and RP22 Conservation Areas as they relate to extensions but the policies do not alter my conclusions. I have also considered Scottish Planning Policy 2014, Historic Environment Scotland's Policy Statement, 2014 and Historic Environment Scotland's guidance on Managing Change in the Historic Environment – Extensions, 2010 and nothing in these documents leads me to a different view.

12. The reasons for refusal of the listed building consent include reference to the impact that the proposed store would have on the amenity of adjoining parts of the care home. These are matters for any appeal against the refusal of planning permission and not matters I can address through this listed building appeal.

13. I have considered all the other matters raised but there are none which would lead me to alter my conclusions.

Steve Field

Reporter

Schedule of plans

1. 2738/01/A – Existing Plan and South-west Elevation
2. 2738/04 – Proposed Plans, Elevations and Section
3. 2738/05 – Location Plan
4. 2738/06 – Block Plan
5. 2738/17 – Roof Plan of Rosehill Development

Advisory note

The length of the consent: This listed building consent will last only for three years from the date of this decision notice, unless the works have been started within that period. (See section 16 of the Planning (Listed Building and Conservation Areas) (Scotland) Act 1997 (as amended))



PRE - APPLICATION REPORT REGARDING INSTALLATION OF SUSTAINABLE URBAN DRAINAGE SYSTEM (SUDS) AND FOUL WATER DRAINAGE SYSTEM AT EASTER BUSH CAMPUS, BUSH FARM ROAD, ROSLIN (17/00339/PAC)

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre application consultation submitted regarding the installation of a sustainable urban drainage system (SUDS) and foul water drainage system at Easter Bush Campus, Bush Farm Road, Roslin (17/00339/PAC).
- 1.2 The pre application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre application consultation for the installation of a sustainable urban drainage system (SUDS) and foul water drainage system at Easter Bush Campus, Bush Farm Road, Roslin was submitted 1 May 2017.
- 2.3 As part of the pre application consultation process the applicants held a public event/drop in session at the Roslin Institute, Easter Bush Campus between 1pm and 5pm on Wednesday 7 June 2017. On the conclusion of the public event and the 12 week pre application consultation engagement period the applicant could submit a planning application for the proposal. It is anticipated that a planning application for detailed planning permission will be submitted. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with

the Commissioner's guidance reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at this meeting of the Planning Committee.

- 2.4 Copies of the pre application notices have been sent by the applicant to the Penicuik and District Community Council, the Roslin and Bilston Community Council and the Damhead and District Community Council.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The proposed development is situated on land at Easter Bush Campus which is a long-established university campus being home to several facilities relating to veterinary medicine and bioscience. Easter Bush was originally a farm steading and there are some 19th Century farm buildings remaining, although they have been converted to uses related to the campus. The main periods of development at the campus were in the 1960's and during the last 20 years. The proposed application site has an area of approximately 24 hectares.
- 3.3 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Plan (MLP), adopted in December 2008. The adopted 2008 Midlothian Local Plan (MLP) identifies the site as being in the countryside; the green belt; and the "non-conforming" land use at the Bush Estate. Any subsequent planning application will be subject to assessment against policies RP1: Protection of the Countryside; RP2: Protection of the Green Belt; and RP3: Major Non-Conforming Land Uses in the Green Belt. The development is associated with the established activity at the Bush Estate and the principle of development is therefore acceptable. However this policy position with regard the proposed development site is being superseded by the Proposed MLDP.
- 3.4 At its meeting of 16 December 2014 the Council approved the Proposed MLDP as its settled spatial strategy. The site is identified as forming part of a larger site allocated for biotechnology/knowledge-based industries. Any subsequent planning application will be subject to assessment against policy ECON2: The Bush Bioscience Cluster. The development is associated with the established activity at the Bush Estate and the principle of development is therefore acceptable. The plan was subject to Local Plan Examination and subject to consideration by a Reporter appointed by the Scottish Ministers. The Reporter's findings were published on 10 July 2017. It is anticipated that the examination findings will be reported to Council in September 2017. This is a material consideration of significant weight in the assessment of any application, if submitted prior to the adoption of the MLDP.

- 3.5 If an application is submitted either prior to, or after the adoption of the MLDP there will be a presumption in favour of the installation of a sustainable urban drainage system (SUDS) and foul water drainage system.

4. PROCEDURES

- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.
- 4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

5 RECOMMENDATION

- 5.1 It is recommended that the Committee notes:
- a) the provisional planning position set out in this report; and
 - b) that any comments made by Members will form part of the minute of the Committee meeting; and
 - c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

Ian Johnson
Head of Communities and Economy

Date: 8 August 2017
Contact Person: Graeme King, Planning Officer
Graeme.King@midlothian.gov.uk
Tel No: 0131 271 3332



PRE - APPLICATION REPORT REGARDING RESIDENTIAL DEVELOPMENT, COMMUNITY FACILITIES, PRIMARY SCHOOL, OPEN SPACE AND ASSOCIATED INFRASTRUCTURE AT SITE Hs12 HOPEFIELD FARM 2, BONNYRIGG (17/00367/PAC)

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre application consultation submitted regarding a proposed residential development; community facilities, primary school, open space and associated infrastructure on land to the west of the current Hopefield development site, Hopefield Farm, Bonnyrigg. The land comprises site Hs12 in the Midlothian Local Development Plan (MLDP) and land safeguarded for further residential development to the south west of Hs12.
- 1.2 The pre application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre application consultation for residential development; community facilities, primary school, open space and associated infrastructure on land to the west of the current Hopefield development site, Hopefield Farm, Bonnyrigg was submitted on 9 May 2017.
- 2.3 As part of the pre application consultation process the applicants have set up a Community Liaison Forum to include representatives of local Community Councils and a residents association. The applicant held a community workshop in June 2017 and they propose to host a public exhibition in late summer 2017. A date, time and venue is expected to

be arranged shortly by the applicant and the necessary notices and adverts published in advance. On the conclusion of the public event the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

- 2.4 Copies of the pre application notices have been sent by the applicant to Poltonhall and District Community Council, Hopefield Residents Association and the three local ward Members.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The proposed development is situated on land immediately to the south west of the existing Hopefield development area, in Bonnyrigg. The site is bounded by the B6392 to the south and south west, by the A6094 (Rosewell Road) to the north west and by existing and under construction housing to the north and east.
- 3.3 The applicant has indicated that they intend to submit a masterplan for the whole of the site with a phased approach to the submission of two planning applications for the site, the first being for the area to the west of the existing Hopefield development (site Hs12) and second for the area further to the west (the safeguarded land).
- 3.4 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Plan (MLP), adopted in December 2008. The adopted 2008 Midlothian Local Plan (MLP) identifies the site as being in the countryside and as prime agricultural land. Any subsequent planning application will currently be subject to assessment against policies RP1: Protection of the Countryside and RP4: Prime Agricultural Land. A provisional assessment against these policies does not support the scheme on the basis that the proposed development is not necessary for agriculture or for any other rural business. However this policy position with regard the proposed development site is being superseded by the Proposed MLDP.
- 3.5 At its meeting of 16 December 2014 the Council approved the Proposed MLDP as its settled spatial strategy. Site Hs12 is identified in the MLDP, Policy STRAT3, as a strategic housing site with an indicative capacity of 375 residential units with the potential of a further 375 residential units in the safeguarded site. The plan was subject to Local Plan Examination and subject to consideration by a Reporter appointed by the Scottish Ministers. The Reporters findings were

published on 10 July 2017. It is anticipated that the examination findings will be reported to Council in September 2017. With regard to this site the Reporter recommends that the site remains as an allocated housing site. This is a material consideration of significant weight in the assessment of any application, if submitted prior to the adoption of the MLDP.

- 3.5 If an application is submitted after the adoption of the MLDP there will be a presumption in favour of residential development subject to securing developer contributions towards infrastructure including education provision and affordable housing. A primary school is planned to be provided on the site with the indicative location to the north of the site, situated off Rosewell Road.

4.□ PROCEDURES

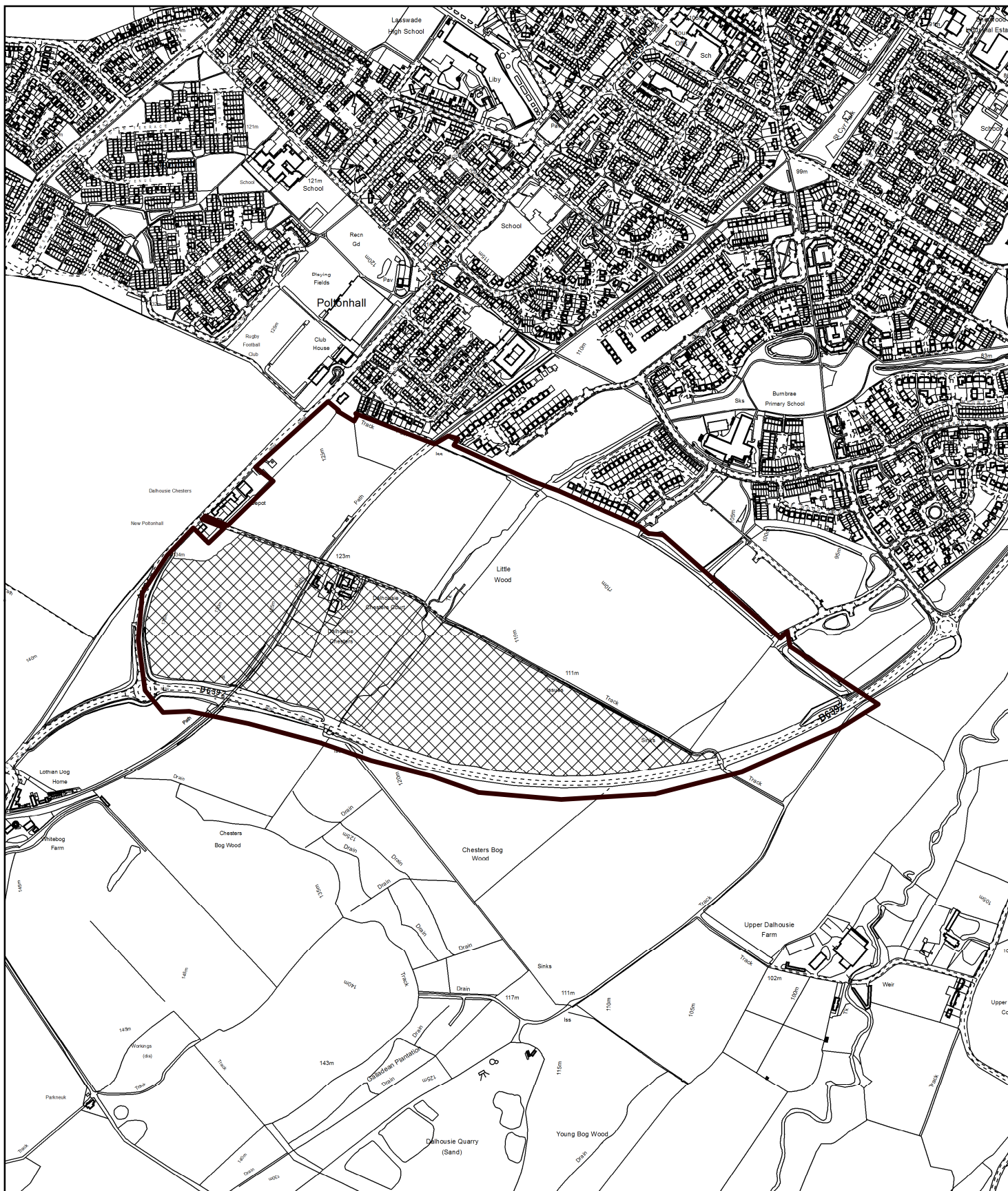
- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.
- 4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

5 RECOMMENDATION

- 5.1 It is recommended that the Committee notes:
- a) the provisional planning position set out in this report; and
 - b) that any comments made by Members will form part of the minute of the Committee meeting; and
 - c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

Ian Johnson
Head of Communities and Economy

Date: 8 August 2017
Contact Person: Joyce Learmonth, Lead Officer
Major Developments and Enforcement
Tel No: 0131 271 3311



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Site Hs12 Hopefield Farm 2, Bonnyrigg (MLDP allocation)



Safeguarded for Future Development in MLDP

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PRE APPLICATION REPORT REGARDING A PROPOSED RESIDENTIAL DEVELOPMENT AT LAND AT SITE Hs11 DALHOUSIE SOUTH, BONNYRIGG (17/00402/PAC)

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre application consultation submitted regarding a proposed residential development at site Hs11, Dalhousie South, Bonnyrigg (17/00402/PAC).
- 1.2 The pre application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre application consultation for a proposed residential development at site Hs11, Dalhousie South, Bonnyrigg was submitted on 19 May 2017.
- 2.3 As part of the pre application consultation process the applicants are to hold a public event. The applicant has confirmed to the Planning Authority that they shall carry out the public event after the school summer break. A date, time and venue will be arranged shortly by the applicants and the necessary notices and adverts published in advance. On the conclusion of the public event the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

- 2.4 Copies of the pre application notices have been sent by the applicant to Bonnyrigg & Laswade Community Council.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The proposed development site comprises some 21.6 hectares of agricultural land located nearby to the south of the Hardengreen roundabout and to the immediate south east of the B6392. The site has a frontage onto the B6392.
- 3.3 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Plan (MLP), adopted in December 2008. The adopted 2008 Midlothian Local Plan identifies the site as being in the countryside and any subsequent planning application will be subject to assessment against policies RP1: Protection of the Countryside and DP1: Development in the Countryside. A provisional assessment against this policy is that it does not support the proposed housing development on the basis that it is in the countryside and not necessary for agricultural or any other rural business. However this policy position with regard the proposed development site is being superseded by the Proposed Midlothian Local Development Plan (MLDP).
- 3.4 At its meeting of 16 December 2014 the Council approved the Proposed MLDP as its settled spatial strategy. The site is identified in the MLDP, Policy STRAT3, as a strategic housing site with an indicative capacity of 360 residential units. The plan was subject to Local Plan Examination and subject to consideration by a Reporter appointed by the Scottish Ministers. The Reporter's findings were published on 10 July 2017. It is anticipated that the examination findings will be reported to Council in September 2017. With regard to this site the Reporter recommends that the site remains as an allocated housing site. This is a material consideration of significant weight in the assessment of any application, if submitted prior to the adoption of the MLDP.
- 3.5 If an application is submitted after the adoption of the MLDP there will be a presumption in favour of residential development subject to securing developer contributions towards infrastructure including education provision and affordable housing.

4. PROCEDURES

- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.

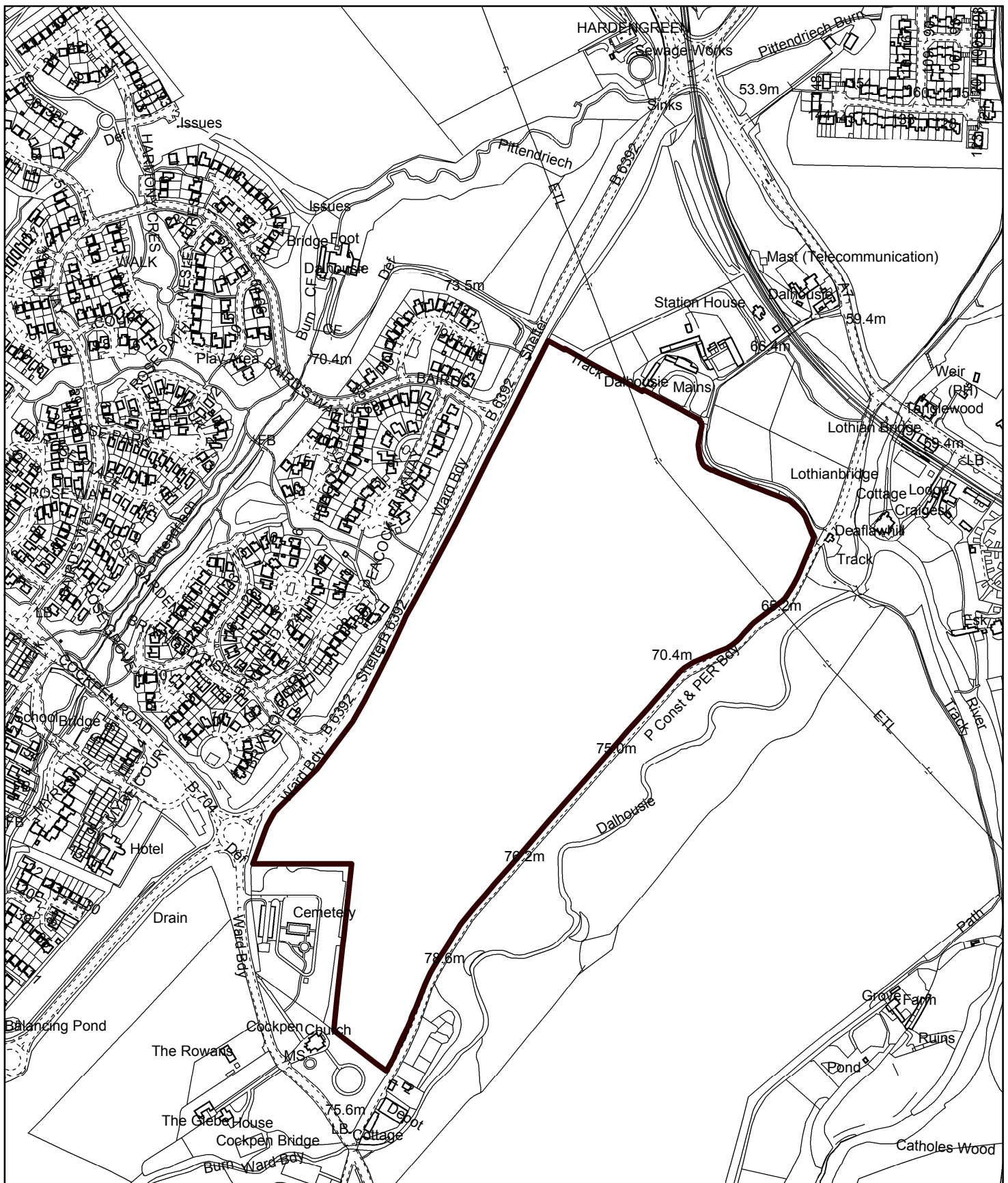
- 4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.
- 4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

5 RECOMMENDATION

- 5.1 It is recommended that the Committee notes:
- a) the provisional planning position set out in this report; and
 - b) that any comments made by Members will form part of the minute of the Committee meeting; and
 - c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application(s).

Ian Johnson
Head of Communities and Economy

Date: 8 August 2017
Contact Person: Peter Arnsdorf, Planning Manager
Tel No: 0131 271 3310





PRE - APPLICATION REPORT REGARDING AN EXTENSION TO THE EXISTING SAND QUARRY AT UPPER DALHOUSIE, ROSEWELL (17/00565/PAC)

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre application consultation submitted regarding an extension to the existing sand quarry at Upper Dalhousie, Rosewell (17/00565/PAC).
- 1.2 The pre application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre application consultation for an extension of the existing sand quarry at Upper Dalhousie was submitted on 13 July 2017.
- 2.3 As part of the pre application consultation process the applicants are to hold drop-in consultation events in August and September 2017. A date, time and venue will be arranged shortly by the applicants and the necessary notices and adverts published in advance. Following the public event the applicant could submit a planning application for the proposal at any time after the twelve week statutory period from 13 July 2017 has elapsed. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

- 2.4 Copies of the pre application notices have been sent by the applicant to the Rosewell and District Community Council and Poltonhall and District Community Council. Officers have also asked the applicant to advise Moorfoot Community Council as well as the site bound's this Community Council Area.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The proposed development is situated on land to the west of the existing sand quarry. The existing quarry is split into two extraction areas, one to the south (Area A) and one to the north (Area B). Access to the site is off the roundabout on the Bonnyrigg South Distributor road, to the south east of the economic development land at Hopefield. The site includes an area of woodland planting to the north. The land slopes down to the south towards the Dalhousie Burn.
- 3.3 The plans submitted as part of the pre application consultation show the existing access remaining in use for the proposed extension.
- 3.4 The adopted 2008 Midlothian Local Plan (MLP) identifies the site as being in the countryside and as being prime agricultural land. Any subsequent planning application will be subject to assessment against policies RP1: Protection of the Countryside and RP4: Prime Agricultural Land. Policy MIN1 Areas of Search for Surface Mineral Extraction does not identify the Dalhousie area as an area of search. Outwith the areas of current working and the areas of search, there is a presumption against surface mineral extraction. A provisional assessment against these policies does not support the scheme on the basis that the proposed development is not identified as either an operational site or as an area of search. However this policy position with regard the proposed development site is being superseded by the Proposed Midlothian Local Development Plan (MLDP).
- 3.5 At its meeting of 16 December 2014 the Council approved the Proposed MLDP as its settled spatial strategy. The site is identified in the MLDP, Policy MIN1, as an area of search for surface mineral extraction (sand and gravel). The plan was subject to Local Plan Examination and subject to consideration by a Reporter appointed by the Scottish Ministers. The Reporters findings were published on 10 July 2017. It is anticipated that the examination findings will be reported to Council in September 2017. With regard to this site the Reporter recommends that the site remains as an area of search for surface mineral extraction (sand and gravel). This is a material consideration of significant weight in the assessment of any application, if submitted prior to the adoption of the MLDP.

- 3.6 If an application is submitted after the adoption of the MLDP there will be a presumption in favour of sand and gravel extraction subject to mitigating the environment impacts of the development. These impacts will be identified and assessed in an Environmental Statement which will be required from the applicants.

4.□ PROCEDURES

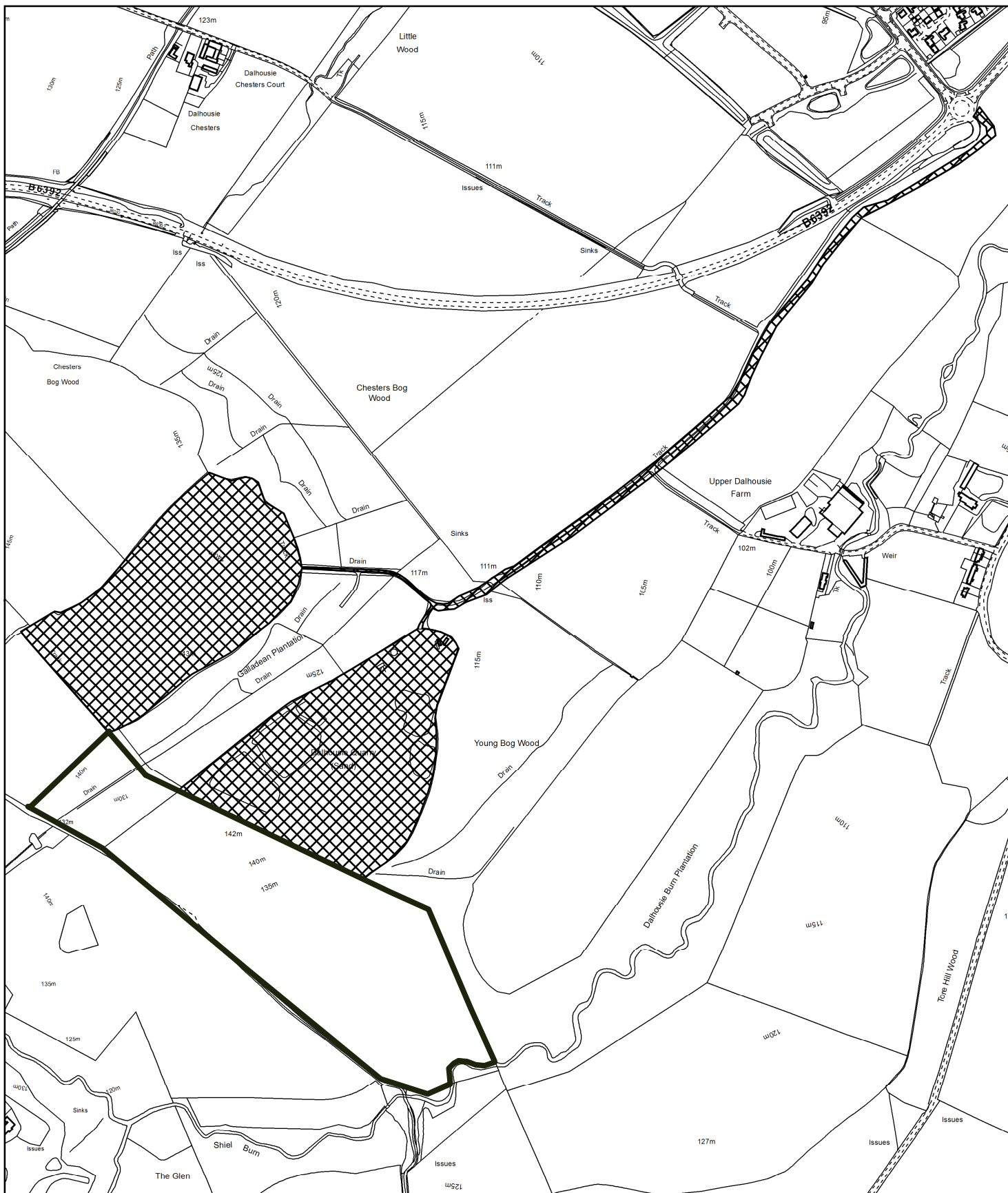
- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.
- 4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

5 RECOMMENDATION

- 5.1 It is recommended that the Committee notes:
- a) the provisional planning position set out in this report; and
 - b) that any comments made by Members will form part of the minute of the Committee meeting; and
 - c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

Ian Johnson
Head of Communities and Economy

Date: 8 August 2017
Contact Person: Joyce Learmonth, Lead Officer
Major Developments and Enforcement
Tel No: 0131 271 3311



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Land South West of Upper Dalhousie Sand Quarry, Rosewell



Previous Planning Application



Current Planning Application

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File No. 17/00565/PAC

Scale: 1:8,000
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Midlothian

~~PLANNING COMMITTEE
TUESDAY 6 JUNE 2017
ITEM NO 5.14~~

APPLICATION FOR PLANNING PERMISSION (17/00219/DPP) FOR THE PARTIAL CHANGE OF USE OF LAND AND BUILDINGS FOR WEDDING EVENTS (PART RETROSPECTIVE) AT 32A DAMHEAD, LOTHIANBURN

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1** The application is for the partial change of use of an existing horticultural business at the Secret Herb Garden, 32A Damhead for wedding ceremonies and associated receptions. There have been sixteen letters of representation and consultation responses from the Council's Policy and Road Safety Manager, the Council's Environmental Health Manager, the Scottish Environment Protection Agency (SEPA) and the Damhead and District Community Council. The relevant development plan policies are RP1, RP2, RP4, RP7, RP8, ECON8 and DP3 of the Midlothian Local Plan 2008 (MLP). Policies ENV1, ENV4, ENV7, ENV10 and ENV18 of the Proposed Midlothian Local Development Plan 2014 (MLDP) are material considerations. The recommendation is to refuse planning permission.

2 LOCATION AND SITE DESCRIPTION

- 2.1** The site is within the grounds of the Secret Herb Garden (SHG), an established horticulture business including a plant nursery and ancillary cafe and retail outlet. The site area measures 0.91 hectares and is relatively flat, with the land to the west gradually sloping up towards the site's boundary.
- 2.2** There are a number of buildings within the application site including a glasshouse, shed, barn, residential caravan and office. The site also includes an area of open space which is used to grow plants.
- 2.3** Areas to the north and south of the site are under the control of the SHG and form part of the planning unit of the wider site. The area to the north comprises grassed open space, a yurt (portable round tent structure) and converted railway carriage, used as a bee observatory. The area to the south comprises the site's car park and a dwellinghouse related to the SHG business.

- 2.4 The site is located within the countryside and green belt, with a number of dwellinghouses to the north-east and south-east. The site is accessed via Pentland Road.

3 PROPOSAL

- 3.1 It is proposed to partially change the use of the site to host wedding ceremonies and associated receptions, alongside the existing horticulture use. The events will take place between May and September. Seventeen weddings have been booked for 2017, with 15 events being on Saturdays, one on a Friday and one on a Thursday. This overall figure may change with the potential for additional bookings if planning permission is granted. Wedding events have been taking place on site since 2014. There were 11 weddings in 2016.
- 3.2 The hours of operation are 4pm until midnight. The ceremonies take place within the glasshouse or on the two areas of open space to the west. The venue can accommodate up to 100 guests. The reception area and temporary bar are located within the glasshouse. An alcohol consumption area is restricted (by licence) to an area around the glasshouse.
- 3.3 Live bands/amplified music will be housed in a barn situated within the eastern part of the site, the barn can hold up to 55 people. An acoustic report has been submitted which includes mitigation measures to limit the noise. The live/amplified music will cease by 11pm, with background music playing until 11.45pm.
- 3.4 A new septic tank is proposed as a medium to long term solution to the increased demand. In the short term, a temporary interim arrangement including the provision and use of portable toilets and a restriction on access to the existing toilets is proposed.
- 3.5 On site staff will; supervise vehicles entering and leaving the site, encourage customers to consume alcohol only within the allocated locations and monitor the use and volume of live/amplified music.
- 3.6 The application form states that the wedding event use has not begun. However the associated planning statement states the weddings began in June 2014, which correlates with correspondence between the Planning Authority, the applicant and local residents. The application submission includes financial information relating to the SHG business.

4 BACKGROUND

- 4.1 The site is a smallholding which has an established horticultural use.
- 4.2 Planning application 580/89 for the change of use of existing building to provide a retail shop and the erection of a temporary building to provide

coffee shop and offices was approved in 1989. This was a temporary permission until the end of 1992.

- 4.3 Planning application 02/00110/FUL for the demolition of the existing shop, the change of use and extension and alteration of packing shed to retail unit (part retrospective) was approved in 2003. Conditions were attached restricting the sales area and the goods to be sold and requiring the demolition of the temporary existing shop (approved under application 580/89) and container before the new shop was brought into use.
- 4.4 Planning application 07/00072/FUL for the relocation of retail unit and change of use of the retail unit approved in planning permission 02/00110/FUL to farm office and storage was approved retrospectively in 2007. Conditions were attached restricting the area to be used for retail sales, the goods to be on sale and the use of the building to administrative or storage purposes related to the farm/smallholding.
- 4.5 Planning application 05/00340/FUL for the change of use of the site to a children's play area with miniature railway, was refused in 2005 for the following reasons: potential to intensify the use of a substandard access onto a road with a 60mph speed limit, to the detriment of road safety within the area; the area is not served by public transport and there is a lack of walking and cycling links to the site, therefore it is considered unwise to support a proposal which could encourage the movement of children to and from this site, with its inherently unsatisfactory access onto a narrow, winding rural road.
- 4.6 Planning application 06/00139/OUT for the erection of a dwellinghouse was refused in 2007 as: it was not demonstrated that it was essential for the furtherance of the established horticultural business; the size of the proposed house plot far exceeds what would be considered an appropriate size for ancillary residential accommodation for overseeing the business operation; it would result in the loss of prime agricultural land, be highly visible and result in the coalescence of the farm development with the group of houses to the rear; and the applicant has failed to supply sufficient evidence of the quality of the outflow of water from the private waste treatment plant into the adjacent watercourse.
- 4.7 Planning application 07/00074/FUL for the temporary siting of static caravan for residential accommodation was approved in 2007. Conditions attached stated the caravan was only to be located in the position shown on the approved plans, be permitted for a temporary period of two years, be removed within one month of the expiry of the permission with the site made good. The caravan was to be occupied only by staff essential to the agricultural operation of the organic farm.
- 4.8 Planning application 12/00771/DPP (part retrospective) for the temporary siting of two static caravans to be used as a single

residential unit was approved in 2013 subject to conditions. The caravans were to be on site for a temporary period of three years, be removed within two months of the expiry of the temporary period and be linked and used as a single residential unit by the operator (and their dependents) of the horticultural business on the associated land at 32A Damhead.

- 4.9 Planning application 12/00780/PPP for the erection of a dwellinghouse was withdrawn in 2013.
- 4.10 Planning application 13/00398/DPP for the change of use from shop to cafe and shop, erection of extension to building and formation of new door opening was approved in 2013. This granted approval for the current layout of the site. Conditions were attached, including restricting the goods to be sold from the shop and the installation of a waste water treatment plant. The treatment plant has not been installed.
- 4.11 Planning application 13/00597/DPP for the erection of dwellinghouse and garage was approved in 2013. It was demonstrated the dwellinghouse was required for the furtherance of the established business. An occupancy condition restricts the house to be occupied only by the immediate family of a person employed in the fulltime operation and running of the SHG and at no time to be used as the main place of residence for any other person or persons.
- 4.12 An advert consent application 14/00724/ADV (retrospective) for signage at the site was approved in 2015.
- 4.13 Planning application 16/00045/DPP (retrospective) for additional car parking was approved at the site in 2016.
- 4.14 Two retrospective applications were submitted in 2016 to regularise unauthorised development at the SHG. The first of these applications 16/00636/DPP (retrospective) was for the retention of residential static caravan for a further temporary period (one of the caravans approved under 12/00771/DPP had not been removed within the time period prescribed). This was subject to five objections and an objection from the Damhead and District Community Council. The application was withdrawn before a decision was issued.
- 4.15 The second planning application 16/00637/DPP (retrospective) for the partial change of use of land and buildings as an events venue, incorporating weddings and private functions was submitted after the Planning team received complaints from local residents regarding events taking place at the SHG without planning permission. The application was subject to five objections, two letters of support and an objection from the Damhead and District Community Council. The application was withdrawn before a decision was issued.

- 4.16 Planning application 17/00180/DPP (retrospective) to retain the caravan for a temporary period was approved in May 2017. It is conditioned that the caravan be removed from the SHG and the site made good by the end of September 2017. A condition also restricts occupation of the caravan to an employee of the SHG.
- 4.17 Planning application 17/00205/DPP (retrospective) for the partial change of use of glasshouse building to incorporate evening dining events was submitted in March 2017. This, along with the current application for weddings, appears to separate the events applied for in application 16/00637/DPP. This was subject to seven objections, two letters of support and an objection from the Damhead and District Community Council. The application was withdrawn in April before a decision was issued.
- 4.18 The application has been called to Committee for determination by Councillor Parry as the use of land as a wedding venue will support economic development in the local area.

5 CONSULTATIONS

- 5.1 The Council's **Policy and Road Safety Manager** has no objection and is not aware of any road safety or transportation issues arising from the events which have taken place to date. The use of the site as a wedding events venue for a 5 month period does not raise any major transportation issues.
- 5.2 The Council's **Environmental Health Manager** has received complaints over the events taking place at the site. Given the proximity to neighbouring residents, it is considered the site is unsuitable for wedding events with amplified music within marquees. Environmental Health officers carried out an exercise in 2016 to assess the impact of amplified music played within the barn on the neighbouring properties. A reasonable sound level should be achievable within the barn without causing undue disturbance to neighbours, provided suitable noise mitigation measures are undertaken. The noise report submitted with the application assessed the structure of the barn and reported on any potential improvements to sound insulation. The Environmental Health Manager notes that workmanship and attention to detail in the execution of improvements to sound insulation are crucial in achieving the theoretical improvements in practice. If suitable works are undertaken and the management of the SHG can demonstrate that events can take place in the barn with an appropriate internal noise level to make wedding events viable without causing disturbance within neighbouring residential properties, the Environmental Health Manager has no objection to the wedding events provided the following conditions be attached to any consent: no marquees shall be erected on site to be used as part of weddings without prior written approval; the sound insulation measures shall be approved and installed before

live/amplified music is played in the barn; and any amplified music must take place within the barn and be controlled to an agreed level.

- 5.3 The **Scottish Environment Protection Agency** initially objected to the proposal on the grounds of lack of information in respect of foul drainage and the potential impact on the water environment. However the applicant has submitted additional information addressing their concerns. SEPA have subsequently withdrawn their objection.
- 5.4 **Damhead Community Council (DCC)** object to the application. They cannot support the proposal for an unspecified number of wedding events. They object to the open ended nature of the application as the term 'occasional use' can have many interpretations. DCC raise concerns over noise, light pollution, traffic given the potential numbers of guests, loss of amenity and the effect on neighbouring properties.
- 5.5 DCC consider the existing cafe on site for daytime visitors is reasonable, but full scale evening catering has a greater impact at a time when local residents are entitled to a good level of amenity. Wedding events generally involve loud music and physical activity and movement within areas not designed for this purpose with potential for accidents when compared to the dining functions.
- 5.6 DCC also raise concerns over the long term sewage/foul water management, as per SEPA's comments on the existing facilities. The existing septic tank was never designed for this level of use along with the additional waste water from the preparation of meals and washing up.

6 REPRESENTATIONS

- 6.1 Sixteen representations have been received in connection with this application.
- 6.2 Nine letters of support have been submitted on the following grounds:
- The objections on the ground of light and noise pollution are from people who do not live nearby. The closest neighbours have never experienced significant noise or traffic issues;
 - The applicants are actively addressing concerns over noise and light;
 - The approved landfill in the area causes more noise and traffic issues than the wedding events;
 - The SHG is an environmentally sensitive business in the countryside which has improved a neglected piece of land;
 - Concern that the objection from the Damhead and District Community Council's comments are not representative of the course of action agreed at their recent meeting;
 - The SHG is one of the best visitor destinations in Scotland and there would be job losses without the weddings events. The business is successful and warrants support to allow it to thrive

within the boundaries of planning policy and neighbourly cooperation. The applicants have diversified their business in order to succeed in today's climate to provide unique wedding opportunities. It is the most positive development to happen in Damhead for many years;

- If refused it would send a damaging message to the local community about the sort of place the Council would like Damhead to be; and
- Some objections are from an ex-employee which raises the question if this is a personal objection.

6.3 Seven letters of objection have been submitted on the following grounds:

- There is support for the horticultural business at the site but not the wedding events;
- The cafe is ancillary to the horticulture use, however the wedding events operate outwith the legitimate opening hours. It is unjustifiable to state that the wedding events would be ancillary to the horticultural business as this is a significant departure from planning policy;
- The proposal will significantly alter the character of the area and is out of character and scale with the surrounding landscape;
- There is no detail over the number, type or frequency of wedding events, or if the events would be held within the existing buildings or involve the use of outdoor drinking and seating areas;
- The number of quoted attendees does not include staff employed at the wedding events;
- The number of people employed at the site relating to the horticultural business is likely to be lower than those employed in relation to the wedding events and therefore have a reduced impact on local amenity;
- The wedding events would introduce excessive noise, light and traffic pollution into an otherwise quiet setting as this is an isolated business surrounded by rural properties, not conducive to loud, late night light and noise pollution;
- There should be no amplified music at the site. Consideration should be given to the noise and disturbance generated by people attending the wedding events and socialising as well the disturbance from the amplified music;
- The claim that the wedding events has been operating for two years without complaint is untrue as there have been a number of complaints including police incidents;
- Support for the Environmental Health Manager's recommendations;
- The sound test referred to in the acoustic report was purely noise created by a live band, which is not representative of a typical wedding event;
- It is not clear from the noise report if the assessment was with the barn doors open or closed;
- Impact on the privacy of nearby residents;

- Traffic and road safety concerns due to the increased traffic levels and proximity to two blind bends. A survey by the Transportation Department of the Council should be undertaken to assess whether any improvements are required and permission should only be granted if the entrance is deemed sufficient for current/proposed traffic levels. The volume of traffic using Old Pentland Road has increased since previous applications were approved;
- Further parking may be required due to the size of wedding events, which would result in the loss of good quality farm soil and undermine any future occupier carrying out horticultural works;
- The site plan indicates more parking spaces than previously approved;
- It may be necessary for a legal agreement to secure a contributions towards necessary road improvements to make the access safe for patrons;
- The commencement of the wedding events was done covertly without proper processes;
- The existing foul water system has not been upgraded as required by SEPA and there are insufficient toilet facilities provided. The septic tank cannot handle a greater volume of usage and there has already been a noticeable impact on the local burn after events;
- The poor sanitary facilities have been a feature of the site for three years and a permanent solution should be required immediately;
- How can it be ensured that there will be no breaches of foul drainage and who would monitor and enforce this;
- Lack of stewarding despite alcohol being consumed on site. There is an acknowledgement of the stewarding information submitted with the application but it is not clear how this will be carried out, enforced, monitored or the ratio between staff and guests;
- The proposal is contrary to the adopted Midlothian Local Plan and the proposed development plan policies RP1, RP2, RP4, RP7, ECON8 and ENV4, ENV7 ENV18;
- Should permission be granted, it is likely that the business will develop further, more extravagantly with irrevocable impacts;
- It is frustrating that time, effort and resources are spent researching the applications and submitting comments only for these to be withdrawn;
- The multiple applications for individual elements of the business do not clearly demonstrate all events taking place on site or give an accurate reflection of the overall changes to the smallholding. The application should not be considered individually but combined with application 17/00205/DPP;
- The application, along with withdrawn application 17/00205/DPP, appears a mix of application 16/00637/DPP which was withdrawn after being recommended for refusal. Little has changed between the previous and current application;
- The current application and application 17/00205/DPP should be withdrawn and resubmitted as one application in order to accurately assess and demonstrate the events venue;

- The application may be more likely to be supported if it were located on grounds away from residences with good communication and transport links with a fully planned and custom built facility designed to cater for a specific market and clientele;
- It is misleading to state that there would be no loss of agricultural land, with queries over the amount of car parking at the site that has resulted in the loss of prime agricultural land contrary to policy RP4;
- Damage done by guests to a fence on land which does not belong to the applicant;
- The application was submitted as a result of enforcement action which demonstrates a disregard of policy and procedure;
- There is a concern over the difficulty of enforcing planning conditions as there are a number of outstanding breaches of conditions and consents, including the retention of the caravan, conditions relating to 13/00398/DPP, relating to the approved house, retrospective applications applied for the car park and adverts;
- Permission should be refused on the grounds of consistent breaches and disregard for permissions and licences as well as irresponsible behaviour regarding public health and safety and nuisance and impact on neighbours and the area;
- A request for a review of the currently held permissions given the number of breaches and inconsistencies;
- The SHG was put up for sale with the house separate to the business, contrary to conditions attached to the permission for the house;
- A building warrant remains outstanding and consideration must be given to this before the planning application is determined;
- There are a number of other events taking place at the site, including gigs, corporate events, tasting sessions, exhibitions, parties and music nights, as well as full and new moon dinners;
- The application would set a precedent and allow similar schemes, with operating hours in excess of other business in the rural area;
- The value of nearby properties could be affected;
- The site is close to biodiversity assets of Damhead and increased night/evening traffic could lead to an increased level of road kill;
- The proposal does not align with the Damhead and District Neighbourhood Plan 2015-2030 nor enhance the community;
- Should permission be granted, the number of wedding events should be limited to ensure no further incremental growth of this development occurs without the necessary planning procedures being followed;
- Suggestions for conditions, should permission be granted include: to restrict live or amplified music within the acoustically treated barn which should be carried out before any wedding events take place; ensure the barn door be closed when live/amplified music is playing; the number of wedding events be limited to 10 per year as stated by the applicant at a recent Community Council meeting; the numbers of guests limited to 55 to protect the amenity of the area

and prevent further incremental growth of the business; impose noise limits; require compliance monitoring at the nearest noise sensitive properties; prohibit the erection of marquees; restrict operating hours to 11pm to protect residential amenity; restrict guest access to only the areas identified on the site plan during operating hours; require the applicant to make quarterly reports to Midlothian Council detailing all events on site, the nature of the event, number of persons attending, parts of the site used, date and operating hours;

- In times of high wind the glasshouse has been forced to close. It is unlikely that a wedding event would be cancelled if bad weather were to occur. It is imperative there is a building capable of accommodating all guests, therefore the maximum capacity of people attending a wedding should be the capacity of the barn;
- Comments about the licence application which should be considered a material matter if planning permission is granted as well as comments on the building warrant;
- The glasshouse is a safety hazard and queries if a health and safety assessment has been completed;
- If the previous application was refused, then so should the current application;
- It should be queried how successful the events aspect of the business can be if it is operating without a licence, planning permission or building warrants;
- The purpose of planning is not to prop up failing businesses but to determine if the site is appropriate for such a development;
- The claim that the garden centre has been unsuccessful in its traditional form may be because there are two garden centres within a mile of the site;
- The site was never vacant land but was a smallholding;
- The application form is misleading in its description of the size of the smallholding as the majority of the site is now developed which has resulted in the loss of agricultural land;
- Non-compliance with European Convention on Human Rights relating to the human right to the peaceful enjoyment of one's own home and property;
- This is a bad neighbour development;
- No permission has been granted for the yurt, shed or potting shed and these do not appear on the licence plan;
- Query over neighbour notification; and
- The route of the A701 relief road has not yet been decided.

6.4 A number of objections covered both the current application 17/00219/DPP and the withdrawn application 17/00205/DPP. The comments relevant to this application have been referenced in the report.

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 **12: Green Belts** require 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. This will direct planned growth to the most appropriate locations and support regeneration. Local Development Plans should define the types of development appropriate within Green Belts.

The Midlothian Local Plan 2008 (MLP)

- 7.3 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;
- 7.4 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;
- 7.5 Policy **RP4: Prime Agricultural Land** states that development will not be permitted which leads to the permanent loss of prime agricultural land unless particular criteria are met;

- 7.6 Policy **RP7: Landscape Character** which advises that development will not be permitted where it may adversely affect the quality of the local landscape. Provision should be made to maintain local diversity and distinctiveness of landscape character and enhance landscape characteristics where improvement is required;
- 7.7 Policy **RP8: Water Environment** aims to prevent damage to water environment, including groundwater and requires compliance with SEPA's guidance on SUDs;
- 7.8 Policy **ECON8: Rural Development** permits proposals that will enhance rural economic development opportunities provided they accord with all relevant Local Plan policies and meet the following criteria: the proposal is located adjacent to a smaller settlement unless there is a locational requirement for it to be in the countryside; the proposal is well located in terms of the strategic road network and access to a regular public transport service; the proposal is of a character and scale in keeping with the rural setting; the proposal will not introduce unacceptable levels of noise, light or traffic into quiet and undisturbed localities nor cause a nuisance to neighbouring residents; the proposal has adequate and appropriate access; it is capable of being provided with drainage and a public water supply, and avoids unacceptable discharge to watercourses; and it is not primarily of a retail nature; and
- 7.9 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)

- 7.10 The MLDP is at Examination and it is anticipated that it will be adopted in 2017.
- 7.11 Policy **ENV1: 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. provide 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. provide for essential infrastructure; or
 - E. form development that meets a national requirement or established need if no other site is viable.
- Any development proposal will be required to show that it does not conflict with the overall objectives of the Green Belt, which is to maintain the identity and landscape setting of the City and Midlothian towns by clearly identifying their physical boundaries and preventing coalescence;

- 7.12 Policy **ENV4: Prime Agricultural Land** states that development will not be permitted which leads to the permanent loss of prime agricultural land unless particular criteria are met;
- 7.13 Policy **ENV7: Landscape Character** advises that development will not be permitted where it may significantly and adversely affect the local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New developments will normally be required to incorporate proposals to maintain the diversity and distinctiveness of local landscapes and to enhance the landscape characteristics where they have been weakened;
- 7.14 Policy **ENV10: Water Environment** states there is a presumption against development which may cause a deterioration in water quality;
- 7.15 Policy **ENV18: Noise** states that the Council will seek to prevent noisy development from damaging residential amenity or disturbing noise sensitive uses. Where new developments with the potential to create significant noise are proposed, these may be refused or require to be modified so that no unacceptable impact at sensitive receptors is generated; and
- 7.16 Policy **IMP3: Water and Drainage** states that development involving private sewerage systems will only be permitted where there is no public system in the locality and where the Council is satisfied that the proposal is acceptable in terms of the environment and public health.

National Policy

- 7.17 **Scottish Planning Policy** sets out the Scottish Government's policies in respect to a number of planning related matters. This states that the planning system should encourage rural development that support prosperous and sustainable communities and businesses while protecting and enhancing environmental quality.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

The Principle of Development

- 8.2 Damhead traditionally comprises of small cottages on crofting plots/small holdings. Some of the properties have diversified to incorporate other land uses/business. Acceptable businesses are those which do not adversely affect the character of the area or amenity of nearby residents. The relevant development plan policies seek to ensure that new operations and activities in the countryside do not introduce additional unacceptable noise and disturbance into inherently quiet areas to the detriment of the amenity of the area and nearby residents.
- 8.3 MLP policy RP1 states that development in the countryside will only be permitted if it is for the furtherance of agriculture, horticulture, forestry, countryside recreation, tourism or waste disposal. The consented use of the site as a plant nursery/horticultural business complies with the development plan and application 13/00398/DPP considered the cafe and retail outlet ancillary to the horticulture use, as well as complying with MLP policy ECON8 in support of tourism. The consented uses do not have an adverse impact on the character of the area or the amenity of nearby residents.
- 8.4 The development plan contains restrictive policies relating to proposals for new development within the countryside and green belt. These policies aim to prevent creeping suburbanisation and development in such areas which are under significant pressure due to the convenient commuting distance to Edinburgh, as well as protecting the character of the area. The plan also contains some enabling policies which supports some commercial developments within these areas in some specific circumstances.
- 8.5 MLP policy RP1 sets out the terms for acceptable forms of development in the countryside and aims to restrict development to that required for the furtherance of an established, and acceptable, countryside activity or business. MLP policy RP2 seeks to protect the green belt from development unless it is necessary for an acceptable countryside use or provides for opportunities to access the countryside for sport or recreation. Developments for other uses may be considered acceptable where they are appropriate to the rural character of the area.
- 8.6 The application proposes to retain the plant nursery, cafe and retail unit as well as hold wedding ceremonies and associated receptions. The wedding events began in 2014, and are not ancillary to the horticultural use. There is also a private dining events element to the SHG business which does not form part of this application. The Planning Authority considers both these elements to be new primary uses, not ancillary to the existing horticultural business. These uses both require planning permission. Application 16/00637/DPP covered both these

events, providing clarity over what activities take place at the SHG. This application was withdrawn before it was determined.

- 8.7 The Planning Authority would have preferred that the current application cover both the wedding and private dining events, to provide clarity over what operations currently take place on site and allow an overall accurate assessment of the impact that the events have on the surrounding area, which currently take place without the benefit of planning permission. However, the two elements were submitted as two separate applications and must be assessed as such; although one has subsequently been withdrawn. The Planning Authority is aware of the dining events element and is actively seeking an application related to this use to enable an assessment of its suitability for this location.
- 8.8 The applicant considers the wedding events use ancillary to the horticulture use and requested the description be 'occasional use of land and buildings for wedding events (part retrospective) ancillary to the principle horticultural use'. The Planning Authority has consistently maintained that the wedding events are not ancillary to but are a primary use alongside the horticulture use, therefore requiring a separate planning permission. The wedding events result in a significantly greater impact on the surrounding area than could reasonably be expected from the original use, therefore this cannot be considered ancillary. The wedding events have resulted in a number of complaints from residents in regards noise and disturbance.
- 8.9 The wedding events are to take place yearly between May and September. Details have been provided of the dates of the seventeen weddings booked for 2017 which are mainly on Saturdays but with one on a Friday and one on a Thursday. No details of the maximum numbers of weddings per year have been submitted. The site plan details the buildings and areas of site to be used in connection with the wedding events.
- 8.10 MLP policies RP1 and RP2 allow for some businesses in the countryside provided these meet particular criteria, including the furtherance of a horticulture business. The agent has submitted supporting information stating that the existing horticultural business is not viable and that the proposed wedding events use is required to support the horticultural use of the land. The supporting statement does reference the wedding events use and dining events as supporting the horticultural use. However, it is worth noting that in 2013 planning permission was granted for a dwellinghouse on the site after the owner demonstrated that the horticultural business was viable and not dependant on alternative uses for the site. Furthermore, the applicants submission of turnover for the 12 month period up to September 2016 suggests the wedding event business accounts for approximately 10% of the businesses turnover.

- 8.11 The applicant's statement suggests the horticultural business has been making increasing losses between 2013 to 2015 and that it is only in 2016 that the business overall made a profit, which is attributed to the wedding and dining events. Without the revenue generated from the events element, profitable trading solely from the horticultural business, cafe and shop will be difficult to achieve. The statement notes that the revenue and profit from the wedding events was more than twice that of the dining events. The applicant is willing to consider reducing the number of weddings and increase the numbers of dining events to attempt to limit the impact on residential properties whilst maintaining sufficient revenue to support the horticultural business. However they give no details of the number of weddings required to support the horticultural business.
- 8.12 The Planning Authority is sympathetic to the applicant's view that the horticulture business needs additional diversification but is not convinced the horticultural business will cease trading if the wedding events stop. In addition to the business arguments, the proposal must comply with other criteria of MLP policy RP1, including that the development must be of a scale and character appropriate to the rural area.

Impact on Rural Character of the Area

- 8.13 The Planning Authority must assess the impact the proposal would have on the character and amenity of the surrounding area. A balance must be found between the prospect of the continuation of the SHG operating as proposed and the impact that this would have on the character and amenity of the surrounding area and residents. The argument that the existing business requires additional income to continue operating does not mean that any diversification, at any cost, would be automatically supported.
- 8.14 Acceptable businesses in Damhead are those which do not adversely affect the character of the area or amenity of nearby residents. The use of the site for wedding events has the potential to cause significant disturbance to the surrounding area in terms of traffic and noise, and has done so to date when considering the comments made by objectors.
- 8.15 The wedding events can accommodate up to 100 people between 4pm and midnight. This is a significant amount of people within a quiet rural area with residential properties in close proximity. The site plan identifies a large central area for informal recreation, with an area around the glasshouse and nearby buildings designated as an alcohol consumption area. This means that there should be no alcohol outwith this central area. However, the guests using the area for informal recreation during wedding events are likely to generate noise disturbance. The general nature of weddings is for guests to relax and enjoy themselves within the confines of the venue, which in this case

would include the whole site. The buildings on site have not been designed to accommodate the type of use proposed to ensure that noise is contained. Whilst the Environmental Health Manager considers that it is possible to contain noise by adapting the barn where there will be amplified/live music, the general level of disturbance caused by large groups of people using the site as a whole is likely to, and has, caused undue disturbance to the local area.

- 8.16 Guests leaving the site at the end of events are likely to add to the noise nuisance. Given the rural location, it is likely that the number of vehicles would be sizable thereby creating more noise and disturbance. Although there is an existing business operating at the site, this has more 'standard' day time business operating hours which are acceptable in this area and do not result in large numbers of people accessing/leaving the site late at night. Use of the site for events would also result in additional lighting in terms of hours of illumination and the area of illumination which is likely to cause further disturbance to local residents. The lighting will arise from inside the buildings, external safety lighting and lights from associated vehicles.
- 8.17 It is worth noting that while there will be no more than 100 people in attendance at wedding events, this does not include the 38 employees as stated in the applicants submission. It is likely that the staff members will leave the site later than the guests, meaning that it is likely that the noise and disturbance in the area will continue after midnight when the guests have left.
- 8.18 The applicant has suggested they introduce mitigation measures to try to control the noise, such as acoustic fencing and bunds. The applicants would also accept a permission on a trial basis to try to address the concerns raised by objectors. However, the Planning Authority does not consider the mitigation measures to be appropriate in regards the impact these may have on the character or appearance of the surrounding countryside, or would be sufficient to address the general ambient noise which would arise from such wedding events. Since the use has been implemented in 2014 it has generated numerous complaints from local residents; it is not clear how any trial period would be appropriate or suitable. Had the use not been implemented previously, there may be some merit to granting a temporary permission to assess the impact the use may have, however it is clear that its impact to date has been detrimental to local amenity.

Transportation Issue

- 8.19 The proposal is not located adjacent to a smaller settlement. There is no locational requirement for it to be in the countryside. The site does not benefit from access to a regular public transport service. The proposed use of the site is not of a character or scale in keeping with the landscape of the area and does not enhance the rural environment.

- 8.20 The Council's Policy and Road Safety Manager has not raised any road safety concerns, despite the intensification of the vehicular access and the objections of local residents. They have stated that they are not aware of any road safety or transportation issues relating to previous events. There would be no requirement for a transportation assessment for the proposal. Should additional parking be required, this would be subject to a further application for assessment. The submitted site plan shows more parking spaces than approved in application 16/00045/DPP; however these do not appear to have been formed on site. The formation of new parking spaces does not form part of this application.

Drainage/Water Treatment

- 8.21 As detailed above, the Scottish Environment Protection Agency (SEPA) initially objected to the application on the grounds of lack of information regarding the foul drainage arrangements and potential impact on the water environment. SEPA were consulted as the application site falls within a waste water drainage consultation zone, which they have identified as having a proliferation of private waste water arrangements that is currently causing environmental problems.
- 8.22 SEPA had no objection to application 13/00398/DPP and granted a Water Environment (Controlled Activities)(Scotland) Regulations 2011 (CAR) licence related to the approved uses. Such licences are regulatory controls over activities which may affect Scotland's water environment. The CAR agreed an upgrade from the existing septic tank to a new secondary treatment system which would have a significant improvement to the quality of treated effluent being discharged from the site. A planning condition required the installation of the treatment plant before the cafe opened to the public. On the basis of the CAR being granted, SEPA recommended the two existing registrations for the existing septic tank be withdrawn as all foul flows on site would be treated by the new secondary treatment plant. These have not been withdrawn, but the new treatment plant has not been installed.
- 8.23 SEPA then objected to planning application 16/00637/DPP for the same reason as the initial objection to the current application. The new treatment plant has not been installed and no information was submitted to demonstrate the existing septic tank is appropriately sized to deal with the increased loading from the wedding events in addition to the horticultural, cafe and shop uses. They were also concerned over the proliferation of private discharges into a catchment of small watercourses in the area. SEPA confirmed they had received a complaint relating to foul drainage arrangements at the site.
- 8.24 Since application 16/00637/DPP was withdrawn and the current application submitted, the applicant and SEPA have been in discussions regarding the installation of the new treatment plant, which they estimated would not be installed until May 2017 at the earliest.

The applicants have stated the implementation of the treatment plant depends on planning permission being granted for the wedding events. An interim solution has been proposed which includes the provision of portable toilets to be used by the wedding guests, with the existing toilets for staff members only. The waste from the portable toilets would be disposed of off-site. Should the wedding events application be granted planning permission, the interim arrangements would remain in place until such time as funds/arrangements can be made to install the new treatment plant. This interim solution would also ensure there is no detriment to the receiving watercourse.

- 8.25 SEPA supported the principle of the interim solution before the current application was submitted, provided that consideration was given to the siting of the portable toilets to ensure if they leak there would be limited scope for impact on nearby watercourses. SEPA confirmed to the applicant that they would not regulate the portable toilets.
- 8.26 The applicant has submitted further details of the proposed interim arrangements, including a plan showing the position of the portable toilets and details of the longer term provision of the treatment plant. After considering this information, SEPA subsequently withdrew their objection. Should permission be granted, conditions would be required to secure the timely installation of the new treatment plant.
- 8.27 Although SEPA have withdrawn their objection, it should be noted that the new treatment plant required providing adequate drainage and facilities to the additional customers for the cafe and retail use has not yet been installed. This means that there is insufficient drainage provision for the customers of the cafe and retail unit, before even considering the additional people attending and working at the wedding events.
- 8.28 Also SEPA's acceptance of the interim solution was on the basis that the siting of the portable toilets ensured any leakage would have limited impact on nearby watercourses. Objectors have stated that this is not the case as they have been positioned closer to watercourses than as stated on the submitted plan. Breaches of foul drainage would be enforced by SEPA or the Council's Building Standards team and breaches of a condition relating to the installation of the treatment plant as part of any planning approval would be enforced by the Council as Planning Authority.

Other Matters

- 8.29 The neighbour notification procedures as defined by the regulations were correctly carried out by the Council. The application was also advertised in the local press for the purposes of neighbour notification and as a potential bad neighbour development.
- 8.30 The frustration of the objectors relating to the numerous applications submitted and withdrawn by the applicant is noted. However it is in the

applicants control to withdraw their applications if they feel it appropriate to do so. Any outstanding alleged breaches of planning control will be investigated and resolved.

- 8.31 A building warrant application is under consideration to alter and convert the glasshouse, barn and a number of other buildings from agricultural to commercial premises. This will consider the drainage proposals and ensure that the buildings are fit for their proposed uses. There is no requirement to delay determination of the planning application until the building warrant is determined.
- 8.32 A number of comments were made in relation to the licence application, highlighting a number of differences between the two applications. The Planning Authority can only assess the merits of the planning application. However, the Planning Authority has provided comments with regard which works/uses require the benefit of planning permission, to the licensing process.
- 8.33 Non-compliance with the Damhead and District Neighbourhood Plan 2015-2030 is not a material planning consideration.
- 8.34 Planning permission 16/00045/DPP for the formation of a car park, increasing the parking provision within the SHG to 45 spaces was approved. This application was advertised in the local press and was subject to the Council's neighbour notification procedures.
- 8.35 The Planning Authority is aware all buildings on the site, with the exception of the yurt and shed, have been there for some time and therefore are immune from enforcement action. The yurt (portable round tent structure) does not require planning permission.
- 8.36 The issue of damage to fences is not a planning consideration but a private legal matter between the parties involved.
- 8.37 The impact of the wedding events on the value of nearby properties is not a material planning consideration.
- 8.38 The Planning Authority is actively communicating with the applicant and their agent to address all unauthorised works at the SHG. The current application cannot be refused due to alleged breaches of conditions or alleged irresponsible behaviour regarding public health and safety.
- 8.39 The Planning Authority is aware that the SHG site was previously marketed for sale and that the particulars did not include the associated house. The dwellinghouse is no longer listed as being for sale.

9 RECOMMENDATION

- 9.1 That planning permission be refused for the following reasons:

1. *The proposed development is located within the countryside and green belt and, as such, is contrary to policies RP1 and RP2 of the adopted Midlothian Local Plan 2008.*
2. *It has not been demonstrated to the satisfaction of the Planning Authority that the proposed change of use would not have a significant adverse impact on the amenity of the neighbouring dwellinghouses due to the use bringing unacceptable levels of noise, traffic and light into an inherently quiet area and is therefore contrary to policy ECON8 of the adopted Midlothian Local Plan 2008 which seeks to support rural development where it does not introduce unacceptable levels of noise nor cause a nuisance to residents in the vicinity of the site.*

Ian Johnson
Head of Communities and Economy

Date: 23 May 2017

Application No: 17/00219/DPP (Available online)

Applicant: Mr Hamish Martin, Secret Herb Garden, 32A
Damhead, Lothianburn

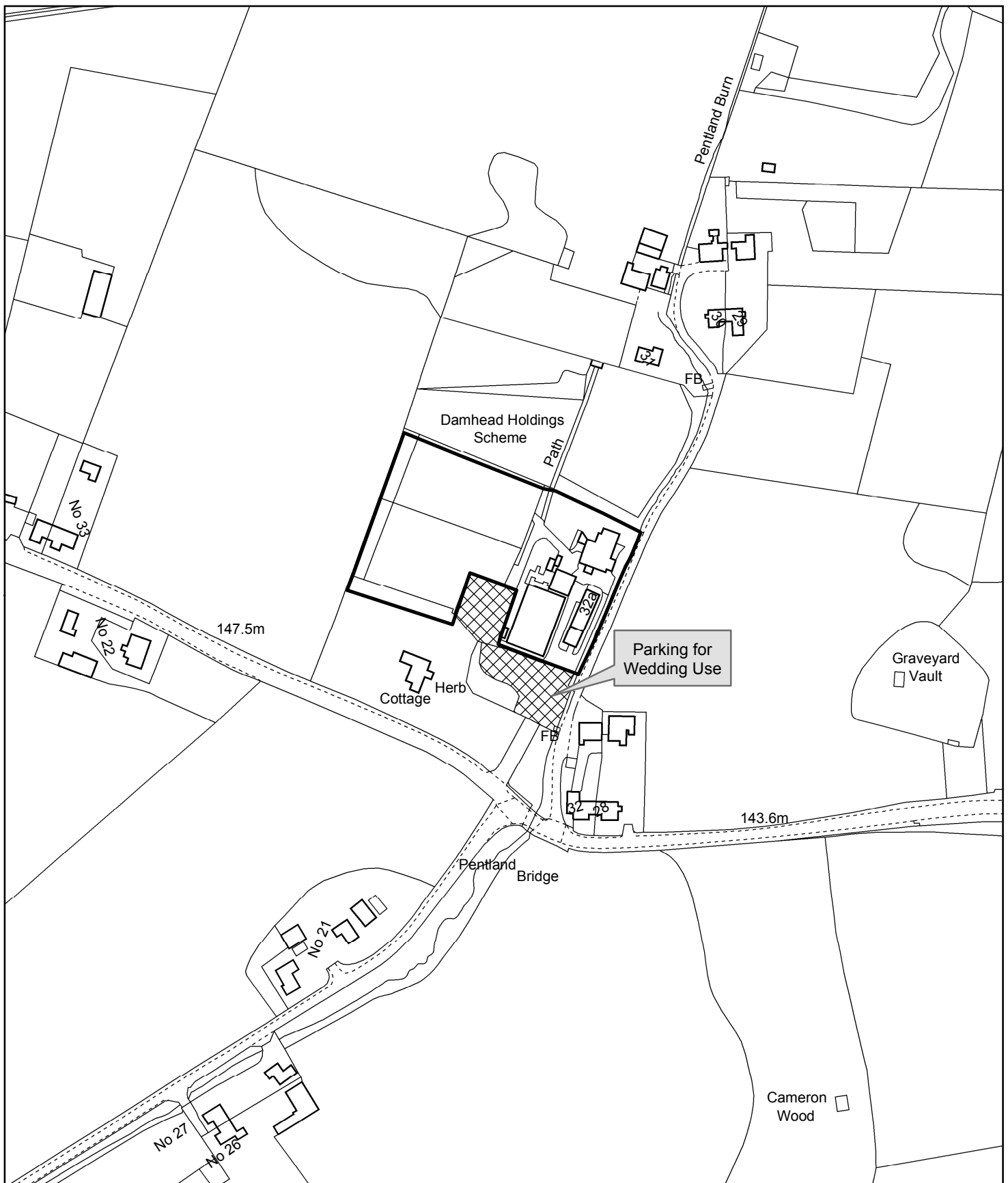
Agent: Albert Muckley, Ironside Farrar Ltd, 111 McDonald
Road, Edinburgh

Validation Date: 29 March 2017

Contact Person: Mhairi-Anne Cowie, Case Officer

Tel No: 0131 271 3308

Background Papers:



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

32A Damhead, Lothianburn, Edinburgh, EH10 7EA

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