



TWO APPLICATIONS FOR PLANNING PERMISSION, ONE FOR THE ERECTION OF A DWELLINGHOUSE (18/00582/DPP) AND THE SECOND FOR THE ERECTION OF THREE DWELLINGHOUSES (18/00593/DPP) AT LAND AT AIRYBANK, QUARRYBANK, COUSLAND

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The applications (two applications forming a single development proposal) are for the erection of four dwellinghouses on land to the north, south and west of Airybank, Quarrybank, Cousland. There have been fourteen representations and consultation responses from the Coal Authority, The Wildlife Information Centre, the Council's Head of Education, the Council's Policy and Road Safety Manager and the Council's Environmental Health Manager.**
- 1.2 The relevant development plan policies are STRAT2, DEV2, DEV5, DEV6, DEV7, TRAN5, IT1, ENV7, ENV11, ENV15, IMP1 and IMP2 of the Midlothian Local Development Plan 2017.**
- 1.3 The recommendation is to refuse planning permission for both applications.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The application sites comprise part of an area of ground within the curtilage of Airybank House, located at the northwest edge of Cousland. The site was a former quarry which was infilled in 2005.**
- 2.2 The site is 1.26 hectares (application 18/00592/DPP is 0.44 hectares and application 18/00593/DPP is 0.82 hectares) and accessed from Quarrybank (also known as Cousland Kilns Road). The site slopes down towards the north and is visible from public roads to the north and west. There are rows of mature trees to the west and north of the site and a group of trees to the northeast adjacent to the site access.**
- 2.3 Application 18/00592/DPP covers the access road and a pocket of land in the centre of the wider site to the west of Airybank House. Application 18/00593/DPP covers the access road and pockets of land to the north and southwest of Airybank House (either side of the central**

pocket covered by application 18/00592/DPP). Airybank House is to the east of the access road and is a large two storey property with accommodation in the roof space, it has natural slate roof tiles and wet dash render walling with natural stone detailing.

3 PROPOSAL

- 3.1 The applications (two applications forming a single development proposal) are for the erection of four dwellinghouses. Application 18/00592/DPP is for one dwellinghouse and application 18/00593/DPP is for three houses. The applicant has split the site into two application areas for procedural reasons. However, given the proposed layout and the history of the site the applications are considered together as one development.
- 3.2 The four detached houses are proposed in a cul-de-sac arrangement along an access road, that is partially constructed, which wraps around the existing Airybank House. Plot one of 18/00593/DPP is located in close proximity to the vehicular entrance off Quarrybank/Cousland Kilns Road. The other three housing plots are set back into the site, separated from plot one by an area of open ground, which is retained to maintain views into the countryside for Airybank House.
- 3.3 Two house types are proposed. Plots 1 (the dwelling closest to the access) and plot 3 (the dwelling furthest into the site, closest to those properties in Hadfast Road and quarrybank) of 18/00593/DPP and the house in the centre of the site the subject of application 18/00592/DPP are house type Y. This house type has two storeys of accommodation incorporating two lounge areas, kitchen/dining/family room, dining hall, four bedrooms and an integral garage.
- 3.4 Plot 2 of application 18/00593/DPP is house type X, which has two storeys of accommodation with the upper floor contained within the roof space, it contains a lounge, dining/kitchen area and four bedrooms. This house type has a detached double garage with a pitched roof.
- 3.5 The proposed materials are grey concrete roof tiles, white render, cedar timber boarding and smooth ashlar stone walls and dark grey UPVC windows.
- 3.6 1.2 or 1.8 metre high fencing is proposed within and around the plots. A landscape buffer is to be retained/enhanced along the site boundary.
- 3.7 The applicant has submitted the following documents in support of the application:
 - A Planning Statement;
 - Ground Survey;
 - Bat Survey; and
 - Arboricultural Surveys/Landscaping Plan.

4 BACKGROUND

- 4.1 Planning application 01/00589/FUL for the infill of the former quarry was granted permission in 2005.
- 4.2 Planning application 03/00650/FUL for the demolition of existing building and erection of dwellinghouse (Airybank House) and detached garage was granted permission in 2004.
- 4.3 Planning application 05/00588/FUL for the change of use from domestic outbuilding to form 'granny flat' was granted permission in 2008. This application relates to the garage approved in permission 03/00650/FUL and included a condition that the flat only be occupied by a family member or occasional visitor of the host dwellinghouse.
- 4.4 Planning application 05/00663/FUL for the erection of four dwellinghouses was withdrawn in 2008.
- 4.5 Planning application 08/00694/FUL for the erection of four dwellinghouses was withdrawn in 2015.
- 4.6 Planning application 15/00952/DPP for the erection of eight dwellinghouses was refused in 2016. Three housetypes were proposed, two of which are the same as those proposed in the current applications. The reasons for refusal were; 1) the scale, massing, form and design of the houses were considered out of character with the edge of village setting and would have a detrimental impact on the area contrary to development plan policies; 2) the proposed development will have a detrimental impact on existing trees and does not propose sufficient compensatory planting; 3) the scale and layout of the houses are of low quality and is an unimaginative urban design solution at odds with the area; and 4) the development would result in overlooking and the loss of amenity to neighbouring properties. The application was reviewed by the Local Review Body who dismissed the review and reinforced the reasons for refusal.
- 4.7 Planning application 17/00649/DPP for the erection of four dwellinghouses was refused in 2017. The house types were those refused in application 15/00592/DPP and as proposed in the current applications. The reasons for refusal were similar to the previous application in terms of the design and scale of the dwellings and their impact on neighbouring properties. This application was also reviewed by the Local Review Body who dismissed the review and reinforced the reasons for refusal. In its deliberation of the review the Local Review Body expressed support for the principle of a development of four houses across the site and expressed an opinion that the smaller of the two house types (house type X) may be acceptable.

- 4.8 The application has been called to Committee for consideration by Councillor Smail to discuss the scale of the houses and the impact on protected species.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application.
- 5.2 **The Wildlife Information Centre (TWIC)**, the Council's ecology advisor, does not object to the application, but advises that there are data interpretation errors with the submitted bat survey and as such if planning permission is to be granted the applicant would need to ensure their bat survey and interpretation thereof is up to date and that any identified mitigation is implemented.
- 5.3 The Council's **Head Education** has stated that the development (the proposed three dwellings subject to application 18/00593/DPP) will result in additional pressure on primary and secondary school provision and as such a developer contribution would be required.
- 5.4 The Council's **Policy and Road Safety Manager** does not object to the application subject to conditions being attached to any grant of planning permission ensuring; visitor parking is provided, the provision of a pedestrian crossing point on Quarrybank (also known as Cousland Kilns Road), details of a surface water drainage system are agreed with the local planning authority and the details of street lighting are agreed with the local planning authority. It is also confirmed that the access road would not be adopted by the Council and as such an area to uplift bin and recycling collections should be provided.
- 5.5 The Council's **Environmental Health Manager** does not object to the application subject to conditions being attached to any grant of planning permission ensuring; ground contamination remediation works are undertaken and the hours of construction are limited to reasonable working times.

6 REPRESENTATIONS

- 6.1 There have been 12 objections received (six objections to both applications and six to application 18/00593/DPP, which is for the erection of three dwellings) and two support representation, all of which can be viewed in full on the online planning application case file. A summary of the objections are as follows:
- The scale, form, layout and design of the proposed dwellings does not reflect the character of the area and are out of keeping with the village;
 - The proposed dwellings are close to existing houses and will have a detrimental impact on privacy and overlooking;

- The development will have a detrimental impact on vehicular and pedestrian safety;
- There are no infrastructure improvements proposed;
- The proposal would impact on already stretched amenities;
- Detrimental impact on trees;
- Detrimental impact on wildlife (including protected species) and flora;
- Risk of damage to surrounding properties;
- Impact of development on ground stability, including land surrounding the site, given the known legacy of underground mining operations;
- The proposal is similar to those previously refused and has not addressed the previous reasons for refusal, therefore remains contrary to development plan policies;
- There was limited contact between the applicant and local residents;
- A survey has been carried out in Cousland which found that two storey houses at the site were not welcomed or in keeping with the village;
- Noise and disruption from construction activities will adversely impact on neighbouring properties.
- Loss of views;
- The arboricultural surveys were carried out over three years ago;
- Increased risk of flooding; and
- The layout appears to be the 'first stage' of a larger development.

6.2 A number of representations advise that they are not opposed to the development of the site in general terms, but consider any redevelopment should be in keeping with the village

6.3 Two representations support both proposals stating the proposals will enhance the area and contribute to the local community.

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 Development Plan, adopted in November 2017. The following policies are relevant to the proposal:

Midlothian Local Development Plan 2017 (MLDP)

7.2 Policy **STRAT2: Windfall Housing Sites** permits housing on non-allocated sites within the built-up area provided: it does not lead to loss or damage of valuable open space; does not conflict with the established land use of the area; has regard to the character of the area in terms of scale, form, design and materials and accords with relevant policies and proposals.

- 7.3 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.4 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.5 Policy **DEV6 Layout and Design of New Development** requires good design and a high quality of architecture, in both the overall layout of developments and their constituent parts. The layout and design of developments are to meet listed criteria.
- 7.6 Policy **DEV7: Landscaping in New Development** requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment.
- 7.7 Policy **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.
- 7.8 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.9 Policy **ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.
- 7.10 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.
- 7.11 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.12 Policy **IMP1: New Development** This policy ensures that appropriate provision is made for a need which arises from new development. Of

relevance in this case are; education provision, transport infrastructure' contributions towards making good facility deficiencies, landscaping, parking in accordance with approved standards, pedestrian access, access for people with mobility issues, traffic and environmental management issues; and protection/management/compensation for natural and conservation interests affected.

- 7.13 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.

National Policy

- 7.14 The **SPP (Scottish Planning Policy)** sets out Government guidance for housing. All proposals should respect the scale, form and density of their surroundings and enhance the character and amenity of the locality. The individual and cumulative effects of infill must be sustainable in relation to the social and economic infrastructure of a place, and must not lead to over-development.
- 7.15 The SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to be considered high quality, as such a development should be; distinctive; safe and pleasant; welcoming; adaptable; resource efficient; and, easy to move around and beyond. The aims of the SPP are developed within the local plan and local development plan policies.
- 7.16 The SPP states that *design is a material consideration in determining planning applications* and that *planning permission may be refused and the refusal defended at appeal or local review solely on design grounds*.
- 7.17 The SPP supports the Scottish Government's aspiration to create a low carbon economy by increasing the supply of energy and heat from renewable technologies and to reduce emissions and energy use. Part of this includes a requirement to guide development to appropriate locations.
- 7.18 The SPP notes that "high quality electronic communications infrastructure is an essential component of economic growth across Scotland". It goes on to state that

“Planning Authorities should support the expansion of the electronic communications network, including telecommunications, broadband and digital infrastructure, through the development plan and development management decisions, taking into account the economic and social implications of not having full coverage or capacity in an area”.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining these applications is whether the proposals comply with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

Principle of Development

- 8.2 The application site is located within the built-up area of Cousland where there is a presumption in favour of appropriate development. The application site is situated within a predominantly residential area where the proposed residential development would be compatible to the neighbouring land uses subject to the details of the proposed development complementing the character of the area and protecting the amenity of existing neighbouring properties.

Layout and Form of Development

- 8.3 The previously adopted 2008 Local Plan, while bringing the site within the village envelope of Cousland, contained a statement which indicated that the site at Airybank could accommodate a development of a maximum of four houses without having a negative impact on the setting of the village. The site at Airybank was envisaged as the total area to the north and west of the existing house. The inference from this is that a development of over four dwellinghouses would likely have a negative impact on the character and appearance of the area. Given the requirements of MLDP policies, which seek development in keeping with the character of the area, it is considered that an acceptable development would comprise four dwellings, generally of a scale and character commensurate with those in the surrounding area. This position was supported in the refusal and subsequent dismissal of a review of application 15/00952/DPP for eight houses at the site, as well as application 17/00649/DPP for four houses, which was refused and dismissed at review due to concerns regarding the site area and the scale of the houses proposed.
- 8.4 Cousland is a small village where the overwhelming majority of dwellings have either one storey of accommodation or a second storey of accommodation within the roof space. This is the case with the long established housing stock and the more recent additions. The character of Cousland is, therefore, one of smaller dwellings,

bungalows and cottages. As a result of the existing buildings having relatively low ridge heights, the topography of the land and the strong landscaped boundaries around the village, the settlement is not readily visible from outwith the immediate vicinity.

- 8.5 The applicant proposes four very large dwellings, comprising three of the larger, 2 storey housetypes Y and one housetype X, which is single storey with accommodation in the roof space. These housetypes are the same as those submitted in previous applications. All proposed houses are large in terms of their height, bulk and massing, at odds with the character of the surrounding area and scale of other buildings in Cousland. The applicant states that the proposed dwellings are viewed in the context alongside Airybank House, a very large house on the adjoining site and the largest house in Cousland. However, Airybank House is a clear exception to the overriding character of the area and cannot be used as a reference point to define the character of Cousland.
- 8.6 In considering the review for application 17/00649/DPP, the Local Review Body (LRB) had no objection in principal to a development of four houses covering the current application sites – this reflects the development plan position. However there were concerns over the scale of the proposed houses, particularly the two storey house type Y and as such the LRB dismissed the review. However, in its deliberation of the review the LRB expressed an opinion that the smaller of the two house types (house type X) may be acceptable if an appropriate layout with appropriate landscaping was proposed. There was a concern over the provision of the large housetypes Y which would be larger than the majority of houses within Cousland.
- 8.7 Proposed house type Y is contrary to the deliberations of the LRB, which is a material planning consideration. The current applications include three dwellings of house type Y which are large in terms of their height, bulk and massing, at odds with the character of the surrounding area and scale of other buildings in Cousland.
- 8.8 It is acknowledged that the current applications have a similar layout to the 2008 application which was minded to be approved (the application was withdrawn as the applicant's did not wish to sign a planning obligation securing developer contribution). However this position has been superseded by a more up to date planning assessment, recent representations from local residents and the comments and position of the LRB, which clearly shows no support for the larger house type.
- 8.9 Adequate garden ground is provided for the proposed houses.

Landscaping

- 8.10 The proposed developed area is larger than the previous scheme (17/00649/DPP), as it includes an area of open ground which was

previously excluded from the development proposals. This allows more opportunities for landscaping between plots and along the boundaries of the sites. The landscape strategy details additional tree and beech hedge planting within the sites, as well as reinforcing landscaping around the boundaries. Although the required 30m tree buffer between the sites and the countryside is not provided, the proposed landscaping will go some way to enhance the existing tree planting around the sites' boundaries.

- 8.11 The existing woodland belt along the western, northern and eastern boundaries of the sites provide a good and robust landscape separation between Cousland and the wider countryside. It is paramount that this woodland edge is retained, protected and augmented. Without this the application sites and this side of Cousland, will be exposed, visually and to the prevailing winds.
- 8.12 Whilst the proposed landscaping will help integrate the proposals into the surrounding area, the proposed houses will be highly visible and due to their scale and design they will be detrimental to the character of this semi-rural edge-of-village area. Landscaping should not be used as a screen to hide bad design, but as a tool to integrate good quality development into the landscape. Should a development of smaller houses be proposed, it is likely that the proposed planting would be adequate. Should permission be granted, further landscape details shall be required, including an up to date tree survey, details of tree root protection areas and tree protection measures.

Impact on Neighbouring Properties

- 8.13 The house at Plot 3 of 18/00853/DPP is positioned to be 17 metres from the shared boundary to 3 Quarrybank and 15 metres from the shared boundary to 1 Hadfast Road. The distance between the proposed and existing properties are such that the degree of separation meets the desired distances between properties and is unlikely to result in significant overlooking to warrant refusal. In addition, the landscape plan proposes additional landscaping along the boundary to 1 Hadfast Road which would limit overlooking to the existing garden ground.

Access and Transportation Issues

- 8.14 The Policy and Road Safety Manager has not objected to the application on the basis that the proposed development will not have a significant adverse impact on highway safety. However, there is insufficient visitor parking spaces proposed within the layout and if permission is granted additional spaces should be provided. In addition; a pedestrian crossing point over Quarrybank (also known as Cousland Kilns Road) to the existing footway network in Beech Grove, a sustainable urban drainage scheme and street lighting shall be provided in accordance with details to be submitted for approval. The

sustainable urban drainage scheme shall be designed as not to have a detrimental impact on the established and proposed trees on the site.

- 8.15 The proposed development includes a gated access and as a consequence the internal road would not be adopted by the Council. All bin and recycling uplifts would therefore be required to be from the kerbside on Quarrybank/Cousland Kilns Road. This would require an area of hardstanding to accommodate bins and recycling boxes, which could result in the loss of some of the important landscaping along the roadside boundary of the site, to the detriment of the visual amenity of the area.

European Protected Species

- 8.16 A bat roost has been identified within application site 18/00593/DPP. Bats are a European Protected Species and it is an offence to cause them, or their roosts, harm. The Council's ecology advisor, does not object to the application, but advises that there are data interpretation errors with the submitted bat survey and as such if planning permission is to be granted the applicant would need to ensure their bat survey and interpretation thereof is up to date and any identified mitigation is implemented. Any proposed mitigation shall include the installation of a tree protection fence during construction to provide a 30 metre standoff zone from the bat roost.

Ground Conditions

- 8.17 The Coal Authority has provided comment for each application. For application 18/00592/DPP the built development proposed falls outwith the defined Development High Risk Area and as such a Coal Mining Risk Assessment is not required, provided the standard advisory informative note is attached to any grant of permission.
- 8.18 For application 18/00593/DPP, the Coal Authority "considers that the content and conclusions of the Phase I/II Geo-Environmental and Geotechnical Interpretive Report are broadly sufficient for the purposes of the planning system in demonstrating that the application site is safe and stable for the proposed development". Given that the Coal Authority are satisfied regarding the ground stability issues it is considered unlikely that the development could have a detrimental impact on the ground conditions of neighbouring properties.

Other Matters

- 8.19 The lack of infrastructure and facilities within Cousland would not be addressed through developer contributions if permission is granted. Developer contributions can only be used to mitigate the direct impact of the development. The limited contact between the applicant and local residents or the loss of views as a result of the proposed development are not material planning considerations. Noise and

disruption from the construction process would not be significant considering the scale of the proposal.

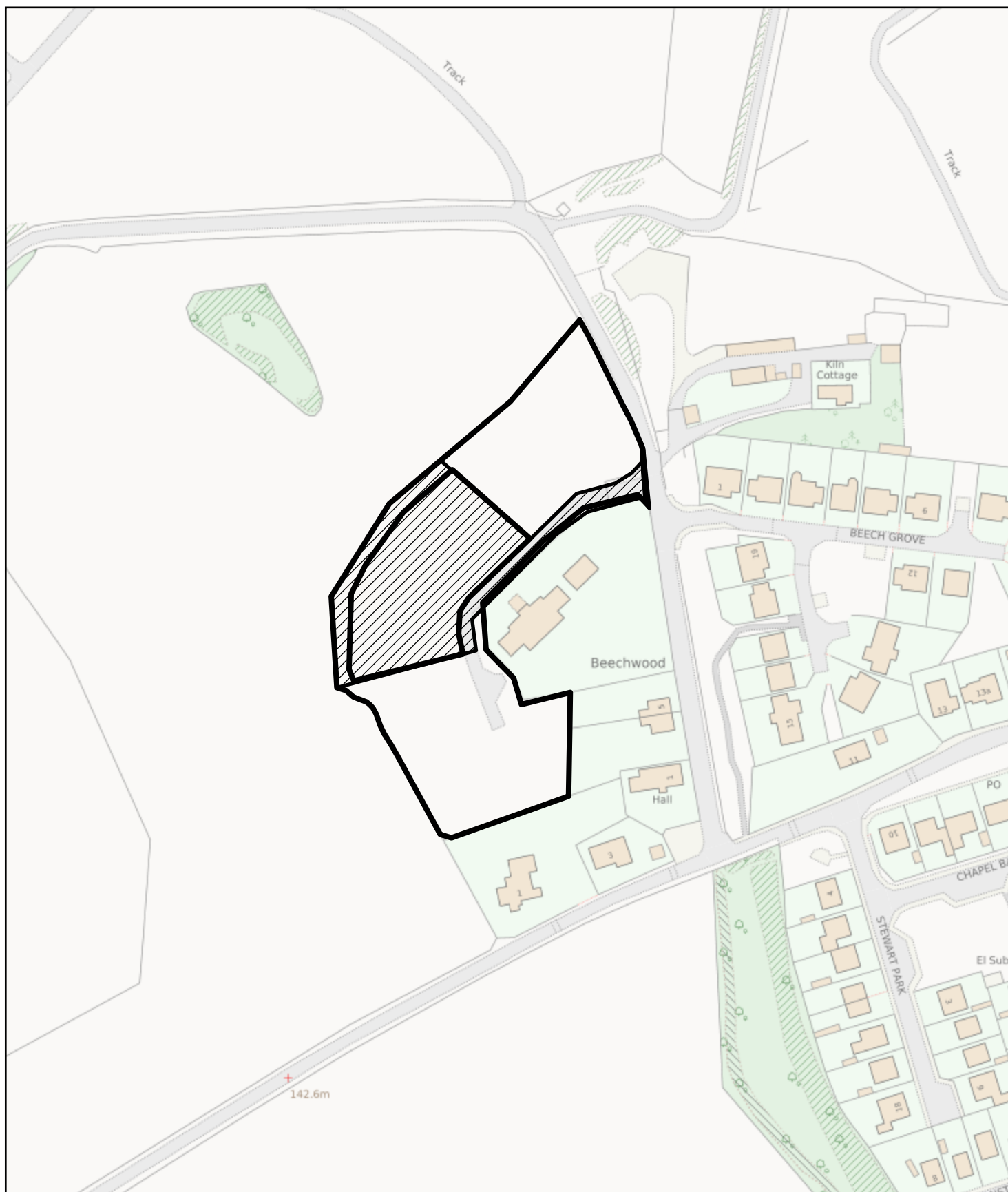
9 RECOMMENDATION

9.1 That planning permission be refused for the following reasons:

1. *The proposed dwellinghouses by means of their scale, massing, form and design are incompatible with their edge-of village setting and the wider settlement of Cousland and will therefore have a detrimental impact on the character and appearance of the area contrary to policies DEV2 and STRAT2 of the Midlothian Local Development Plan 2017 and Scottish Planning Policy.*
2. *It has not been demonstrated to the satisfaction of the Planning Authority that the proposed development would not have a detrimental impact on European Protected Species and is therefore contrary to policy ENV15 of the adopted Midlothian Local Development Plan 2017.*

Dr Mary Smith
Director of Education, Communities and Economy


Date:	8 November 2018
Application No:	18/00592/DPP and 18/00593/DPP (Available online)
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Background Papers:	Planning applications 17/00649/DPP and 15/00592/DPP



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Airybank Sites (overlaid)

 18/00592/DPP

 18/00593/DPP

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