



APPLICATION FOR PLANNING PERMISSION 18/00403/DPP FOR THE ERECTION OF 100 DWELLINGHOUSES, FORMATION OF ACCESS ROADS, SUSTAINABLE URBAN DRAINAGE SYSTEM AND CAR PARKING AND ASSOCIATED WORKS AT LAND BETWEEN ROSEWELL ROAD AND CARNETHIE STREET, ROSEWELL

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the erection of 100 dwellinghouses, the formation of associated access roads and a sustainable urban drainage system (SUDS) on land between Rosewell Road and Carnethie Street, Rosewell. There have been 37 representations and consultation responses from the Scottish Environment Protection Agency (SEPA), the Coal Authority, Rosewell & District Community Council, the Council's Archaeology Advisor, the Council's Head of Education, the Council's Policy and Road Safety Manager, the Council's Environmental Health Manager, the Council's Land Resources Manager and the Council's Housing Planning and Performance Manager.**
- 1.2 The relevant development plan policies are policies 5 and 7 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT3, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.**
- 1.3 The recommendation is to grant planning permission subject to conditions and the applicant entering into a Planning Obligation to secure contributions towards necessary infrastructure and the provision of affordable housing.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is mostly agricultural land to the immediate north east of the village of Rosewell and comprises allocated housing site Hs14 with an indicative capacity of 60-100 dwellings. The site includes: (i) a section of the south embankment of Core Path 3-7 to the immediate north west, which forms part of the Penicuik-Musselburgh footway and cycleway (NCR196); (ii) part of Cemetery Road along its south western edge; and, (ii) Rosewell Road along its south eastern edge. The site is the**

final area of land allocated for housing within the boundary formed by the Rosewell bypass.

- 2.2 The site is triangular in plan form, extending the existing allocated site of Rosewell North (Hs14). The site is at the gateway to the village from the north.
- 2.3 Core Path 3-7 which bounds the site to the north west provides an important link between Rosewell and Bonnyrigg. The core path itself lies in a cutting some 4.5 metres below the level of the application site. Beyond the core path is Rosewell Road (A6094) known as the Rosewell Bypass. Carnethie Street bounds the site to the east/south east. Cemetery Road with houses beyond bound the site to the south west. The commercial boarding dog kennels and cattery known as Candidacasa is located nearby to the north east of the site.
- 2.4 The existing housing in the settlement of Rosewell comprises a mixture of predominantly traditional single-storey terraced cottages and more modern two-storey detached, semi-detached and terraced houses. The character of the area comprises houses fronting onto streets with small front and rear gardens. The majority of the buildings are characterised by various forms of brick, rendered and reconstituted stone wall finish.

3 PROPOSAL

- 3.1 The proposed development comprises:
- 96 two-storey, pitched roof houses;
 - 4 cottage flats;
 - the formation of a vehicular access off Cemetery Road;
 - the formation of internal roads;
 - the formation of a SUDS basin in the eastern extremity of the site;
 - the installation of an underground pumping station; and
 - the erection of acoustic fencing along some of the rear gardens of the proposed new dwellings.
- 3.2 The housing mix, consists of seven different house types, comprising:
- | | | | |
|------------------------|-----------|-----------------------|-----------|
| Cottage flats | 4 | one bed units | 4 |
| terraced houses | 12 | two bed units | 5 |
| semi-detached houses | 38 | three bed units | 75 |
| <u>detached houses</u> | <u>46</u> | <u>four bed units</u> | <u>16</u> |
| Total | 100 | Total | 100 |
- 3.3 The applicant proposes 25 onsite affordable housing units comprising 4 one bed units, 5 two bed units and 16 three bed units.
- 3.4 The drainage strategy includes a dry SUDS basin in the eastern corner of the site with a surface water connection to the north via an unnamed ditch close to the northern boundary of the site which joins a burn via a culvert. The site is shown on the SEPA flood maps as being outside of the area which is at risk from extreme fluvial or tidal flooding and the site is therefore not at risk from flooding in the 1 in 200 year event.

- 3.5 The layout of the development includes a mixture of detached, semi-detached and terraced houses and a corner block of four cottage flats linked by a common stair enclosure.
- 3.6 The eastern most buildings on the site comprising plots 36-51 (16 of the affordable housing units); which are nearest to the Candidacasa boarding kennels, are designed with noise mitigation to safeguard their future occupants from noise nuisance from barking dogs within the boarding kennels. The living areas, dining area and bedrooms within these units are located on the quiet (west) side with windows facing onto rear gardens. The kitchens, bathrooms, stores and circulation space within those units are located on the noise vulnerable (east) side. These houses together with lengths of acoustic fencing linking them, form an unbroken acoustic barrier to mitigate noise nuisance to them and their rear (west) private gardens. Although the front entrance to these dwellings are located to the east side of the buildings no front gardens are proposed and thus no private outdoor amenity space. The applicant confirms that the open space and landscaping on the east side of these properties is to be factored. The main pedestrian access to these dwellings will be from their rear elevation via the off street parking courts to the west. Acoustic fencing is also proposed along the northern and eastern boundaries of the site. These proposed acoustic fences will mitigate noise nuisance from adjacent roads and commercial noise associated with the neighbouring commercial dog kennels.
- 3.7 The application is also accompanied by:
- a planning statement;
 - an indicative drainage strategy;
 - a pre-application consultation (PAC) report;
 - a design and access statement (DAS);
 - a noise impact assessment addressing the impact of road traffic noise and commercial noise from the nearby boarding kennels;
 - a landscape statement;
 - a district and community heating options study;
 - a protected species report;
 - a Phase 1 habitat survey; and,
 - an archaeological desk-based assessment.

4 BACKGROUND

- 4.1 The applicant carried out a pre-application consultation (15/00774/PAC) for a residential development on the site, which was reported to Committee at its meeting of November 2015.
- 4.2 An environmental impact assessment (EIA) screening opinion request, 15/00810/SCR, for a proposed residential development on the site was submitted 8 October 2015. The applicant was advised that an EIA was not required under schedule 2 of the EIA Regulations.

5 CONSULTATIONS

- 5.1 The **Scottish Environment Protection Agency (SEPA)** do not object to the application. With regard to previous mine workings it is recommended that if stabilisation works are required to facilitate the development then an appropriate risk assessment for the proposed stabilisation of the mine workings is produced prior to development works taking place. Such a risk assessment should primarily serve the developer, to ensure no pollution occurs as a result of the onsite activity. If the preliminary and simple risk assessment identified that the site is at a higher risk and conceptually complex, then a complex risk assessment is required. With regards to air quality SEPA state that due to the previous land use as a coal mine, ground gas (methane and carbon dioxide) risk has been assessed as part of the Geo-Environmental Interpretative Report submitted in support of the application. SEPA advises that this is better interpreted by the Council's contaminated land specialist consultant (Environmental Health) to form an opinion on whether the methodology used in the assessment is correct - no ground gas protection has been proposed. In terms of air quality management SEPA advise that there is no requirement for an assessment for methane or carbon dioxide. SEPA have considered the District and Community Heating Options Study prepared to review the feasibility of a district heating scheme as part of the proposed development and accept the conclusions put forward which conclude a scheme is not feasible for this site. SEPA recommend consultation with the Coal Authority.
- 5.2 The **Coal Authority** does not object to the application. The site falls within a defined *Development High Risk Area*; which means the application site and surrounding area has the potential of coal mining features and hazards which need to be considered in relation to the determination of the planning application. Their records indicate that the site has been subject to both recorded and unrecorded underground coal mining at shallow depth, together with the presence of two recorded mine entries. The Coal Authority holds no treatment details for these mine entries. They note that the planning application is accompanied by a Geo-Environmental Interpretative Report for the proposed development which has been informed by an appropriate range of sources of information, together with the results of three phases of intrusive site investigations which includes deep boreholes and trial trenching. As a result of these site investigations, the report author was able to ascertain the ground conditions present beneath the ground which confirms that the majority of the site is underlain with mine workings and due to insufficient competent rock cover, recommendations have been made that the site will need to be stabilised by drilling and grouting. The Coal Authority advises that the applicant should also be aware that an alternative to grouting stabilisation works, wherever possible, is to remove the remnant shallow coal present beneath a site. This will enable the land to be stabilised and treated by a more sustainable method; rather than by the grout fill of any voids and consequently unnecessarily sterilising the nation's asset. In addition to the shallow mine workings, the two recorded mine shafts were

accurately located (shown on Drawing No. 04, Revision A: Constraints Plan of the above Report) and appropriate remedial measures in the form of grouting and capping of these mine shafts will be undertaken. Whilst it would appear that both mine entries are located within areas of open space and therefore no built development is on or within the zone of influence from these mine entries, the local planning authority might find it useful for the applicant to annotate the mine entries onto Drawing Ref: HJB/823/27 (Proposed Site Plan). Based on the above, the Coal Authority considers that an adequate assessment of the coal mining risks associated with this site has been carried out. Therefore, in order to ensure that sufficient information is provided by the applicant, to demonstrate to the local planning authority that the site can be made safe and stable for the proposed development, the imposition of a planning condition should be considered.

- 5.3 **Rosewell & District Community Council (RDCC)** notes that the developer has reduced the planned number of dwellings from the 120 proposed in the initial consultation to 100 - this is a positive move. However, they ask that the following comments are taken into consideration during this planning process:
- Rosewell Neighbourhood Group carried out a poll on their social media page and found only 6 people supported the development and 66 were against;
 - The site has been identified in the MLDP as Countryside and Prime Agricultural Land - therefore the development is contrary to the MLDP;
 - The lack of availability of local services for committed developments and the currently proposed development has been repeatedly raised by the local community. The availability of GP/dental services along with inadequate public transport to reach any of these services are unresolved issues that need to be resolved by Midlothian Council before the approval of further developments;
 - Rosewell is historically a traditional village comprising of traditionally built stone and tile houses. Adding another new build development will materially affect the character, fabric and makeup of the community, doing little to retain the character of the village. The developer states the proposal will make “improvements to the entrance of the village reflecting the site’s position as a key gateway into Rosewell”, but in reality, this development is removing yet another arable greenfield from the countryside. Smaller units (especially in height) designed to reflect the existing character of the village, like the cottages on the left when entering Rosewell, could visually enhance this key gateway location. The previous development at Chapel Field, leading up to St Mathews Chapel, is incongruous, inconsiderate and detracts from this distinctive Chapel and its grounds;
 - RDCC would draw the planning authority’s attention to the risk of subsidence to existing properties arising from ground movement incurred during construction work and by HGV movements. For this reason, RDCC would ask that these concerns are taken on board as a planning condition: that HGV site traffic access the site only from

the A6094 Rosewell Bypass entrance onto Carnethie Street (Bonnyrigg direction) and no HGVs should be allowed to enter the main village streets. A resident quoted from the Coal Authority Report – “the site has been subject to both recorded and unrecorded underground coal mining at shallow depth, together with the presence of two recorded mine entries and the Coal Authority holds no treatment details for these mine entries with recommendation to extract the coal rather than fill in grout, which would enable the land to be stabilised and treated by a more sustainable method”.

Developers Design and Access Statement 7.1 Ground Conditions - the report confirms that the site is suitable for residential development subject to normal practices of grouting and capping to address previous mine workings across the majority of the site;

- Residents are concerned about drainage - the field slopes away very rapidly towards the end of Carnethie Street and as a result often floods. Whilst a SUDS scheme has been proposed, residents question if this will be adequate for flood prevention of the road between the old railway bridge and Park Neuk Lane, which often floods after heavy periods of rainfall. RDCC request this issue is effectively addressed;
- The applicant has included a District and Community Heating Options assessment, which was never likely to be a viable option as these systems are recommended for high density housing of more than 60 units per hectare, whereas the site recommendation in the MDLP is for close to 20 units per hectare. This report does however mention that the proposed development has been designed to maximise solar gain in the houses, yet the developer does not consider the installation of solar panels (many of which are already present on houses across Rosewell so are clearly a viable option to reduce the Carbon footprint of the development). It was highlighted that there is a disconnect between sustainable energy and development planning;
- RDCC have concerns regarding the future increase in traffic which may cause an increase in safety, particularly at the Bonnyrigg entrance to Rosewell, which is by way of a T-junction. On leaving the village there is a blind approach over a railway bridge within 100m of the junction and a very sharp dipping bend onto the junction. Long vehicles (including buses) have been seen to swing onto the opposite side of the road to negotiate the bend. Similarly, buses turning from the A6094 into the village 'cut the corner' of the junction when turning in. In addition, the visibility is poor when other traffic is present. Residents have said there is also an issue with speeding on this stretch of road leaving the village. There is also concern with extra traffic on the Roslin Glen Road increasing the risk of damage, which previously resulted in the road being closed for a period in excess of two years. We ask that all these issues are addressed before any further development is initiated;
- The X31 bus service runs in the morning and evening during peak times. The alternative for commuters to Edinburgh is the 49, which takes a lengthy circuitous route into Edinburgh, but is a useful service to Edinburgh Royal Infirmary at Little France. However, there

are issues with reliability of the 49-bus service (and that the service frequently turns around at Poltonhall and Bonnyrigg to make up time - thus failing to serve Rosewell). Rosewell has no night bus service;

- An Elected Member (present at the meeting) advised that the schools programme in Midlothian is planned until 2039/40 - so there is going to be enough school places;
- There is no mention of broadband provision for this development - a key and increasingly basic requirement. Digital Scotland's message is existing local capacity is exhausted and there are no known plans to extend coverage. Fibre broadband has already been rolled-out in this area but unfortunately demand for the service has outstripped capacity; and
- The village has no community centre, which makes it very difficult to encourage integration between new and existing residents. Rosewell Development Trust (ROT) has been working hard to secure funding for development of a community hub. RDCC asks that developer contributions are sought from this and future developments towards this much needed community facility.

- 5.4 An initial desk-based appraisal of the site was undertaken in order to examine the possible implications of the proposed development on the historic environment. This has identified several archaeological sites in the immediate vicinity of the proposed development area dating from the prehistoric period onwards. Previous evaluation in advance of residential developments nearby, have recorded the remains of post-mediaeval to modern agricultural settlement and activity. Therefore, there is potential for previously unknown buried archaeological remains to lie within the proposed development site. The Council's **Archaeology Advisor** informs that there is a requirement for a programme of archaeology works (trial trench evaluation) in accordance with a written scheme of investigation to be submitted to and approved in advance by the planning authority. The area to be investigated by trial trench evaluation should be no less than 5% of the total site area.
- 5.5 The Council's **Head of Education** advises that a development of 100 dwellings would give rise to 31 primary school pupils and 25 secondary school pupils and advises that the applicant will be required to make a developer contribution to meet the provisional requirements. The site is in the catchment area of Rosewell Primary School, St Matthew's RC Primary School, Lasswade High School and St David's RC High School.
- 5.6 The Council's **Policy & Roads Safety Manager** does not object to the application. In the interests of improving connectivity and to encourage the use of sustainable forms of transport, a graded 3 metre wide tarmac surfaced cycleway/footpath should be formed from the adopted mixer court between plots 35 and 36 and connecting to Core Path 3-7. The level difference from the mixer court at plots 35 and 36 to Core Path 3-7 is in the order of 4.6m and thus would require a considerable section of landscaping to be removed to achieve a satisfactory gradient down to the Core Path. The topographical information indicates that the site drops in level towards the SUDS pond and this may be a better location

to form the required cycleway/footpath link into the site. A plan showing a route from this location to the existing cycleway/footpath should be submitted for consideration. In addition, they inform that a formal pedestrian crossing link (probably a humped Zebra crossing) should be provided at a suitable point on Cemetery Road linking the new development to the existing footway network within the adjacent housing development and providing a safe pedestrian route from the new development to the facilities in Rosewell. The location of the new crossing point should be shown on the layout drawings.

- 5.7 The Council's **Environmental Health Manager** does not object to the application subject to the acoustic attenuation measures proposed by the applicant: (i) providing for an acceptable living environment through mitigation and design solutions including separation distance to the nearest residences and single aspect housing to act as a noise barrier to the rest of the site; (ii) restricting outdoor space; and, (iii) an acoustic barrier to mitigate road traffic noise. The following details shall be secured by condition/s or an amended layout:
1. The dwellings in the *acoustic terrace* which comprise plots 36-51 inclusive shall be single aspect with no living or bedroom accommodation to the east elevation;
 2. There is no private amenity space on the east side of the dwellings in the *acoustic terrace* i.e. no private amenity space facing onto the kennels. Furthermore, the grassed areas to the east elevation of the proposed housing should not be allocated specifically to any one property as private amenity space;
 3. The building line of the dwellings in the *acoustic terrace* shall be no closer to the kennels than is delineated on site layout plan ref. 3646-AL(0)101B submitted with the application;
 4. The design of the buildings shall be such that internal noise levels within them shall meet Midlothian Council's design targets for daytime and night time noise without specific character (previously referred to as anonymous noise sources) in living accommodation, which is: (i) 30 dB(A) LAeq, 8 hour in bedrooms and 35 dB(A) LAeq, 16 hour in living rooms;
 5. Internal noise levels are assessed post completion of the dwellings and before the first occupation of them to ensure that the above said noise levels have been achieved; and
 6. The lengths of proposed acoustic fencing shall be erected in accordance with the RMP technical report no. R-7365B-RGM-MI report dated 15th May 2018 and plan reference 3646-AL(0)101B prior to the first occupation of the houses.
- 5.8 Furthermore, the Council's standard condition mitigating ground contamination risk shall be imposed.
- 5.9 The Council's **Land Resources Manager** does not object to the application. Two core paths exist near the application boundary, Core path 3-7 links Penicuik, Rosewell and Bonnyrigg and Core Path 3-5 follows a circular route within the wider countryside to the outskirts of Roswell, with onward links to Gorebridge. These routes should remain

unobstructed at all times. The development will be sufficiently permeable to allow the expansion of off-road links to the wider path network and allow a continuous link between Core Paths 3-5 and 3-7.

- 5.10 The Council's **Housing Planning and Performance Manager** advises that the proposed affordable housing mix should be modified as there is a need for smaller homes in Roswell. The applicant proposes; 4 one bed units, 5 two bed units and 16 three bed units. A preferable mix would be; 8 one bed units, 12 two bed units, and 5 three bed units.

6 REPRESENTATIONS

- 6.1 There have been 37 representation received, which can be viewed in full on the online planning application case file. A summary of the points raised are as follows:
- Inadequate public consultation on the application;
 - there should be no more houses built in Roswell;
 - the proposed development is cramped, lacks adequate amenity space and amounts to an overdevelopment;
 - There is insufficient infrastructure, including road infrastructure, schools, health services (doctor and dental surgeries), public transport and broadband;
 - The proposed development would contribute to the coalescence of Roswell and Bonnyrigg;
 - Adverse impact on property values;
 - The new dwellings will be unaffordable to existing residents;
 - The occupants of the houses will commute to work outside Roswell;
 - The proposed development does not adequately mitigate noise from the neighbouring commercial boarding kennels;
 - The quality of the design and layout of the scheme is poor and the development has no identity. The design of the proposed buildings is mediocre and the palette of materials is limited;
 - The architectural form and style of the proposed buildings are not appropriate to the established built form of Roswell;
 - Inadequate green/open space is proposed in the development;
 - There have been sightings of badgers and bats along the neighbouring core path. Therefore a survey of the core path should be carried out prior to construction commencing;
 - The transportation statement is not comprehensive/is flawed;
 - The proposed vehicular access should be via a new roundabout on the A6094 for reasons of road safety;
 - The existing bus service for Roswell is inadequate;
 - Concern about traffic congestion during periods of construction;
 - The junction between Cemetery Road and the A6094 Roswell Bypass should be reopened and a roundabout sited for access;
 - There should be a vehicular access to the site from Carnethie Street;
 - The existing train service on the Borders Railway is inadequate;
 - The development would result in light pollution;
 - The development would spoil the rural character of the village;

- Concern over potential overlooking and overshadowing of neighbouring properties, including the Old Manse and Hillwood House located in Carnethie Street;
- The development will be harmful to the setting of the neighbouring Category C listed building, the Old Manse;
- No single-storey buildings are proposed;
- The development would impact on the views of the Pentland Hills;
- Loss of agricultural land;
- Concern about flooding and inadequate flood mitigation proposals;
- Unstable ground conditions, due to the sites mining legacy, could result in structural damage to neighbouring properties;
- Cemetery Road cannot cope with the additional traffic;
- The junction of Carnethie Street and Cemetery Road is not in a state of good repair and it should be repaired prior to any development commencing on the site;
- Site construction access should not be taken off Cemetery Road or at a point on the north east corner of the site opposite the boarding kennels;
- In the interests of safeguarding the amenity of the occupants of existing neighbouring houses in the Miller Homes development, the development should be phased west to east with the first phase on the western part of the site;
- Concerns about the loss of trees on the boundaries of the site;
- Loss of views of the Pentland Hills from Carnethie Street and from the Old Manse;
- Sustainability design features are not proposed including rainwater harvesting, solar panels etc;
- Loss of wildlife and habitat to the detriment of biodiversity; and
- Insufficient information has been submitted with the application in order for an informed assessment of the development to be made.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the adopted Midlothian Local Development Plan 2017 (MLDP). The following policies are relevant to the proposal:

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 **Policy 5 (HOUSING LAND)** requires Local Development Plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing requirements for each period.
- 7.3 **Policy 7 (MAINTAINING A FIVE YEAR HOUSING LAND SUPPLY)** states that sites for Greenfield housing development proposals either within or out with the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying

each of the following criteria: (a) The development will be in keeping with the character of the settlement and local area; (b) The development will not undermine Green Belt objectives; and (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

Midlothian Local Development Plan 2017 (MLDP)

- 7.4 Policy **STRAT3: Strategic Housing Land Allocations** states that strategic land allocations identified in the plan will be supported provided they accord with all other policies. The development strategy supports the provision of an indicative 60-100 housing units on the site (Hs14). The settlement statement in the MLDP states that: "The stability of the ground will have to be assessed given the history of mining in the area. In addition, the neighbouring dog kennels may cause some noise disturbance, which will have to be taken into account in the design of the development. This possible limitation has been considered in assessing site capacity".
- 7.5 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.
- 7.6 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.
- 7.7 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 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 set criteria.
- 7.9 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.
- 7.10 Policy **DEV9: Open Space Standards** requires that the Council assess applications for new development against set open space standards and seeks an appropriate solution where there is an identified deficiency in quality, quantity and/or accessibility.

- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 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.
- 7.13 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.14 Policy **ENV2 Midlothian Green Networks** supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the *Midlothian Green Network*.
- 7.15 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.
- 7.16 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.17 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environment.
- 7.18 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.

- 7.19 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.20 Policy **ENV24: Other Important Archaeological or Historic Sites** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting.
- 7.21 Policy **ENV25: Site Assessment, Evaluation and Recording** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.
- 7.22 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.23 Policy **IMP1: New Development**. This policy ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.
- 7.24 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.
- 7.25 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

National Policy

- 7.27 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.

- 7.28 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.
- 7.29 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*.
- 7.30 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.
- 7.31 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"*.
- 7.32 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.
- 7.33 **Designing Places, A Policy Statement for Scotland** sets out the six key qualities which are at the heart of good design namely identity, safe and pleasant environment, ease of movement, a sense of welcome, adaptability and good use of resources.
- 7.34 The **Scottish Government's Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

8 PLANNING ISSUES

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

The Principle of Development

- 8.2 The site is allocated for housing (site Hs14) in the MLDP and is located within the built up area of Roswell where there is a presumption in

favour of appropriate residential development. The indicative number of units allocated for site Hs14 in the MLDP is 60 -100.

- 8.3 The settlement statement in the MLDP states that the stability of the ground will have to be assessed given the history of mining in the area. In addition, the neighbouring Candidacasa dog kennels may cause some noise disturbance, which will have to be taken into account in the design and layout of the development. These two factors may have an impact on the site capacity, seeing a development at the low end of the unit range (60 units), however if these issues are successfully mitigated the site capacity could be a 100 houses.

Layout and Form of Development

- 8.4 The proposed development is for 100 dwellinghouses with an average density of 20 dwellings per hectare. This amounts to an average/medium density development in a suburban area. The development has been designed primarily as a traditional street layout with the integration of open space and planting. The street hierarchy includes a tree lined avenue that traverses the site and acts as a primary road. Secondary streets as well as a network of local streets and shared surfaces permeate the rest of the development. A number of 'homezones' with shared surface treatment will encourage a pedestrianised neighbourhood. A central formal open space orientates the development. This formal space is addressed with buildings facing onto it. A second open space is proposed in the southern corner of the site. The built development in this corner is positioned back from Rosewell Road to respect the built form created from the existing neighbouring housing development to the west, thus retaining views towards St Matthew's Church to the west. The orientation of houses fronting the central open space, the secondary open space (in the south of the site) and the SUDS basin provide natural surveillance and delivers a good layout with character and interest.
- 8.5 The MLDP requires good levels of amenity for residential development in terms of garden sizes, open space and the separation distances between dwellinghouses to mitigate against overlooking, loss of privacy and a sense of overbearing on neighbours. The required spatial standards were set out in the superseded Midlothian Local Plan 2008 and are likely to be incorporated into the supplementary guidance on 'Quality of Place' which is currently being drafted following the adoption of the MLDP in November 2017. These dimensional standards help those in the planning process quantify what good levels of amenity are and therefore it is reasonable to expect housing developments to meet these requirements unless there is justification not to do so. The requirements with regard usable private garden sizes should be: (i) 100 square metres for terraced houses of 3 or more apartments; (ii) 110 square metres for other houses of 3 apartments; and (iii) 130 square metres for houses of 4 apartments or more. The majority of the proposed houses have rear private gardens that meet or exceed this standard. Only four semi-detached houses have rear gardens that fall

below the minimum size, but they only fall marginally below and not significantly to compromise the residential amenity of the future occupants of the houses. Only two of the terraced houses have rear gardens that fall below the minimum standard. In this case, if the minimum garden standard was applied to these houses they would have overly long gardens. The small gardens of these houses are therefore justified in design terms. It is expected that each of the flats is provided with the equivalent of 50 square metres of open space, provided in an area of communal private space. Two of the proposed four affordable flats have a rear garden that falls below the minimum size. However, these two flats face onto a communal open space, which provides some compensation for the reduced size of garden ground. The smaller garden ground of some of the units in the development should be weighed against the fact that a large proportion of the houses have very large rear garden sizes.

8.6 The spatial separation between the houses either meets or falls only marginally short of the minimum standard. In the case of those that fall marginally short the shortfall would not result in significant harm to the amenity of those properties in terms of overlooking or intrusiveness and thus is not significant.

8.7 The site is not within or adjacent to the historic core of the village and the proposed dwellings will not be seen in the context of it. In terms of their size, scale, heights, proportions and positioning and their architectural form and style the buildings proposed will be in keeping with the existing recently constructed housing development to the south west and as such would not detract from the established character and visual amenity of the area. It is important that the external finishing materials and colours of the new buildings are in keeping with/complement the existing built form of the part of Roswell where the site is located. Policy and good practice requires that there is an added emphasis on the quality of design of a minimum of 20% of the dwellings on the site. This applies to individual buildings and the use of materials both in building finishes and also in boundary treatment and ground surfaces. The expectation is that such treatment is focused on prominent landmark groups or key individual buildings. The proposed Areas of Improved Quality (AIQ) for this site comprises buildings on the eastern part of the site fronting onto the SUDS basin. These buildings are prominent in the development and thus it is appropriate that they be within the AIQ. In terms of the number of dwellings included, the locations and built form the proposed AIQ is acceptable. However, the distribution of external materials and colours of the buildings both within and outwith the AIQ requires refinement to ensure that they are sympathetic to the existing building styles within Rosewell. This includes, the use of a single material and colours on whole elevations and projecting gables in order to achieve vertical emphasis in architectural features. This control can be secured by a condition imposed on a grant of planning permission.

- 8.8 The location of the affordable units in the scheme and the grouping of them into one area as opposed to them being scattered throughout the development is acceptable in planning terms. However, the Council's Housing Planning and Performance Manager raises a concern with the affordable units mix, advising that due to high demand for smaller properties, an increase in the number of smaller units would be appropriate. If the mix is not changed then the applicant/developer may not be awarded grant assistance to deliver the affordable units. The planning authority asked the applicant to amend the development layout to increase the number of smaller affordable units, however a revised scheme was not submitted. To ensure that the affordable housing mix brought forward on the site supports the housing need for those on the waiting list across Midlothian it should be made a condition of a grant of planning permission that the affordable housing mix is changed in order to increase the number of smaller units. This may necessitate a substitution of dwelling types on some of the affordable housing plots, but does not involve a radical change to the layout of the development. Subject to this change there will be a healthy mix of units on the site, providing homes for a number of different households.
- 8.9 The proposed buildings are sufficiently distant from (exceeding the 16 metres separation standard between the gable end of one building and the front elevation of another) the existing neighbouring residential properties; including the Old Manse at 1 Carnethie Street and Hillhead House, both located on the east side of Carnethie Street, so as not to give rise to significant overshadowing, loss of daylight and sunlight or overlooking to them. There would be no significant harm to the amenity of any existing neighbouring property from the proposed development.
- 8.10 The proposed development by means of its layout, form and separation would not harm the setting of nearby listed buildings including the category C listed Old Manse at 1 Carnethie Street and the category B listed Saint Matthew's Church.
- 8.11 No details of the 'percent for art' for the development; an artistic feature that would add interest and local reference to the development, has been submitted with the application. It should be made a condition of a grant of planning permission that details of percent for art for the development be submitted for the prior written approval of the planning authority.

Open Space, Play Areas

- 8.12 The central open space in the development, which is some 1,043 square metres is large enough to contain an equipped children's play area and also some informal children's play space. No details of children's play proposals have been submitted with the application. The secondary open space; which is located in the south corner of the site and measures some 1,424 square metres, is large enough for use for informal play space. Subject to details of the children's play equipment being submitted for the prior approval of the planning authority the

proposed open space and children's play provision for the development would be acceptable in terms of quantity, quality and accessibility.

Foul Pumping Station and Electricity Substation

- 8.13 The foul pumping station and electricity substation are delineated on the site plans positioned adjacent to the east of the central open space. The foul pumping station is a rectangular hard surfaced area with bollards erected around it. It also contains a small kiosk. No boundary fencing is delineated. No further details have been submitted of the electricity substation. The foul pumping station and electricity substation are both delineated as being screened by a perimeter hedge. Details of the design and appearance of the electricity substation chamber should be secured by a condition on a grant of planning permission. Subject to this and on the proviso that the perimeter hedge planting is carried out and the hedges are retained the visual impact of the foul pumping station and electricity substation would be adequately mitigated. This can be secured by a condition on a grant of planning permission.

Landscaping and SUDS

- 8.14 The SUDS retention basin is located on the eastern corner of the site. The SUDS basin is formed as a relatively shallow impression in the topography and does not include any heavy engineering works such as retaining walls. Thereby it would appear as a relatively naturalistic and soft feature which would not detract from the landscape character and visual amenity of the area. The shallow nature of the SUDS basin would permit passive surveillance of it from windows in the eastern most houses on the site.
- 8.15 The landscape plan submitted with the application delineates a tree lined avenue alongside the principal road. This will provide an attractive formal route through the site. The existing hawthorn hedge along the south east roadside boundary of the site has landscape value and if possible it should be incorporated into the development. A landscape plan submitted with the application delineates it as being retained/supplemented/replaced if removed. If retained it would screen the proposed acoustic fencing. It is essential that the existing hedge or a replacement hedge screen the acoustic fencing on the site. The proposed landscape scheme is not comprehensive and thereby it should be made a condition on a grant of planning permission that a detailed landscaping scheme for the development be submitted for the prior approval of the planning authority. Good landscaping will enhance the design and form of the development.

Access and Transportation Issues

- 8.16 The proposed development is acceptable in transportation terms. Subject to the recommended transportation conditions the road infrastructure will be of an adequate standard to cope with the additional traffic using it and the Council's Policy and Road Safety Manager raises

no objection to the application. The proposed parking provision within the development is acceptable and meets the Council's standards.

- 8.17 In the interests of road safety and the amenity of the existing residents of Rosewell it should be made a condition on a grant of planning permission that construction, HGV and delivery vehicles associated with the development or visiting the site shall only access and egress the site via the A6094 Rosewell Bypass entrance onto Carnethie Street (the northern junction travelling towards Bonnyrigg). No construction, HGV and delivery vehicles associated with the development or visiting the site shall travel south through the village along Carnethie Street.

Green Networks and pedestrian and cycle links

- 8.18 MLDP policy ENV2 (Midlothian Green networks) requires new development sites to fully incorporate green network opportunities into their design and implementation. This can potentially be delivered through a combination of path networks, open space and sustainable urban drainage systems. The principal road through the site comprises a tree lined avenue with a footpath/cycleway alongside it. There are adequate footpath/cycle links to/from the site and Cemetery Road to the west and Carnethie Street to the south.
- 8.19 The settlement statement in the MLDP states that connections from and through the site to Core Path 3-7; which forms part of the Penicuik-Musselburgh footway and cycleway/NCR196, should be provided. This Core Path provides an important link between Rosewell and Bonnyrigg. The Midlothian Green Network Supplementary Guidance, adopted in August 2018, identifies the need for the creation of a new path through the site running in a south west to north east orientation connecting Cemetery Road to Core Path 3-7 at a point through the north boundary of the site. The Council's Policy & Roads Safety Manager advises that in the interests of improving connectivity and to encourage the use of sustainable forms of transport the section of the path from the mixer court surface between plots 35 to 36 and connecting with Core Path 3-7 should be formed as a continuous graded 3 metre wide lit path surfaced in tarmac. On the proviso that such a link footway/cycleway is formed the proposed development will comply with policy ENV2 (Midlothian Green networks) of the MLDP and will meet the aspirations of the Scottish Government policy statement 'Designing Streets' which requires that a connected permeable network be provided for in new developments.
- 8.20 The applicant confirms that they are keen to provide a link between the application site and Core Path 3-7 to improve connectivity and encourage the use of sustainable forms of transport. However, instead of a graded ramp as is specified by the Council's Policy & Roads Safety Manager, they propose a wooden stepped ramp at a 5% gradient with a railing alongside it, located at a point near to the eastern end of the northern boundary of the site. They state that the stepped ramp has been designed to reflect the rural character of the area, reduce the

impact on the existing vegetation, whilst providing a direct link from the eastern side of the new development to Core Path 3-7. They assert that the stepped ramp would also be user friendly for cyclists, as bikes could be pushed up or down along the side of the steps which have been specifically designed to accommodate such a use. The applicant has declined to provide a graded ramped link footway/cycleway as recommended by the Council's Policy and Roads Safety Manager. They make the following case in support of not providing the graded link path/cycleway: i) there is a substantial level difference of around 4.5 metres between the site and the existing cycle path with only a stepped path being feasible. The length of the footpath link is over 100 metres and would result in the loss of a substantial part of the established mature boundary planting on the south bank of the core path. The attractive setting of the footpath is one of the reasons why the link is so well used and attractive to pedestrians and cyclists. Any link provided from the proposed development site must minimise the loss of vegetation to ensure the setting of the current path is protected; ii). A detailed cut and fill exercise has been undertaken leading to an earth works balancing exercise which has informed ground levels and finished floor levels across the whole site. Artificially reducing site levels at this stage would result in a surplus of material that would have to be taken offsite or the creation of artificial mounds which would not be appropriate due to the sites prominent location at the main entrance into the village of Rosewell; iii) There are a number of formal/informal links between the existing village and the core path. There is a very well defined link from the end of the footpath on Cemetery Road and the footpath. This link is immediately to the west of the proposed development site and will be able to be utilised from new residents in addition to existing residents in the nearby locality. The proposed site layout includes four pedestrian connections to Cemetery Road to promote walking and cycling and increasing permeability. A footpath/cycleway connection through a point near to the northern end of the western boundary of the site onto Cemetery Road is provided which allows a direct route onto the wider footpath/cycle network. Due to the number of direct connections and the ease of connecting into the wider network the majority of new residents are likely to utilise the Cemetery Road connection to the wider footpath and cycle network; (iv) The land where the ramped link footpath/cycleway recommended by the Councils Policy & Roads Safety Manager would be provided falls out with the red line of the planning application and the Council has title to the existing embankment. The applicant therefore suggests that a financial contribution is secured by way of a Section 75 Agreement for the Council to explore alternative options and deliver the connection as they deem appropriate. Alternatively, the applicant states that they would be prepared to deliver the proposed stepped ramp which they believe is an appropriate link, subject to receiving the required permits, licenses and authorisation on land that they do not control.

- 8.21 The Planning Authority does not accept the applicant's justification for a stepped ramp as is not barrier free/suitable for use for potential users of the path including wheelchair users. Therefore, it is not an acceptable

substitute for a graded ramped path. Although the planning authority acknowledge that there is a substantial level difference of around 4.5 metres between the site and Core Path 3-7, there is an adequate area of open land within the eastern part of the site in the vicinity of the SUDS basin for a ramped 3 metre wide footway/cycleway path to be formed in a cutting and the path to grade down to the existing level of core path. The Council have title to the embankment of the core path so there is no third party to consider. Earth from the excavation could either be used for low mounding within the location of the SUDS basin subject to the prior approval of the planning authority and/or should be taken off site at the applicant's cost. The cost burden of this is a development constraint that should be bore by the applicant/developer. The planning authority does not agree with the applicant that the formation of a graded link path would result in the loss of vegetation of significant amenity value. The section of the southern embankment of the core path that would be impacted on by the link path does not contain any significant trees or vegetation. The loss of the vegetation on it is therefore not significantly detrimental to the landscape character and amenity of the area. The link path could be sited to minimise the loss of vegetation. Furthermore, it can be made a condition on a grant of permission that a scheme of landscaping be carried out on the disturbed land adjacent to the path following the laying of it. The desire route of the future residents of the proposed dwellings to the core path is the point where the Council's Policy and Roads Safety Manager advises the graded link footpath/cycleway be formed. If the graded link path were not formed the future residents of units on the eastern part of the site may choose to make eastbound journeys using private motorised vehicles rather than double backing to access the core path via Cemetery Road. Taking all of these considerations into account, on balance the unavoidable conclusion is that there is significant justification for the Council to insist that the applicant/developer form the graded link path instead of a stepped path as proposed by the applicant. The provision of the graded link path can be secured by a condition imposed on a grant of planning permission.

- 8.22 No phasing plan has been submitted with the application. It should be made a condition on a grant of planning permission that a comprehensive annotated phasing plan and phasing schedule is submitted for the prior written approval of the planning authority. The structural landscaping for the site should be completed in the early phases of development to enable it to grow and become established to complement the built form as it comes forward. Furthermore, the phasing should address the timing of pedestrian and cycling connections through the site.

Ground Conditions

- 8.23 The control referred to by the Council's Environmental Health Manager in respect of ground contamination/previous mineral workings and the same control in respect of previous mineral workings recommended by

the Coal Authority can be secured by a condition imposed on a grant of planning permission.

Archaeology

- 8.24 The control required by the Council's Archaeological Advisor can be secured by a condition imposed on a grant of planning permission.

Feasibility of Communal Heating System

- 8.25 SEPA stated that in order for the government's renewable energy and heat demand targets to be met, it is important that all types of new development consider the role they play in using heat from renewable sources. They highlighted that paragraph 154 of SPP states that the planning system should support the transitional change to a low carbon economy including deriving *"11% of heat demand from renewable sources by 2020"* and supporting *"the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity – and the development of heat networks"*. The planning authority and SEPA agree that the feasibility study submitted by the applicant into the provision of a community heating system for the new development satisfactorily demonstrates that such a system is not at this present time technically or financially viable for the development site.

Ecology

- 8.26 The report on the ecological survey of the whole of the site; which includes the south embankment of Core Path 3-7, was submitted with the application. The report does not recommend against the development on grounds of impact on biodiversity. The ecological survey does not identify any protected species, however, the report recommended a number of controls to safeguard/enhance biodiversity. The ecology survey was carried out late November 2015 and is considered only valid for a period of 12 months. In a letter of representations on the application it is alleged that there has been sightings of badgers and bats along Core Path 3-7. In the interests of safeguarding protected species, it should be made a condition on a grant of planning permission that a further ecology study of the site; including the part of Core Path 3-7 that is within the site application boundary, to be undertaken prior to development commencing on site.

Developer Contributions

- 8.27 If the Council is minded to grant planning permission for the development it will be necessary for the applicant to enter into a Section 75 planning obligation in respect of the following matters:
- the provision of affordable housing equal to, or greater than 25% of the total number of residential units across site Hs14 as a whole;
 - a financial contribution towards education provision;

- a financial contribution towards community facilities (which could include the provision/upgrading of sports pitches);
- a financial contribution towards public transport/Borders Rail; and
- maintenance of children's play/open space.

8.28 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:

- necessary to make the proposed development acceptable in planning terms (paragraph 15)
- serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
- relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)
- fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)
- be reasonable in all other respects

The requirements set out for the proposed Planning Obligation meet the above tests.

Other Matters

8.29 The concerns raised about the existing capacity of general practice in Midlothian and the impact of new house building on health and care services is a matter would need to be addressed by the Midlothian Health and Social Care Partnership through the provision of sufficient health service capacity. That can involve liaison with the Council as planning authority but it is not, on its own, a sufficient basis in itself on which to resist or delay the application.

8.30 Regarding matters raised by representors and consultees and not already addressed in this report:

- An assessment with regard the need for housing has been done through the development plan process;
- The planning authority has not received any evidence to substantiate the claim in a letter of objection that neighbour notification has not been carried out in accordance with statutory requirements;
- The planning authority has not been presented with any evidence that substantiates the claim that the methodology and thus the conclusions of the traffic assessment submitted in support of the application are flawed – the council's Policy and Roads Safety Manager is satisfied with the assessment;

- The proposed development would not result in undue light pollution to existing neighbouring properties;
- The noise and disturbance will be at a level to be expected with a modern housing construction site - if a statutory noise nuisance were to arise this could be controlled through Environmental Health legislation;
- Broadband provision will be secured by a condition on the grant of planning permission; and
- Details of construction access arrangements will be secured by a condition on the grant of planning permission.

8.31 The following matters raised in letters of objection are not material considerations in the determination of the application:

- Procedural matters which are specified by the Scottish Government in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013;
- Whether the private houses in the proposed development are affordable for existing residents in Roswell.
- The effect of the proposed development on property values/prices;
- Loss of view; and
- Any damage to existing neighbouring properties as a result of construction traffic movements and liability for subsequent repairs.

9 RECOMMENDATION

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

The proposed development site is allocated in the Midlothian Local Development Plan 2017. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies, subject to securing developer contributions. The presumption for development is not outweighed by any other material considerations.

Subject to:

- i) the prior signing of a legal agreement to secure:
 - the provision of affordable housing equal to, or greater than 25% of the total number of residential units across site Hs14 as a whole;
 - a financial contribution towards education provision;
 - a financial contribution towards community facilities (which could include the provision/upgrading of sports pitches);
 - a financial contribution towards public transport/Borders Rail; and
 - maintenance of children's play/open space.

The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused.

ii) the following conditions:

1. Development shall not begin until details of the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of affordable housing, the provision of open space, childrens play provision, structural landscaping, the SUDS provision and transportation/roads infrastructure. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

Reason: *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.*

2. Notwithstanding that delineated/specified on application drawings the external finishing materials of the buildings hereby approved and the distribution of the external finishing materials of the buildings is not approved. Development shall not begin until the following have been submitted to and approved in writing by the planning authority:
(i) amended house/flat types delineating a revised distribution of external finishing material which avoids a horizontal split in the materials; and, (ii) samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. An enhanced quality of materials shall be used in the Area of Improved Quality which shall comprise the buildings and boundary walls on plots 36-56. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

Reason: *To ensure the quality of the development is enhanced by the appropriate distribution and use of quality materials to reflect its setting in accordance with policies DEV2 and DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

3. Notwithstanding that delineated on application drawing the development shall not begin until details of a revised scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
 - i other than existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
 - ii existing trees, landscaping features and vegetation; including hedges, to be retained; removed, protected during development and in the case of damage, restored;
 - iii proposed new planting in communal areas, road verges and open space, including trees, shrubs, hedging, wildflowers and grassed areas;

- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping;
- ix drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
- x proposed car park configuration and surfacing;
- xi proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and
- xii details of existing and proposed services; water, gas, electric and telephone

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

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

Reason: *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies DEV2, DEV6 and DEV7 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

4. Development shall not begin until details of the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
- i existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
 - ii proposed vehicular, cycle and pedestrian access;
 - iii proposed roads (including turning facilities), footpaths and cycle ways;
 - iv proposed visibility splays, traffic calming measures, lighting and signage;
 - v a green transport plan designed to minimise the use of private transport and to promote walking, cycling, safe routes to school and the use of public transport;
 - vi proposed car parking arrangements;
 - vii a programme for completion for the construction of access, roads, footpaths and cycle paths; and

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

Reason: *To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

5. Notwithstanding the requirements of condition 1 of this planning permission, prior to the first occupation of any of the houses/flats on plots 6, 79, 59-63 and 86-91 an equipped neighbourhood childrens play area and an adjoining informal natural childrens play space comprising a combination of mounds, ditches and hollows, sunken pipes, willow walls, domes and structures, log arrangements, stepping logs, play paths etc. shall be formed/constructed on the central open space (adjacent to the south west of the proposed pumping station) and made available for use in accordance with detailed drawings and a written specification to be submitted to and approved in advance by the planning authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

Reason: *To ensure the timeous provision of an acceptable quantity and quality of equipped children's play in the development in the interests of the residential amenity of the future occupants of the houses and flats.*

6. Development shall not begin until details, including a timetable of implementation, of 'Percent for Art' have been submitted to and approved in writing by the planning authority. The 'Percent for Art' shall be implemented as per the approved details.

Reason: *To ensure the quality of the development is enhanced by the use of art to reflect its setting in accordance with policies of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

7. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
 - i. The nature, extent and types of contamination and/or previous mineral workings on the site;
 - ii. Measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;

- iii. Measures to deal with contamination and/or previous mineral workings encountered during construction work; and
- iv. The condition of the site on completion of the specified decontamination measures.

On completion of the decontamination/ remediation works referred to above and prior to any residence on the site being occupied, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No residence on the site shall be occupied unless or until the planning authority have approved the required validation.

Reason: *To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

- 8. No building shall have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the planning authority.

Reason: *Under-building exceeding this height is likely to have a materially adverse effect on the appearance of a house.*

- 9. Development shall not begin until a programme of archaeological works (Trial Trench Evaluation) in accordance with a written scheme of investigation. The approved programme of works shall comprise a field evaluation by trial trenching reported upon initially through a Data Structure Report submitted to the planning authority and carried out by a professional archaeologist prior to any construction works or pre commencement ground works taking place. There shall be no variation therefrom unless otherwise agreed in writing by the planning authority.

Reason: *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policies ENV24 and ENV25 of the Midlothian Local Development Plan 2017.*

- 10. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

Reason: *To ensure the development accords with the requirements of policy DEV5 of the Proposed Midlothian Local Development Plan 2017.*

11. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each dwelling. The delivery of high speed fibre broadband shall be implemented as per the approved details.

Reason: *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure.*

12. A detailed plan and elevation drawings and details of the finishing materials and colours of the electricity station and pumping station(s) to be erected/installed on the site shall be submitted for the prior written approval of the planning authority.

Reason: *To safeguard the character and visual amenity of the area.*

13. Notwithstanding that delineated on docketed drawings the development shall conform to the following constraints in accordance with detailed plans/drawings and design and technical details to be submitted for the prior written approval of the planning authority:
 - i. Before the first occupation of the 25th dwelling on the site a Zebra crossing shall be formed on Cemetery Road in a location to be approved in advance by the Planning Authority.

Reason: *To ensure the timeous provision of a safe pedestrian link from the site to the footway network within the existing neighbouring housing development to the south west in the interests of road and pedestrian safety.*

14. Notwithstanding that delineated on docketed drawings, prior to the first occupation of the twenty-fifth dwelling on the site or by a different date to be agreed in advance with the planning authority, a 3 metre wide ramped/graded link cycleway/footway incorporating lighting along the length, shall be formed/erected from an adopted footway within the development and from a point on the eastern part of the site hatched in orange on drawing Ref. PROPOSED SITE PLAN (Annotated) and connecting to Core Path 3-7 (Penicuik-Musselburgh footway and cycleway -NCR196). Detailed drawings and a written specification of the link footpath/cycleway, including section drawings at 4 metres intervals across it, details of any required retaining structures and details of a scheme of landscaping of the ground disturbed during its construction, shall be submitted to an approved in writing in advance by the Planning Authority. The

cycleway/footway shall be surfaced in bitumen macadam/tarmac to the approval of the Planning Authority.

Reasons: *To ensure the provision of a safe pedestrian and cycle route to/from the site and the adopted footways/cycleways in the adjacent development thus providing a continuous, safe pedestrian and cycle route to/from Core Path 3-7 in the interest of pedestrian and cyclist safety and the amenity of the future occupants of the dwellings hereby approved.*

To ensure that the proposed development complies with policy ENV2 (Midlothian Green networks) of the MLDP and Scottish Government policy statement 'Designing Streets' that a connected permeable network be provided for in new developments.

- 15 Development shall not begin until details of the provision and use of electric vehicle charging stations throughout the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

Reason: *To ensure the development accords with the requirements of policy TRAN5 of the Midlothian Local Development Plan 2017.*

16. Prior to works commencing on site an additional ecological assessment of the site; including the section of embankment of Core Path 3-7 within the site, shall be carried out and a report on it shall be submitted for the prior inspection and approval of the planning authority. The scope of the additional assessment shall be agreed in advance in writing by the planning authority. The recommendations made within the new ecological assessment shall be implemented in full.

Reason: *In the interests of safeguarding biodiversity, including European Protected Species.*

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 2011, or any subsequent Order amending, revoking or re-enacting that Order, no fence, gate, wall or other means of enclosure shall be erected within the confines of or around the perimeter of the electricity station and the foul pumping station unless a planning application for it with the necessary plans, has been submitted to and approved by the Planning Authority.

Reasons: *To ensure that any fence, gate, wall or other means of enclosure erected within or around the perimeter of the electricity station and the foul pumping station does not detract from the character and amenity of the area.*

18. The internal room layout of the dwellings on plots 36-51 shall be as delineated on the approved house types for those plots.
19. The eastern part of the curtilage of the dwellings/flats on plots 36-51 between the front elevation of the buildings on those plots and the footpath onto which the east elevation of those buildings face onto shall not be private garden ground for these dwellings; but instead, the land shall be communal factored open space.
20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 2011, or any subsequent Order amending, revoking or re-enacting that Order, no fence, gate, wall or other means of enclosure shall be erected around any part of the perimeter of the front (east) garden area of the dwellings on plots 36-47 or the front (south east) garden of the dwellings on plots 50 and 51.
21. The front (east) building line of the dwellings on plots 36-47 shall be no further east than is delineated on site layout plan ref. 3646-AL(0)101B docketed to this planning permission.
22. The design of the buildings hereby approved shall be such that internal noise levels within them meets Midlothian Council's design targets for daytime and night time noise without specific character (previously referred to as anonymous noise sources) in living accommodation, which is: (i) 30 dB(A) LAeq, 8 hour in bedrooms and 35 dB(A) LAeq, 16 hour in living rooms.
23. Internal noise levels within the buildings hereby approved shall be assessed by a suitably qualified noise consultant to the approval of the Planning Authority post completion of the dwellings and prior the first occupation of them. A report on the noise assessment(s) carried out shall be submitted to and approved in writing in advance by the Planning Authority. No dwelling shall be occupied unless and until the internal noise levels specified in condition 23 have been achieved.
24. Prior to the first occupation of the dwellings hereby approved the lengths of acoustic fencing delineated on docketed drawings shall be erected in accordance with the RMP technical report no. R-7365B-RGM-MI report dated 15th May 2018 and plan reference 3646-AL(0)101B. Thereafter they shall be retained in situ unless with the prior approval of the Planning Authority.

Reason for conditions 18-24: *In the interests of safeguarding the amenity of the future occupants of the dwellings hereby approved from undue noise nuisance from neighbouring roads and the neighbouring commercial boarding kennels.*

25. Notwithstanding that delineated on application drawings the dwelling mix on the site shall be changed as follow:

- i. The house type erected on plot 36, 38, 50, 52, 55 and 56 shall not be a 5A; but instead, house type 6A shall be erected on these plots; and,
- ii. The dwellings erected on plots 42-45 shall not be a terrace of houses comprising house type 5A and 6A; but instead, a flatted block containing 4 one bedroom flats with an internal room layout the same as that of flat type 7A shall be erected on these four plots.

Reason: *To ensure that the affordable housing mix brought forward on the site supports the housing need for those on the waiting list across Midlothian.*

26. Prior to development commencing on site a report on a further ecological survey of the site including the part of the south embankment of Core Path 3-7 that abuts the site, undertaken by a qualified ecologist, shall be submitted for the prior inspection and approval in writing of the Planning Authority. Any mitigation recommended in the ecological survey shall be carried out in full.

Reason: *In the interests of safeguarding European Protected Species that may exist on the site/which may be affected by the proposed development including the link footpath/cycleway to Core Path 3-7.*

27. All construction, HGV and delivery vehicles associated with the development or visiting the site shall only access and egress the site via the A6094 Rosewell Bypass entrance onto Carnethie Street (the northern junction travelling towards Bonnyrigg). No construction, HGV and delivery vehicles associated with the development or visiting the site shall travel south through the village along Carnethie Street.

Reason: *In the interests of road safety and the amenity of the existing residents of Rosewell.*

Dr Mary Smith
Director of Education, Communities and Economy

Date: 1 October 2019

Application No: 18/00403/DPP

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Validation Date: 12 June 2018

Contact Person: Adam Thomson, Planning Officer

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Background Papers: 15/00774/PAC, 15/00810/SCR

