

# Notice of meeting and agenda



## Planning Committee

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

**Date:** Tuesday, 28 February 2017

**Time:** 14:00

**John Blair**  
Director, Resources

**Contact:**

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

Clerk Email: [mike.broadway@midlothian.gov.uk](mailto:mike.broadway@midlothian.gov.uk)

**Further Information:**

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

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

## **1 Welcome, Introductions and Apologies**

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## **2 Order of Business**

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

## **3 Declarations of Interest**

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

## **4 Minutes of Previous Meeting**

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| <b>4.1</b> | Minutes of Meeting held on 10 January 2017 – For Approval | <b>3 - 12</b> |
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## **5 Public Reports**

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| <b>5.1</b> | 'Places, People and Planning' A Consultation on the future of the Scottish Planning System – Proposed Response - Report by Head of Communities and Economy (To Follow)  |                |
| <b>5.2</b> | Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage – Report by Head of Communities and Economy.   | <b>13 - 18</b> |
| <b>5.3</b> | Appeal and Local Review Body Decisions – Report by Head of Communities and Economy.   | <b>19 - 24</b> |
| <b>5.4</b> | Application for Planning Permission (16/00855/DPP) for the Erection of 28 Dwellinghouses, Formation of Access Road and Associated Works at Land East of Dalhousie Dairy, Bonnyrigg – Report by Head of Communities and Economy. | <b>25 - 54</b> |
| <b>5.5</b> | Application for Planning Permission (16/00770/DPP) for Erection of Studio Building at 2 Viewbank Road, Bonnyrigg – Report by Head of Communities and Economy.   | <b>55 - 62</b> |

## **6 Private Reports**

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No private reports to be discussed at this meeting.

Plans and papers relating to the applications on this agenda can also be viewed online at [www.midlothian.gov.uk](http://www.midlothian.gov.uk).

# Minute of Meeting



## Planning Committee

Date	Time	Venue
10 January 2017	2.00pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

**Present:**

Councillor Bryant (Chair)	Councillor Baxter
Councillor Beattie	Councillor Coventry
Councillor Johnstone	Councillor Milligan
Councillor Montgomery	Councillor Pottinger
Councillor Rosie	Councillor Russell
Councillor Wallace	Councillor Young

## 1 Apologies

Apologies received from Councillors Bennett, Constable, de Vink, Imrie, Muirhead and Parry.

## 2 Order of Business

The order of business was confirmed as outlined in the agenda that had been circulated.

## 3 Declarations of interest

No declarations of interest were received.

## 4 Minutes of Previous Meetings

The Minutes of Meeting of 30 August 2016 were submitted and approved as a correct record.

## 5 Reports

Agenda No	Report Title	Presented by:
5.1	Planning Performance Framework Annual Report 2015/16	Peter Arnsdorf

### Executive Summary of Report

There was submitted report, dated 21 December 2016, by the Head of Communities and Economy, providing an update on the progress of work undertaken on the Planning Performance Framework (PPF) for Midlothian and advising of the feedback received from the Scottish Government on the Council's submitted Planning Performance Framework for 2015-16.

The report advised that in the feedback report on the fifteen 'performance markers' (a copy of which was appended to the report), four had been rated as "green" giving no cause for concern; four were rated "amber" where areas for improvement had been identified; and five had been rated "red" where specific attention was required.

### Summary of Discussion

The Committee, having heard from the Planning Manager who responded to Members' questions, acknowledged that the feedback report provided a helpful independent 'audit' of performance and progress, as well as some clear indications of areas for improvement, albeit there remained some nervousness nationally about the use of the 'traffic light' grading system and its ability to take account of particular local circumstances.

With regards to those areas rated “red”, measures were already in place to address many of the issues that had been raised, for example, the Council’s Processing Agreement template was being reviewed with a view to it being published on the Council’s website early in 2017, procedures were also now in place to reduce the number of legacy cases/stall sites, to seek earlier discussions with applicants with regards developer contributions, and to conclude the legal agreement process within six months of the date of a resolution to grant planning permission.

With regards the Midlothian Local Development Plan (MLDP), Scottish Ministers had appointed a team of three reporters, who were currently in the process of conducting an initial examination of the Plan. This should hopefully conclude late spring/early summer, following which there may be hearings on some specific subjects, although it was hoped to be able to resolve the majority of any issues by way of written submissions.

#### Decision

After further discussion, the Committee noted:-

- (a) the feedback received from Scottish Government to the Council’s submitted Planning Performance Framework for 2015/16;
- (b) the specific actions being undertaken to address specific matters of concern; and
- (c) the current position with, and likely timescales for progression of, the MLDP.

#### Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.2	Use of the Planning System to Support and Promote Public Policy: Correspondence from COSLA and Scottish Government	Ian Johnson

#### Executive Summary of Report

With reference to paragraph 5.3 of the Minutes of 31 May 2016, there was submitted report, dated 4 January 2017 by the Head of Communities and Economy, updating the Committee on correspondence received from COSLA and the Scottish Government in response to concerns raised by the Committee in relation to the operation of the planning system and its role in promoting public policy. This followed a Scottish Government Reporter’s planning appeal decision, granting planning permission for a hot food takeaway in close proximity to the Lasswade High School Centre where the Council operated a policy promoting healthy life styles and healthy eating, in accordance with Scottish Ministers policies on health living.

### Summary of Discussion

The Committee heard from the Head of Communities and Economy, who in speaking to the report, advised that the Scottish Government had just issued 'Places, people and planning' a consultation paper on the future of the Scottish planning system, which would be the subject of a report to the next Planning Committee meeting.

Members' in discussing the report, expressed disappointment that the responses received from both COSLA and the Scottish Government failed to address the concerns that they had raised, although the letter from the Chief Planners Office did contain some useful advice which would be taken on board in finalising the Midlothian Local Development Plan.

Whilst the need for a planning appeal system was acknowledged, the way in which appeals were currently being conducted drew considerable comment. The feeling being that insufficient weight appeared to be being given to the views of the Council, local Members and other local representations in reaching the determinations. This was leading to appeal decisions such as the one in Bonnyrigg and others in Penicuik, for example, which failed to take cognisance of particular local circumstances. The view of the Committee was that the Council would be much better placed, and more locally accountable, to determine such appeals.

### Decision

After further discussion, the Committee:-

- (a) welcomed the consultation paper on the future of the Scottish planning system, which it was noted would be the subject of a further report;
- (b) to write directly to the appropriate Scottish Ministers regarding concerns about aspects of the current planning appeal system; and
- (c) To otherwise note the report.

### Action

Head of Communities and Economy

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

### Executive Summary of Report

There was submitted report, dated 21 December 2016 by the Head of Communities and Economy, updating the Committee on 'major' planning applications, formal pre-application consultations by prospective applicants and the expected programme of applications due for reporting.

**Decision**

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

**Action**

Head of Communities and Economy

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

**Executive Summary of Report**

There was submitted report, dated 21 December 2016, by the Head of Communities and Economy, detailing the notices of review determined by the Local Review Body (LRB) at its meetings in September, October and November 2016, and advising of the outcome of two appeal determined by Scottish Ministers.

Appended to the report were copies of the following appeal decision notices from the Scottish Government, Planning and Environmental Appeals Division:-

- dated 18 November 2016, upholding an appeal by Mr P Sweeney against refusal of advertisement consent for the display of non-illuminated signage (retrospective) at 21 The Square, Penicuik (16/00407/ADV) and granting advertisement consent subject to the standard conditions for the display of advertisements specified in the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984; and
- dated 12 December 2016, dismissing an appeal by Mr G Forsyth and Mr P Vaughan against refusal to grant a certificate of lawfulness for the use of outbuilding and adjacent outdoor space as boarding kennels at The Smithy, Mossend, Gorebridge (16/00368/CL) and refusing to issue the certificate sought.

**Summary of Discussion**

The Committee, having heard from the Planning Manager, discussed the Reporter's decision to grant retrospective advertisement consent for the display of non-illuminated signage at 21 The Square, Penicuik. Members were concerned, not only by the potential implications arising from the decision itself, but also that insufficient weight appeared to be being given by the Reporters to the views of the Council, local elected Members and other local representations in reaching their determination. The feeling being that the Council would be much better placed, and more locally accountable, to determine such matters.

**Decision**

- (a) To note the decisions made by the Local Review Body at its meetings on 6 September, 26 October and 29 November 2016; and
- (b) To note the outcome of the appeals determined by Scottish Ministers

**Action**

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.5	Pre Application Consultation - Proposed Residential Development at Land to the East of the Junction of Greenhall Road and Barleyknowe Road, Gorebridge (16/00830/PAC)	Peter Arnsdorf

**Executive Summary of Report**

There was submitted report, dated 3 January 2017, by the Head of Communities and Economy advising that a pre application consultation had been submitted regarding a proposed residential development at land to the east of the junction of Greenhall Road and Barleyknowe Road, Gorebridge (16/00830/PAC).

The report advised that in accordance with the pre application consultation procedures approved by the Committee at its meeting on 7 October 2014 (paragraph 3, Page 4-199 refers) the pre application consultation was being reported to Committee to enable Members to express a provisional view on the proposed major development. The report outlined the proposal, identified the key development plan policies and material considerations and stated a provisional without prejudice planning view regarding the principle of development for the Committee's consideration.

**Summary of Discussion**

Having heard from the Planning Manager, Members expressed concern regarding the prominent nature of the proposed development site which was highly visible, and which was not included in either the existing or emerging Local Plan. Questions were also raised regarding ground conditions/stability issues, which could have a major impact on any potential development at this particular location. Other issues included the close proximity to the neighbouring primary school and also the ability of the local road network, particularly the Greenhall Road/ Barleyknowe Road junction, to cope with the volume of additional vehicular movements likely to be generated should such a development proceed.

**Decision**

- (i) To note the provisional planning position set out in the report;



- (ii) To note the comments made by Members; and
- (iii) To note that the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.

#### Action

Head of Communities and Economy/Democratic Services

Agenda No	Report Title	Presented by:
5.6	Application for Planning Permission for the Erection of a Research and Imaging Facility and associated outbuilding, generator and sub-station; and Associated Works at Land at Easter Bush South, Easter Bush, Roslin (16/00472/DPP).	Peter Arnsdorf

#### Executive Summary of Report

There was submitted report, dated 21 December 2016, by the Head of Communities and Economy concerning the above application.

#### Summary of Discussion

The Committee, having heard from the Planning Manager, discussed a suggestion that consideration be given to possibly linking transport improvements for cyclists and pedestrians into the Council's Sustainable Travel Plan to see if they could be offered a more direct route to the proposed development.

#### Decision

That planning permission be granted for the following reason:

*By virtue of its scale, location, design and use the proposal complies with policies RP1, RP2, RP3 and RP4 of the Midlothian Local Plan and policies STRATS, ECON2 and IMP2 of the Proposed Midlothian Local Development Plan 2014.*

subject to:

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

(b) the following conditions:-

1. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i notwithstanding that delineated on docketed drawings, existing and finished ground levels and floor levels for all buildings, open spaces, SUDS and roads in relation to a fixed datum;
  - ii proposed new planting in areas of open space, including trees, shrubs, hedging, wildflowers and grassed areas;
  - iii location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
  - iv schedule of plants to comprise species, plant sizes and proposed numbers/density;
  - v programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed within six months of the buildings being completed or occupied, whichever is sooner. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August);
  - vi drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
  - vii proposed car park configuration and surfacing; and
  - viii proposed cycle parking facilities.

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

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

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

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

3. The use of the buildings erected on the site shall be for uses within Class 10 (Non-Residential Institution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 unless otherwise approved by the planning authority.

**Reason:** *To ensure that the uses of the buildings are for the purposes applied for in order to meet the structure Plan Strategic economic land requirements.*

#### Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.7	Application for Planning Permission for the Erection of Retail Unit, Formation of Access and Car Parking at Land South West of Tesco Superstore, Dalkeith (16/00618/DPP).	Peter Arnsdorf

#### Executive Summary of Report

There was submitted report, dated 21 December 2016, by the Head of Communities and Economy concerning the above application.

#### Summary of Discussion

Having heard from the Planning Manager, the Committee discussed the potential impact that the proposed store would have on the vitality and viability of both Dalkeith and Bonnyrigg town centres. It being felt that a retail development of this nature would be much better suited to a town centre location. Concerns were also expressed regarding the appropriateness of the proposed site for such a development, the loss of landscaping along the sites boundary and the overall design of the proposed building. The apparent reliance on the adjoining supermarket was also of concern giving the pressures that supermarkets were currently facing, as was the additional traffic likely to be generated, which would add to an already extremely busy road network in the area.

#### Decision

After further discussion , the Committee agreed that planning permission be refused for the following reasons:

1. The application site is not one of the acceptable types of locations for retail development, as specified in the sequential town centre first approach identified in the Scottish Planning Policy and policy SHOP5 of the adopted Midlothian Local Plan. It has not been demonstrated, to the satisfaction of the Planning Authority, that the site is appropriate for the proposed use, in that the site complies with the sequential town centre first approach, and that

there are no other more sustainable or suitable sites which could accommodate the development more appropriately.

2. It has not been demonstrated, to the satisfaction of the Planning Authority, that the operation of the proposed retail unit would not undermine the vitality and viability of either Dalkeith or Bonnyrigg town centres.
3. For the above reasons the proposal is contrary to Scottish Planning Policy, policy 3 of the Strategic Development Plan and policy SHOP5 of the adopted Midlothian Local Plan.
4. The application site is not located within a neighbourhood shopping centre and, therefore, the development is contrary to policy SHOP7 of the adopted Midlothian Local Plan.
5. As a result of its size and design, finishing materials, position on the site and lack of opportunities for landscaping the proposed development will have a significant detrimental impact on the visual amenity of the area, contrary to the terms of Scottish Government policy on Creating Places and policy RP20 of the adopted Midlothian Local Plan.
6. The proposed development would result in the loss of landscaping, which is important in the definition of the settlement boundary where it abuts the A7 road. The hedge and trees also provide effective screening of the nearby superstore and the large area of associated car parking. There is inadequate room within the site to accommodate sufficient landscaping to mitigate for this loss. The impact on the hedge and trees and lack of replacement planting will have a detrimental impact on visual amenity and as such the proposed development is contrary to policies RP5, RP7 and DP2 of the adopted Midlothian Local Plan.

<b>Action</b>
Head of Communities and Economy

The meeting terminated at 3.07pm.



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

Report by Head of Communities and Economy

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### **1 PURPOSE OF REPORT**

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

### **2 BACKGROUND**

- 2.1 At its meeting of 8 June 2010 the Planning Committee instructed that it be provided with updated information on the procedural progress of major applications on a regular basis.
- 2.2 The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants is outlined in Appendices A and B attached to this report.

### **3 PREMATURE APPLICATIONS**

- 3.1 A consequence of the Midlothian Local Development Plan: Proposed Plan being at an advanced stage is premature planning applications being submitted by a number of applicants on a number of sites. These are identified in Appendix A by the statement "Subject to progress on Midlothian Local Development Plan" and relate to sites which are not currently allocated for development in the adopted 2008 Midlothian Local Plan but are proposed in the MLDP. These sites are subject to representations from local communities and interested parties and are subject to examination by Scottish Government Reporters.
- 3.2 In the interests of fairness and transparency it is proposed not normally to report these applications to Committee until the proposed MLDP has progressed through the examination process and the Council has adopted the plan, unless the Committee wish to consider an application in advance of the adoption of the MLDP or there are extenuating circumstances. At its meeting in January 2016 the Committee expressed a preference to determine those applications

where there is a risk that applicants may appeal against non determination, an option open to applicants if an application is not determined within the set timeframe (four months from the date of validation for a major application) or an agreed extended time period.

- 3.3 If an appeal against non determination is submitted it would be determined by Scottish Ministers after consideration of relevant planning policies and other material considerations. Paramount in the consideration would be the potential for an application to undermine the development plan process if considered in advance of the adoption of the MLDP and whether Midlothian has a sufficient housing land supply as defined in Scottish Government Planning Policy.

#### **4 RECOMMENDATION**

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

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

**Date:** 14 February 2017  
**Contact Person:** Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk  
**Tel No:** 0131 271 3310

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

## APPENDIX A

### MAJOR APPLICATIONS CURRENTLY BEING ASSESSED

Ref	Location	Proposal	Expected date of reporting to Committee	Comment
06/00474/OUT	Land adjacent to Rullion Road, Penicuik	Application for Planning Permission in Principle for residential development	Application to be withdrawn	The applicant has submitted an amended planning application 17/00068/DPP and will withdraw this application in due course – see 17/00068/DPP.
06/00475/FUL	Land between Deanburn and Mauricewood Road, Penicuik	Erection of 300 dwellinghouses	Application to be withdrawn	The applicant has submitted an amended planning application 17/00068/DPP and will withdraw this application in due course – see 17/00068/DPP.
14/00910/PPP	Land at Cauldcoats, Dalkeith	Application for Planning Permission in Principle for residential development, erection of a primary school and mixed use developments.	Subject to progress on Midlothian Local Development Plan	Pre-Application Consultation (14/00553/PAC) carried out by the applicants in October/November 2014.
15/00364/PPP	Land adjacent Old Pentland Road, Loanhead	Mixed-use development comprising; film and TV studio and backlot complex; mixed commercial uses; hotel; and gas heat and power plant.	Subject to determination by the Scottish Ministers	Pre-Application Consultation (14/00729/PAC) carried out by the applicants in October/November 2014.  The applicants have appealed non determination and the application has been with the Scottish Ministers since December 2015. The Committee considered a report regarding the Council's position at its meeting of March 2016.
16/00134/DPP	Land north of Oak Place, Mayfield	Erection of 169 dwellinghouses, 30 flatted dwellings and associated works	See comment	Pre-Application Consultation (13/00522/PAC) carried out by the applicants in August/September 2013. This application has been significantly amended during its assessment and as such a new planning application may be required.
16/00712/PPP	Land north of Dalhousie Dairy Bonnyrigg	Application for Planning Permission in Principle for residential development	Subject to progress on Midlothian Local Development Plan	Pre-Application Consultation (16/00157/PAC and 16/00161/PAC) carried out by the applicants in March/April 2016. This application is subject to review and may be subject to change/withdrawal.

16/00800/S42	Land between Loanhead Road and Edgefield Industrial Estate Loanhead Road	Section 42 application to amend condition 1 of planning permission in principle 09/00354/OUT	Late 2017	Condition 1 of planning permission 09/00354/OUT relates to the time period to implement the permission and to submit subsequent Matters Specified in Conditions (MSC) applications to seek approval for the details of the scheme.
16/00861/DPP	Land west of Corby Craig Crescent Seafield Moor Road, Bilston	Erection of 176 dwellinghouses, 36 flatted dwellings and associated works	Subject to progress on Midlothian Local Development Plan	Pre-Application Consultation (15/00936/PAC) carried out by the applicants in November and December 2015 and January 2016.
16/00893/PPP	Land At Salter's Park, Dalkeith	Application for Planning Permission in Principle for residential development, employment uses and associated works	Late 2017	Pre-Application Consultation (14/00833/PAC) carried out by the applicants in November and December 2014 and January 2015.
17/00068/DPP	Land Between Deanburn and Mauricewood Road Penicuik	Erection of 552 residential units; formation of access roads, SUDs features and associated works	Late 2017	Pre-Application Consultation (15/00987/PAC) carried out by the applicants in February/March 2016.



## APPENDIX B

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

Ref	Location	Proposal	Date of receipt of PAC	Earliest date for receipt of planning application and current position
13/00609/PAC	Housing Site B, land at Newbyres, River Gore Road, Gorebridge	Residential Development	19 August 2013	12/11/13 - no application yet received. The applicants have started discussing possible layouts for this site and an application is anticipated in 2017.
14/00451/PAC	Land at Newton Farm and Wellington Farm, Old Craighall Road, Millerhill, Dalkeith	Residential development and associated developments	10 June 2014	03/09/14 - no application yet received. The applicants have started discussing possible layouts for this site and an application is anticipated in 2017.
15/00774/PAC	Site Hs14, Rosewell North, Rosewell	Residential development	22 September 2015	15/12/15 - no application yet received. A pre-application report was reported to the November 2015 meeting of the Committee.
16/00266/PAC	Land At Rosslynlee Hospital Roslin	Residential development	08 April 2016	04/07/16 - no application yet received. A pre-application report was reported to the May 2016 meeting of the Committee.
16/00267/PAC	Land At Rosslynlee Hospital Roslin	Residential development - change of use, alterations, extensions and partial demolition of the former hospital, including new build development.	08 April 2016	04/07/16 - no application yet received. A pre-application report was reported to the May 2016 meeting of the Committee.
16/00830/PAC	Land east of junction with Greenhall Road Barleyknowe Road Gorebridge	Residential development	24 November 2016	10/02/17 - no application yet received. A pre-application report was reported to the January 2017 meeting of the Committee.





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## APPEALS AND LOCAL REVIEW BODY DECISIONS

Report by Head of Communities and Economy

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### 1 PURPOSE OF REPORT

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

### 2 BACKGROUND

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

### 3 PREVIOUS REVIEWS DETERMINED BY THE LRB

- 3.1 At its meeting on 24 January 2017 the LRB made the following decisions:

	Planning Application Reference	Site Address	Proposed Development	LRB Decision
1	16/00508/DPP	66 Newbattle Abbey, Crescent, Dalkeith	Erection of timber building and fencing	Review upheld. Permission granted
2	15/00335/PPP <i>Update report - the required legal agreement has not been concluded</i>	Former Arniston Gas Works, Gorebridge	Residential development of 10 units	The Chair of the LRB to write to the applicant requesting an update

## **4 APPEAL DECISION**

- 4.1 An appeal against a refusal of an application to discharge a legal agreement (16/00020/LA) for Borders Rail contributions at Hopefield Farm, Bonnyrigg has been dismissed and the requirements of the legal agreement upheld. The Scottish Government Reporter dismissed the appeal after considering it is appropriate to request developer contributions towards the Borders Rail despite the sites original allocation in 2003 as this plan has been superseded by the adoption of the Midlothian Local Plan 2008 and the Edinburgh and South East Scotland Strategic Development Plan (June 2013) (SESplan) which sets out a requirement for sites within the rail corridor to make a contribution. A copy of the appeal decision accompanies this report.

## **5 RECOMMENDATION**

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

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

**Date:** 14 February 2017  
**Contact Person:** Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk  
**Tel No:** 0131 271 3310

**Background Papers:** LRB procedures agreed on the 26 November 2013.



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Determination by Karen Black, a Reporter appointed by the Scottish Ministers  
Appeal under S75B of the Town and Country Planning (Scotland) Act 1997

- Planning obligation appeal reference: POA-290-2001
- Site address: Hopefield Farm, Bonnyrigg, Midlothian
- Appeal by Taylor Wimpey UK Ltd against the decision by Midlothian Council
- Application to discharge the planning obligation 16/00020/LA dated 8 January 2016 refused by notice dated 20 May 2016
- Modification sought: discharge of clause 8 planning obligation within a legal agreement (associated with planning permissions 14/00263/PPP and 14/00264/PPP) at sites I and H, land at Hopefield Farm, Bonnyrigg
- Planning obligation details: minute of agreement among Midlothian Council, London and Clydeside Estates Limited, Wilson Connolly Limited and Taylor Wimpey UK Limited. Land Register of Scotland Title Numbers MID151557 and MID122301
- Date of registration of the planning obligation: 3 June 2015
- Date of site visit by Reporter: 20 October 2016

Date of appeal decision: 21 December 2016

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## Determination

I dismiss the appeal and refuse to discharge the planning obligation comprising Clause 8 of the agreement referred to above.

Clause 8 reads as follows:

- The Landowners shall pay to the Council the Total Borders Rail Contribution in accordance with the terms of this Clause 8.
- Prior to the Completion of any Residential Unit in each Phase, the Landowners shall pay to the Council the Total Borders Rail Contribution relative to that particular Phase. For the avoidance of any doubt, no Residential Unit in a Phase shall be occupied unless and until the Total Borders Rail Contribution relative to that Phase is received by the Council.
- The Council shall place the Total Borders Rail Contribution into an interest-bearing deposit account and shall use (and shall only use) the Total Borders Rail Contribution (and any interest accrued thereon) towards any expenditure associated with the Borders Rail Project.

- For the avoidance of doubt, the parties agree that: (i) the transfer by the Council of the Total Borders Railway Contribution to the Council's Capital Fund for the Authorised Works shall constitute expenditure of the Total Borders Railway Contribution for the purpose of providing the Authorised Works (being the works authorised by section 1 of the Waverley Railway (Scotland) Act 2006) for the purposes of section 40 of the said Act, and (ii) the Total Borders Railway Contribution is not refundable in terms of this Agreement.

## Background

1. Planning permission in principle for two separate applications for residential units (references 14/00263/PPP and 14/00264/PPP) was approved by the council on 4 June 2015. Both permissions are subject to a section 75 agreement in which clause 8 requires that financial contributions are made towards the provision of the Borders Railway Project. The contribution specified in the agreement is £1824.18 payable in respect of each residential unit.
2. The appellant is now seeking the removal of the above-mentioned clause from the agreement.
3. With reference to five tests in paragraphs 14-25 of Circular 3/2012: Planning Obligations and Good Neighbour Agreements, the appellant has stated that the planning obligations, as they apply to the sites, fail the tests of: relationship to the development; scale and kind; and reasonableness. The basis of the appellant's case is that Bonnyrigg lies outwith the A7/A68 Waverley Line Corridor as defined in the Edinburgh and Lothians Structure Plan 2015. On the basis that the appeal site is not in the A7/A68 Waverley Line Corridor, there is therefore no justification in the 2008 Local Plan under Policies IMP1 and IMP2 for seeking a financial contribution towards the Borders Rail Line.
4. The Council refused the application to discharge clause 8 because financial contributions towards the Border Rail line from windfall developments in the A7/A68 Corridor is a requirement of policies IMP1 and IMP2 in the Midlothian Local Plan 2008 and the 2012 Supplementary Planning Guidance on Developer Contributions.

## Reasoning

5. I consider the determining issue in this appeal to be whether Clause 8 complies with the five tests in paragraphs 14-25 of Circular 3/2012: Planning Obligations and Good Neighbour Agreements: necessity, planning purpose, relationship to the development, scale and kind, and reasonableness. The policy requirement is that the obligation should meet all of the tests, so a failure on any one of these would be sufficient to render the obligation non-compliant with national policy. The tests are applied to the situation at the time of the appeal, not at the time when they were first imposed.
6. Although the appellant refers to the Edinburgh and Lothians Structure Plan 2015, I note that the plan was revoked following approval of the Strategic Development Plan for South East Scotland (SESplan) in 2013. The policies of the 2015 Structure Plan therefore no longer apply and I consider SESplan to be an important material consideration in my assessment of this appeal.

7. Policy 9 of SESplan, which addresses the provision of infrastructure, confirms that particular emphasis is to be placed on delivery through developer contributions of the strategic infrastructure requirements that are set out in Figure 2 and in the Action Programme.

8. Figure 2 identifies key strategic improvements to transport and other infrastructure which are required for existing and future development. The reopening of the Borders Railway line is identified as one of the projects in Midlothian and the Borders.

9. The SESplan spatial strategy also states that Local Development Plans will direct further strategic development to Strategic Development Areas. The A7/A68 Borders Rail Corridor (Midlothian) is included as a Strategic Development Area. Figure 6 of SESplan also includes a map of the A7/A68 Borders Rail Corridor (Midlothian) as Core Development Area 9. Bonnyrigg is clearly identified as being within the area.

10. Policy IMP1 of the adopted local plan sets out the context for, and the range and scope of the use of planning agreements where new development gives rise to a need for essential infrastructure. My reading of criterion A is that a contribution to the rail line could be justified in any case, regardless of the SESplan policy position and any specific identification of the rail corridor.

11. Policy IMP 2 refers to requirements for contributions to the A7/A68 Waverley Line Corridor. Although the policy lists a number of specific housing sites where contributions would apply, the policy does not rule out the requirement for contributions from other sites. I also note that the explanatory text in paragraph 3.12.13 of the adopted local plan confirms that for windfall sites, the Council will also seek developer contributions, as appropriate, where the development gives rise to a need.

12. The council's supplementary guidance on developer contributions also confirms that housing and economic allocations within the A7/A68 Corridor are predicated on the re-introduction of the former Waverley Railway Line now known as Borders Rail. The Waverley Railway (Scotland) Act 2006 allows Midlothian Council to secure contributions towards the implementation of the line. Paragraph 110 of the guidance also confirms that windfall sites within this corridor will be expected to contribute on the same basis.

13. The council and appellant provided a response to my request for further written responses in respect of the definition of the Borders Rail Corridor in SESplan. I note that both the appellant and the council acknowledge that SESplan includes Bonnyrigg within the A7/A68/Borders Rail Corridor. The appellant however contends the policies that relate to this corridor apply only in conjunction with a Local Development Plan prepared under SESplan and the SESplan policies are not sufficient to over-ride the policies in the 2008 Local Plan.

14. The council on the other hand state that SESplan forms part of the development plan and the contributions are therefore justified.

15. SESplan, following approval by Scottish Ministers in 2013 clearly provides the up to date planning policy position. Bonnyrigg is identified as being within the A7/A68 Borders Rail Corridor as detailed above. However policies IMP1 and IMP2 in the adopted local plan also confirm that contributions may apply in appropriate circumstances, regardless of any

specific identification of the rail corridor. In my view therefore, the policy requirements contained in SESplan, together with the adopted local plan and related supplementary guidance clearly establish a sound policy basis for securing financial contributions towards the Border Rail line in this case.

16. Based on my own observations at my site visit I also noted that the site is located within a ten minute drive of rail stations at Eskbank and Newtongrange. Given this geographical proximity, taken together with the policy requirements of the development plan, I am satisfied that clause 8 of the planning obligation is therefore necessary and reasonable; it relates to a planning purpose and to the development in question.

17. In terms of the scale of financial contribution, I note that this is not disputed by the appellant. The council confirm that a rate of £1824 is the standard level of contribution for residential units within the Borders Rail corridor. It appears to me that this is an appropriate scale of contribution in this case and therefore meets the circular test of scale.

## Conclusion

18. For the above reasons, I consider that all the tests in Circular 3/2012 are met. I therefore decline to discharge the obligation.

*Karen Black*

Reporter





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**APPLICATION FOR PLANNING PERMISSION (16/00855/DPP) FOR THE ERECTION OF 28 DWELLINGHOUSES, FORMATION OF ACCESS ROAD AND ASSOCIATED WORKS AT LAND EAST OF DALHOUSIE DAIRY, BONNYRIGG, MIDLOTHIAN**

Report by Head of Communities and Economy

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## **1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1** The application is for the erection of 28 dwellinghouses, the formation of access roads and associated works on land east of Dalhousie Dairy, Bonnyrigg. There has been 95 representations and consultation responses from the Scottish Environment Protection Agency (SEPA), East Lothian Archaeological Service, the Coal Authority, Bonnyrigg and Lasswade Community Council, the Council's Head of Education, The Council's Policy and Roads Safety Manager, the Council's Environmental Health Manager and the Midlothian Health and Social Care Partnership. The relevant development plan policies are policies 5, 12 and 13 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies RP1, RP2, RP4, RP8, RP27, RP28, HOUS4, IMP1, IMP2 and DP2 of the Midlothian Local Plan 2008 (MLP). Policies STRAT3, DEV1, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, ENV 10, NRG 6, IMP1 and IMP2 of the Proposed Midlothian Local Development Plan 2014 (MLDP) are material considerations. The recommendation is to grant planning permission subject to conditions and securing developer contributions and the provision of affordable housing.

## **2 LOCATION AND SITE DESCRIPTION**

- 2.1** The application site is part of a grassed agricultural field located immediately to the east of Dalhousie Dairy on the eastern edge of Bonnyrigg. The area of the site is approximately 1.99 hectares. It is the southern part of proposed housing site Hs10 in the Proposed MLDP. The site is bound by the steep wooded southern bank of the Pittendreich Burn to the north, by a grassed field with the A7 beyond to the east, a landscape mound with the B6392 beyond to the south east and a combination of the grounds of the house and outbuildings comprising Dalhousie Dairy and structural boundary landscaping of the existing Dalhousie housing area with houses in Peacock Avenue to the south west. Overhead electricity pylons run close to and parallel with the eastern edge of the site.

- 2.2 Views into the site can be gained from streets within the existing Dalhousie residential development to the west. Views into the site are limited along its southern edge due to an embankment which obscures the site from the B6392. The banking along the west edge of the A7 obscure views into the site from the east.
- 2.3 The existing built form of the Dalhousie housing development to the west comprises a mixture of two-storey detached, semi-detached and terraced houses.
- 2.3 All of the land subject to the planning application is outwith the settlement boundary of Bonnyrigg and is designated as countryside, green belt and prime agricultural land in the adopted Midlothian Local Plan (2008). The site is however identified in the MLDP as a proposed housing site.

### **3 PROPOSAL**

- 3.1 The application proposes detailed planning permission for the erection of 28 houses. Through an amendment made to the current application the number of houses proposed on the site have been reduced from 30 to 28. The current proposal consists of 24 detached house and 4 terraced houses. Twelve different house types are proposed and the housing mix comprises:
- 9 three bedroom units;
  - 14 four bedroom units; and,
  - 5 five bedroom units.
- 3.2 The existing access road to Dalhousie Dairy off the B6392 is located at a point along the south eastern boundary of the site; this is to be upgraded to form the access to the development. The layout incorporates traditional roads and footpaths as well as mixer courts. The upgraded access road is delineated on the site layout plan as continuing northwards to a crossing over the Pittendreich Burn corridor. The road crossing over the burn corridor lies outwith the application site boundary, but is anticipated to enable development on the wider Hs10 site.
- 3.3 The house on plot 28 is a one and a half storey house which has accommodation in the roof space. All of the other houses are two-storey in height and have pitched roofs.
- 3.4 The proposed finishing materials within the Area of Improved Quality (plots 16-18 and 24-28) comprises wet dash render; Anstone Olde Weathered (split) reconstituted stone with grey mortar; buff coloured pre-cast stone details and slate.
- 3.5 The proposed finishing materials outwith the Area of Improved Quality comprises either (i) Ashton Cream dry dash render, Forticrete Anstone; Anstone Olde Weathered (split) reconstituted stone with grey mortar and a grey flat concrete roof tile, or (ii) Ashton Cream dry dash render,

Forticrete Anstone; Anstone Olde Weathered (split) reconstituted stone with buff mortar, buff coloured pre-cast stone details and red profiled roof tile.

- 3.6 Ground paving materials include a combination of red, buff and charcoal coloured interlocking pavements.
- 3.7 Surface water treatment is to connect into the existing sewer network.
- 3.8 The application is accompanied by: (i) a supporting planning statement; (ii) a design and access statement; (iii) a masterplan report covering the whole of site Hs10 which the application site forms a part of; (iv) a transportation assessment; (v) a flood risk assessment report; (vi) a site investigation report; and, (v) a report on a desk based archaeological assessment.

## **4 BACKGROUND**

- 4.1 The applicant carried out a Pre-Application Consultation (16/00157/PAC) in March/April/May 2016 for a residential development on part of proposed housing site Hs10. A separate Pre-Application Consultation (16/00161/PAC) for the whole of Hs10 was also undertaken at the same time. A report on the Pre-Application Consultation was reported to the Committee at its meeting of 19 April 2016. The Committee expressed a clear desire to see access to the wider Hs10 site taken from the B6392 and across the Pittendreich Burn rather than through the existing residential estate at Dalhousie.
- 4.2 An Environmental Impact Assessment (EIA) Screening Opinion request, 15/00626/SCR, for a proposed residential development for the whole of site Hs10 was submitted 24 July 2015. The applicant was advised that an EIA was not required under schedule 2 of the regulations.
- 4.3 There is currently before the planning authority an undetermined application for planning permission in principle (16/00712/PPP) for a residential development of up to 300 dwellings on the whole of proposed housing site Hs10.
- 4.4 The current planning application has been called to Committee for consideration by Councillors Milligan, Baxter and Constable because of the concerns raised by local residents and because of the status of the Proposed MLDP.

## **5 CONSULTATIONS**

- 5.1 In respect of both the current application and the separate application for planning permission in principle, 16/00712/PPP, the **Scottish Environment Protection Agency (SEPA)** confirm that they have no objection to the principle of the development proposed in these applications. However they object to the detailed design of the proposed pipe culvert detailed in the Masterplan accompanying the applications as

this does not accord with their 'Construction of River Crossings Good Practice Guide'. The Planning Authority has written to SEPA to ask them to withdraw their objection to the current detailed application given that it does not include the proposal for the water crossing. The Planning Authority is waiting for SEPA's reply.

- 5.2 An initial archaeology desk based assessment and setting impact assessment was submitted as part of the planning application. This work identified the potential for archaeological remains within the site, particularly relating to the prehistoric period and the scheduled ancient monument (cropmark) located nearby to the north of the site. In addition, archaeological work undertaken in advance of residential developments to the west and north east of the proposed development site had identified archaeological remains associated with the 18<sup>th</sup> and 19<sup>th</sup> centuries. Accordingly, any groundbreaking works carried out as part of the development process are considered as having a potential archaeological impact and require a suitable mitigated response. Therefore, **the Council's Archaeological Advisor** recommends a programme of archaeological works be carried out (trial trenching) in accordance with a written scheme of investigation which is to be submitted by the applicant in advance of the works commencing. The results of the initial investigations may indicate that further work is required to mitigate the impacts of the proposed development.
- 5.3 **The Coal Authority** advises that the site falls within the defined Development High Risk Area and thus there is a potential risk imposed to the development from past coal mining activity. Therefore, they recommend further intrusive site investigation works be undertaken prior to development commencing on site in order to establish the exact situation regarding coal mining legacy issues. Accordingly, they request that the planning authority impose a planning condition should planning permission be granted, requiring further site investigation works be done prior to the commencement of development. Subject to the imposition of a condition to secure the required investigation the Coal Authority raises no objection to the proposed development.
- 5.4 **Bonnyrigg and Lasswade Community Council (BLCC)** considers that granting planning permission for the current application, whilst application 16/00712/PPP is undetermined, would be premature. Many of the issues raised in respect of the undetermined planning permission in principle application in respect of the whole of site Hs10 relate to the wider community and cannot be addressed in a detailed application relating to only part of the entire site. These issues include concerns with regard school provision, traffic impacts, availability of general medical practitioner provision and other community facilities. It is therefore their assumption that the application is the first tranche of development of Hs10 and not a site for 30 houses (since amended to 28 dwellinghouses) to be considered in isolation. BLCC states that their major concern regarding the current detailed application is with the access road. They note that the crossing over the Pittendreich Burn is not part of the current application. Nevertheless they state that it would

be preferable to have the crossing and the road built first, and that a planning condition be imposed to secure this. This would ensure there can be no need to use another entrance to the northern part of site Hs10 during its construction phase at some subsequent time. It is also considered that the proposed road off the B6392 is adequate, especially as a construction access for 300 houses. The site layout plan delineates a road that is not wide enough to allow for the separation of motor vehicles, cyclists and pedestrians; which is the standard of road that they consider is required. With Midlothian Council consulting on its first ever Active Travel Strategy it is vital this is translates into development happening on the ground. They add that they would expect there to be an unbroken route through site Hs10 that encourages not just cyclists but also pedestrians and the disabled so that they may reach the national cycleway on the northern boundary of site Hs10 as well as the rest of the town. This should be put in place before any dwellings are built. They conclude by stating that while they realises that house building is needed and accepts Hs10 is a suitable site, they must object to the current application as long as the crossing over the burn and road which would link the two parts of site Hs10 is not included in the detailed planning application. They request that it be made a condition on a grant of detailed planning permission that the road crossing and road are built first.

- 5.5 The Council's **Head of Education** advises that based on a development of 28 dwellings there would arise a demand for the following number of pupils:

• Primary Pupils	14
• Secondary Pupils	10

- 5.6 The site lies within the following school catchment areas:

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

- 5.7 Bonnyrigg Primary School is at capacity. A significant amount of new housing has already been allocated to the Bonnyrigg area therefore additional primary school capacity will be required. The construction of a new school building at the former Hopefield Primary School is planned to be completed by August 2018. This would give sufficient spaces across the five Bonnyrigg primary schools to accommodate all catchment pupils resident in the area, including from the site the subject of this current planning application. A contribution will be required towards the cost of providing this additional capacity.
- 5.8 The agreed strategy for the provision of primary school places for the wider Bonnyrigg area to support delivery of the proposed MLDP is to extend Lasswade Primary School. However, in accordance with a decision by Council in May 2016 a feasibility study was undertaken on

expanding the capacity at Lasswade to 3 stream school and concluded that it is not feasible to provide a larger primary school on the current school site, due to ground conditions and the design of the existing school. As such work is progressing on identifying an alternative viable location for an extended Lasswade Primary School. One option being explored is to locate a new school within the wider Hs10 site.

- 5.9 St Mary's RC Primary School has sufficient capacity to accommodate this development.
- 5.10 A significant amount of new housing has already been allocated to Lasswade High School and additional secondary capacity will be required. A developer contribution will be required towards the cost of any additional provision.
- 5.11 With regard to Secondary Denominational provision a contribution towards St David's High School is required.
- 5.12 The **Council's Policy and Road Safety Manager** raises no objection to the principle of the development. However recommends the following controls be secured by conditions imposed on a grant of planning permission: (i) details of the proposed upgrading of the existing vehicle access from the B6392 be submitted for approval. It is envisaged that as this access will serve both this site and the more northern site, then some localised road widening of the B6392 to form a dedicated right turn lane into the site entrance and a pedestrian crossing island on the access road will be required; (ii) upgrading of the current public transport infrastructure at the existing bus stops adjacent to the site entrance on the B6392. The introduction of a signal controlled pedestrian crossing point linking the two bus stops will be required which would probably require the relocation of one of the stops to accommodate the crossing. A new shelter is required at the eastbound bus stop; (iii) given the current uncertainty over the final technical design of the proposed road bridge / culvert over the Pittendreich Burn, the 4 plots adjacent to the structure (plot 16, 17, 18 and 28) should not be consented at this time but held in abeyance until a detailed design for the structure and its landscaping has been approved; (iv) the existing section of 2m wide public footway leading from the site entrance to the A7 should be increased in width to a minimum of 2.5m to allow its use as a cycleway/footpath. This widening will not be possible over the short bridge section on the approach to the A7 however the remainder of the route should be suitable for widening with the bridge section being treated as a localised narrowing; (v) details of the SUDS and surface water drainage required for the development should be submitted for approval; (vi) details of the street lighting required for the development should be submitted for approval; (vii) the developer should enter into a legal agreement to provide a financial contribution to the Councils A7 Urbanisation/Environmental Scheme. This scheme is designed to improve walking, cycling and public transport access along this section of the A7 and its implementation will improve access by non-car users and encourage active travel; and, (viii) measures to close-



off the vehicle / pedestrian access to the proposed burn crossing should be put in place until the next phase of development is ready to commence.

- 5.13 The **Council's Environmental Health Manager** raises no objection to the application subject to the imposition of a condition on a grant of planning permission requiring a scheme to deal with any contamination of the site/previous mineral workings being approved in advance by the planning authority. Furthermore, the condition should require any necessary measures to decontaminate/remediate the site being fully implemented prior to any part of the site being occupied. In addition, an assessment of road traffic noise be undertaken to identify any mitigation measures that may be necessary to ensure that the future occupants of the houses on the site enjoy adequate residential amenity.
- 5.14 The **Midlothian Health and Social Care Partnership** is concerned about the impact of new house building on health and care services. Midlothian has insufficient capacity in General Practice leading to five practices restricting access to new patients. This site is within the boundary of four general practices and the closest three practices to this site are operating lists that are restricted, which means that new patients need to contact a national service to be allocated a practice in this area. Whilst the Partnership has a plan to expand the capacity of general practice in Midlothian, this may be insufficient in this area depending on the rate of house building and lead to practices formally closing their lists leading to no provision for new patients.
- 5.15 **Scottish Natural Heritage** (SNH) was consulted on the application and has made no comment.
- 5.16 **Scottish Water** was consulted on the application and has made no comment.

## **6 REPRESENTATIONS**

- 6.1 Ninety five objections have been received. The main points raised are as follows:
- Concerns that the entrance to the wider site, Hs10, will be via Bairds Way/Gladstone Gait rather than off the B6392 with the resulting increased pedestrian safety risks for the existing residents of the neighbouring housing development.
  - The current planning application cannot be considered in isolation from the undetermined application for planning permission in principle (16/00712/PPP) for the residential development of the whole of site Hs10. In assessing the current detailed planning application the planning authority must ensure that the crossing over the Pittendreich Burn that will connect the southern and northern site is not thwarted. It should therefore be made a condition of any grant of planning permission that the crossing is formed and the road over

the crossing is of an adequate standard to accommodate the volume and load of traffic for the whole of site Hs10. If a stringent control is not imposed then the applicant/developer could renege on the undertaking to form the crossing and instead take access at a point on the west boundary of the site off Baird's Way/Gladstone Gait.

- There should only be one vehicular access to the northern part of site Hs10; which is off the B6392 via a new crossing over the Pittendreich Burn.
- In the interests of road safety it is essential that the access to the site off the B6392 be formed as a roundabout and not as a junction as currently proposed.
- Currently the schools in the area are at, or over capacity and any new houses on Hs10 should also have a new school built to accommodate the additional children they will bring into the area.
- If as a result of this development the school rolls within the area are increased, then the quality of the education of the children at those schools will suffer.

## **7 PLANNING POLICY**

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Plan, adopted in December 2008. The Proposed Midlothian Local Development Plan 2014 has been submitted to the Scottish Ministers and is subject to an examination which is likely to be concluded in summer 2017. As this plan is at an advanced stage of preparation and represents the settled view of the Council it is a material consideration of significant weight in the assessment of the application. The following policies are relevant to the proposal:

### South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 **Policy 5** (HOUSING LAND) requires Local Development Plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing requirements for each period.
- 7.3 **Policy 12** (GREEN BELTS) requires Local Development Plans to define and maintain Green Belts around Edinburgh whilst ensuring that the strategic growth requirements of the Strategic Development Plan can be accommodated. Local Development Plans should define the types of development appropriate within Green Belts.
- 7.4 **Policy 13** (OTHER COUNTRYSIDE DESIGNATIONS) requires Local Development Plans to review and justify additions or deletions to other countryside designations fulfilling a similar function to those of the



Green Belt as appropriate. Opportunities for contributing to the Green Network proposals should also be identified.

The Midlothian Local Plan 2008 (MLP)

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

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

- 7.7 Policy **RP4: Prime Agricultural Land** states that development will not be permitted which leads to the permanent loss of prime agricultural land (Classes 1, 2 and 3.1 of the Macaulay Institute Land Classification for Agricultural system) unless: A. the site is allocated to meet Structure Plan requirements; or B. there is a location justification for the development which outweighs the environmental or economic interest served by retaining the farmland in productive use; and C. the development accords with all other relevant Local Plan policies and proposals.
- 7.8 Policy **RP8: Water Environment** aims to prevent damage to water environment, including groundwater and requires compliance with SEPA's guidance on SUDs.
- 7.9 Policy **RP27: Other Important Archaeological or Historic Sites** states that development will not be permitted where it could adversely affect an identified regionally or locally important archaeological or historic site or its setting unless the applicant can show that: (A) there is a public interest to be gained from the proposed development which outweighs the archaeological importance of the site; (B) there is no alternative location for the proposal; and, (C) the proposal has been sited and designed to minimise damage to the archaeological interest.

- 7.10 Policy **RP28: Site Assessment, Evaluation and Recording** states that where any development proposal could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the impact of the proposal on the archaeological resource.
- 7.11 Policy **HOUS4: Affordable Housing** requires that on residential sites allocated in this Local Plan and on windfall sites identified during the plan period, provision shall be required for affordable housing units equal to or exceeding 25% of the total site capacity, as follows:
- for sites of less than 15 units (or less than 0.5 hectares in size) no provision will be sought;
  - for sites of between 15 and 49 units (or 0.5 to 1.6 hectares in size) there will be no provision for the first 14 units thereafter 25% of the remaining units will be for affordable housing
  - for sites of 50 units and over (or larger than 1.6 hectares in size), there will be a requirement for 25% of the total units to be for affordable housing.
- 7.12 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 transport infrastructure, landscaping, public transport connections, including bus stops and shelters, parking in accordance with approved standards, cycling access and facilities, pedestrian access, acceptable alternative access routes, access for people with mobility issues, traffic and environmental management issues, protection/management/compensation for natural and conservation interests affected, archaeological provision and 'percent for art' provision;
- 7.13 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 requirements, related to the scale and impact of the proposal. This includes education provision, essential roads infrastructure, protecting valuable environmental assets within or adjacent to the site and compensation for any losses including alternative provision where appropriate. In this case the need to upgrade junctions and access arrangements will come through a Traffic Assessment and specific requirements may arise from water and drainage and flood risk assessments;
- 7.14 Policy **DP2: Development Guidelines** sets out Development Guidelines for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings.

## Midlothian Local Development Plan (MLDP)

- 7.15 Policy **STRAT3** states that strategic land allocations identified in the plan will be supported provided they accord with all other policies. The development strategy supports the provision of an indicative 300 housing units on the site (Hs10).
- 7.16 Policy **DEV1** states that development will not be permitted where it would result in the physical or visual coalescence of neighbouring communities unless adequate mitigation measures are proposed.
- 7.17 Policy **DEV2** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.18 Policy **DEV3** seeks an affordable housing contribution of 25% from sites allocated in the MLDP.
- 7.19 Policy **DEV5** sets out the requirements for development with regards to sustainability principles.
- 7.20 Policy **DEV6** sets out design guidance for new developments.
- 7.21 Policy **DEV7** sets out the requirements for landscaping in new developments.
- 7.22 Policy **DEV9** sets out the necessary open space for new developments.
- 7.23 Policy **TRAN1** aims to encourage sustainable modes of travel.
- 7.24 Policy **TRAN2** highlights the various transport interventions required across the Council area, including the A7 urbanisation scheme.
- 7.25 Policy **TRAN5** seeks the provision of electric vehicle charging points in new developments.
- 7.26 Policy **IT1** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.27 Policy **ENV10** requires that new development pass surface water through a sustainable urban drainage system (SUDS).
- 7.28 Policy **ENV24** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting and policy **ENV25** 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.

- 7.24 Policy **NRG6** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.25 Policy **IMP1 and 2** identify the need to make provision, or contribute towards a provision, of infrastructure and facilities needed to deliver a service, which arise from the proposed development.

#### Scottish Planning Policy

- 7.26 The **SPP (Scottish Planning Policy)** sets out Government guidance for housing.
- 7.27 **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.
- 7.28 **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 proposed site is not allocated for housing and as such is contrary to the development plan.
- 8.3 The application site is located within the Green Belt, as indicated in the MLP, and as such any development on the site should comply with both policy 12 of SESplan and policy RP2 of the MLP. Development will not be permitted in this area unless it is essential for the furtherance of agriculture, horticulture, forestry, outdoor sport or outdoor recreation and are related to other uses appropriate to the rural character of the area. The policy does not support residential developments in the Green Belt and the proposed development is not required in connection with an established use in the Green Belt. Thereby the proposed development is contrary to development plan policy.
- 8.4 The proposed development is also contrary Policy RP1 (Protection of the Countryside) of the adopted MLP as the development is not required for the furtherance of an agricultural use or other use appropriate to the countryside. Furthermore, the proposed

development would result in the permanent loss of prime agricultural land contrary to adopted MLP policy RP4 (Prime Agricultural Land).

- 8.5 However, there are significant material considerations which could outweigh this policy position. The emerging MLDP allocates site Hs10, which the application site is a part of, for 300 dwellings. The allocation of this site does form part of the Council's settled preferred development strategy. Site Hs10 is one of a suite of sites in the A7 corridor identified in the development strategy to meet the strategic housing land requirements of SESplan. The MLDP is currently subject to examination with an anticipated adoption in 2017.
- 8.6 In response to consideration being given to delaying the determination of the application until after the adoption of the MLDP. The applicants have advised that their house building team, currently on site at Hopefield Bonnyrigg, are scheduled to finish on site shortly and to ensure the continued employment of the team a new site is required to commence in the coming months. The application site would be that new site and would help retain jobs and skills in Midlothian.
- 8.7 Scottish Government Reporters considering two recent housing appeals; land north and south of Lasswade Road, Esbank (reported to Committee at its meeting of January 2016) and land west of The Cottage, Hardengreen, Dalkeith (reported to Committee at its meeting of August 2016) concluded that Midlothian did not have an effective housing land supply (sufficient land allocated to build houses). Since these appeal decisions Midlothian has deposited its MLDP with the Scottish Government and as such those proposed sites in the plan can now be considered in an assessment of its housing land supply. This is because the MLDP reflects the settled opinion of the Council. It can therefore be reasonably argued that the application can be supported to meet the Council's housing requirements. In considering the stated appeal decisions the Committee requested they consider sites which could be considered as premature (determined before the adoption of the MLDP) rather than risk an applicant appealing against non determination. Although the applicant wants to positively work with the Council this application is one which could be appealed if the Council does not consider it timeously.

#### Layout and Form of the Development

- 8.8 Through an amendment made to the current application the number of houses proposed on the site has been reduced from the originally proposed 30 to 28. The density of the development is 14 dwellings per hectare, which is relatively low. This equates to a density appropriate to a housing site on the periphery of the built up area of Bonnyrigg.
- 8.9 MLP policy DP2 requires the provision of the following minimum useable private garden areas for houses: (i) 110 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. All of the proposed detached houses have rear private gardens that comply with/exceed the Council's minimum requirement set out in the DP2 Guidelines in the MLP. The four terraced houses have small rear private gardens. In the case of these houses if the minimum private rear garden size was adhered to the rear gardens would be overly long. Overall in the development the terraced units with smaller rear gardens balance the detached houses with larger rear gardens. The mixture of properties with larger and smaller rear gardens creates variation in the layout and visual diversity to the development. This justifies allowing a relaxation in the size of the terraced house gardens in this particular case.

- 8.10 The layout provides a strong frontage onto the access road with the introduction of terraced blocks and the use of dual aspect house types. The primary road is defined by a tree lined verge with a remote 2.5 metres wide cycleway/footway running parallel to and behind the verge. Elsewhere in the development a traditional street layout of detached houses is proposed.
- 8.11 MLDP policy DEV 9 requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that Plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan. However supplementary guidance has not yet been prepared. Notwithstanding, at this time the open space requirements for the site should be considered against the open space requirements, including children's play space, set down in MLP policy DP2.
- 8.12 The application site is cut off from the remainder of site Hs10 by the Pittendreich Burn and will continue to be so until a road crossing over the burn is formed. It could be some time before the crossing is formed and open space on the northern part of site Hs10 is formed and made available for use. For a housing site of the size of the application site; which comprises family houses of 3, 4 and 5 bedrooms, it is reasonable to assume that these houses could be occupied by families with children of school age. Given this, a fairly large communal usable open space is required on the application site. A communal open space measuring some 804 square metres is proposed centrally located on the site. It is fronted onto by proposed houses to the north and east and thus would have adequate passive surveillance. On the proviso that: (i) it is formed and made available for use prior to the first occupation of the houses fronting onto it; (ii) a 1 metre high metal railing incorporating a pedestrian gate is erected along its roadside (north and eastern) edges; (iii) a hedge is planted along its western and southern edges; which edges abut gardens of neighbouring houses in the scheme, it would provide an acceptable quantity and quality of open space for children's play in the development. The provision of the open space can be secured by a condition imposed on a grant of planning permission. Subject to this the proposed open space



complies with the requirements for open space set down in adopted MLP policy DP2 and complies with the principles of MLDP policy DEV9.

- 8.13 Generally, other than in respect of the required changes to the layout referred to above, the arrangement of buildings and scale and massing of the proposed development is acceptable. The development has been designed as a traditional street layout. Shared surfaces encourage reduced vehicle speeds as motorists perceive that they do not have priority over any other users of the road space.

#### Design and Materials

- 8.14 The mix of house types and size of dwellings is acceptable. The architectural styles of the houses are relatively traditional in form and complement the character and visual amenity of the area. In terms of their size, massing and positioning on the site the dwellings would not appear cramped or an unsympathetic development on the site.
- 8.15 MLP policy DP2 requires that there be an added emphasis on the quality in 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 walls and ground surfaces. The expectation is that such treatment is focused on prominent landmark groups or key individual buildings. The four houses on the north eastern part of the site which are those closest to the bridge crossing and the terraced houses that front onto the main road comprise the area of improved quality (AIQ) in terms of materials. The style and appearance of the buildings on these plots are relatively traditional, which is in keeping with the established character and amenity of the area. The proposed use of natural slate and wet dash render is acceptable within the AIQ. However, the use of Olde Heather Black (split) buff reconstituted stone and a grey mortar for areas of external waling is not appropriate. Therefore, it should be made a condition of a grant of planning permission that the use of these materials/finishes is not approved. It should be made a condition of a grant of planning permission that samples of the enhanced quality of materials to be used within the AIQ are submitted for the prior approval of the planning authority.
- 8.16 Elsewhere within the development, outwith the aforesaid plots the relatively traditional architectural style of the proposed houses is sympathetic to the neighbouring buildings. The proposed use outside the AIQ of a combination of Ashton cream dry dash render, reconstituted stone, flat grey concrete roof tiles and profiled red coloured roof tiles is acceptable in principle subject to samples being submitted for the prior approval of the planning authority.
- 8.17 The proposed use in the development of a combination of red, buff and charcoal coloured interlocking pavements would not be appropriate. The colour(s) and combination of use of the hard surfacing materials in the development should be secured by a condition imposed on a grant of

planning permission and should reflect those materials used on the associated dwellinghouses.

- 8.18 The proposed house, plot 28, on the western extremity of the development site will be prominent in views from the west from outwith the site. This house is going to be a one and a half storey house (single-storey with dormers in the roof) and has been included within the AIQ and thus its external finishing material will be enhanced. Given this the proposed house on plot 28, although prominent on the site, will not appear unduly dominant or imposing. Therefore, it will not detract from the character and visual amenity of the area.
- 8.19 In terms of their size, height and positioning on the site the proposed houses would not give rise to significant overlooking or overshadowing of any other house within the development or unduly impose itself on any other house.
- 8.20 No details of 'percent for art' for the development have been submitted with the application. It can be made a condition of a grant of planning permission that details of artwork be submitted for the prior approval of the Planning Authority.

#### Access and Transportation Issues

- 8.21 The principle of the proposed access to the site off the B6392 is acceptable in transportation terms. The site can be safely accessed and the local road infrastructure is of a standard to cope with the level of traffic using it to access the site. In addition, the proposed access off the B6392 is of an adequate standard to serve a residential development of the remaining part/northern part of site Hs10 if accessed from it via a crossing over the Pittendreich Burn. All of the controls outlined by the Council's Policy and Road Safety Manager relating to the access to the site, public transport infrastructure on the B6392 and pedestrians and cycle routes to and from the site can all be secured by a condition imposed on a grant of planning permission. Subject to these controls the future occupants of the houses will have safe and convenient access to and from the site.
- 8.22 The crossing over the Pittendreich Burn, which the Masterplan submitted with the application identifies as being the principal access to the northern part of site Hs10 is not part of this current detailed planning application. However on the site layout plan submitted with the current application, the proposed upgraded access road off the B6392 is delineated as continuing northwards to a proposed crossing over the burn. The Masterplan identifies the crossing over the burn corridor as the principal access to the whole of site Hs10. This is a significant material consideration in the assessment of this current detailed planning application. The crossing over the burn corridor would link the application site to the remainder of site Hs10, thus providing, pedestrians and cyclists with direct access to the national



cycleway on the northern boundary of site Hs10 as well as to the rest of the town.

- 8.23 The formation of the crossing over the burn will require engineering works including cutting, filling and embankment formation. It is likely that four of the proposed houses (plots 16, 17, 18 and 28); which are those closest to the watercourse, could not be constructed until after the proposed road crossing has been completed owing to the proximity of them to/part of them being built on the cutting/filling/embankments. If these four houses were built in advance of the road crossing being constructed then they could impede the future formation of the crossing. Therefore, it should be made a condition of a grant of planning permission that construction on plots 16, 17, 18 and 28 does not commence until after the road crossing is constructed in its entirety. The applicant has confirmed in writing to the planning authority that they accept the imposition of such a condition. Furthermore, given that full details of the design of the road crossing including levels of the embankments have not yet been approved by the Council, it should be made a condition of a grant of planning permission that houses on the said plots are not built unless and until full details including final levels of those plots and the finish levels of the adjoining land has been submitted to and approved in advance by the Planning Authority.
- 8.24 The MLDP will require new development sites to fully incorporate green network opportunities in their design and implementation. This can potentially be delivered through a combination of path networks, open space and sustainable urban drainage systems. The 2.5 metre wide cycleway/footway to be formed from the site to the A7 will form an integral part of the green network in this part of Midlothian and will contribute towards the delivery of the Midlothian Green Network as required in the MLDP.
- 8.25 If the Council chooses to support this application for detailed planning permission, a mechanism would require to be developed for contributions to be sought for the urbanisation of the A7 as defined in the MLDP.

### Landscape

- 8.26 The primary street is defined by an avenue of tree planting, which would provide an attractive entrance to the development. The woodland buffer along the eastern edge of the site will enhance the landscape setting of the development. To ensure that this structural landscaping is planted early and thus become established at an early stage in the development helping to mitigate the landscape impact of the development it should be made a condition of a grant of planning permission that it is planted in the first phase of development. The scheme of planting specification, including for service strips can be secure by a condition imposed on a grant of planning permission. An area of land near to the north eastern corner of the site between plots 8 and 9 is constrained by an existing sewer. The resultant small area of

open space is not overlooked by any house in the development and thus it is important that it be landscaped to added to the aesthetic of the development. This can be secured by a condition on a grant of planning permission.

#### SUDS and Flooding

- 8.27 Where the Pittendreich Burn cuts through the site its southern bank forms a steep slope between it and the site the subject of this detailed planning application. At the closest point the Pittendreich Burn is some 15m north of the site. The Pittendreich Burn is some 12 metres below the level of the site where development is proposed. SEPA confirm that they are satisfied that the site is sufficiently elevated above the watercourses to address the flood risk concerns. A detailed SUDS scheme will be required as part of the landscaping condition.

#### Ground Conditions

- 8.28 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.

#### Noise

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

#### Ecology

- 8.30 The report on the ecological survey of the whole of site Hs10 does not recommend against the development on grounds of impact on biodiversity. The report informs that the main areas of habitat interest are the wooded Pittendreich Burn corridor and the relatively unmanaged area of grassland to the northeast of the wooded corridor (outside the application site). The burn corridor is a sensitive habitat which can be carefully managed during the development of the site. It is set down in a cutting, and is very densely scrubbed through with a mix of trees and shrubs. The proposed Midlothian Local Development Plan for Dalhousie Mains Hs10 states that:

*"There is a need to protect and enhance existing planting along the south-eastern edge and along Pittendreich Burn which should be utilised as part of the green network/open space in a similar manner to the existing Dalhousie housing area. The burn crosses the south eastern part of the site and flood risk assessment will be required to*

*ensure mitigation to avoid flood risk. SEPA requires the inclusion of a buffer strip alongside the watercourse, and that consideration be given to watercourse restoration.”*

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

#### Developer Contributions

- 8.32 Site Hs10 (Dalhousie Mains, Bonnyrigg) is proposed to be allocated for housing in the Proposed Midlothian Local Development Plan (2014) with an indicative unit capacity of 300 units. This application (16/00855/DPP), as amended is for detailed planning permission for 28 residential units. If the Council is minded to grant planning permission for the development it will be necessary for the applicants to enter into a Section 75 planning obligation in respect of the following areas:

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

#### Education

- 8.33 There is a requirement for an additional 3.5 streams of non denominational primary education in Bonnyrigg. The draft MLDP identifies that contributions will be equalised pro rata across the proposed allocated sites in Bonnyrigg toward this provision. The Council is developing an education strategy for Bonnyrigg which may see a new primary school being delivered on site Hs10.
- 8.34 The Council's Head of Education has advised that there will be a requirement as per the Midlothian wide policy of a developer contribution towards denominational secondary capacity.

- 8.35 The Head of Education has advised that the proposed development lies within the catchment area of Lasswade High School and that contributions will be required to meet the required provision.

#### Borders Rail

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

#### A7 Urbanisation

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

#### Affordable Housing

- 8.38 In accordance with MLP policy HOUS4 and MLDP policy DEV3, sites of 50 units and over (or larger than 1.6 ha in size), are subject to a requirement for 25% of the units to be affordable. This equates to 7 units based on the 28 total units contained within this application. This is based on the site being considered as part of the larger Hs10 site allocation.
- 8.39 Affordable Housing by definition is to be 'housing of a reasonable quality that is affordable to people on modest incomes (Supplementary Planning Guidance (SPG) Affordable Housing Adopted 6<sup>th</sup> March 2012, paragraph 3.1).
- 8.40 The location and specification of the affordable housing units within the development shall be subject to the agreement of the Local Housing and Planning Authorities, and in accordance with the permitted plans for the site.
- 8.41 The developer shall enter into an agreement with the Council or a Registered Social Landlord to construct and develop 7 affordable units in accordance with the plans and specifications agreed by the Midlothian Council.

#### Children's Play

- 8.42 On commencement of development payment of a commuted sum towards Children's Play shall be paid.

#### Open Space and Maintenance

- 8.43 The responsibility for the maintenance of the open space (including any SUDS) shall be the developers/owners and provision shall be made in

the deeds of sale of all housing units to contribute to the ongoing maintenance of these areas through a regular “factoring” change.

#### Archaeology

- 8.44 The control alluded to be the Council’s Archaeological Advisor in her consultation response could be secured by a condition imposed on a grant of planning permission.

#### Other Matters raised by Representors and Consultees

- 8.45 Issues raised by the representors and by consultees have been largely addressed above. With regards to the matters raised which have not been addressed above:
- 8.46 Whether or not there should be only one vehicular access to the northern part of site Hs10; which access should be off the B6392, via a new crossing over the Pittendreich Burn, is not a material consideration in the determination of this planning application. This will be a material consideration in the assessment of the undetermined application for planning permission in principle 16/00712/PPP.
- 8.47 Bonnyrigg Community Council notes that the crossing over the Pittendreich Burn is not part of the current planning application. Nevertheless they state that it would be preferable to have the crossing and road built first and that a planning condition be imposed to secure this. They submit that this would ensure there can be no need to use another entrance to the northern part of site Hs10 during its construction phase at some subsequent time. However, it would not be reasonable for the Planning Authority to impose such a condition. The proposed layout is designed to accommodate the crossing of the burn and the applicants have shown a commitment to deliver the crossing.
- 8.48 The concern raised by Midlothian Health and Social Care Partnership about the existing capacity of general practice in Midlothian and the impact of new house building on health and care services is a matter which needs to be addressed by the Partnership through the provision of sufficient health service capacity. That can involve liaison with the Council as planning authority but it is not, on its own, a sufficient basis on which to resist or delay this application.
- 8.49 If the development is built out it would result in an increase in the school rolls within the area. However, this would not result in the maximum classroom size set by the Scottish Government being exceeded as additional provision will be provided as a consequence of this development.
- 8.50 The current planning application stands to be determined on its own merits. There is no substantive planning reason why the Council should not determine the application prior to determining the separate

application for planning permission in principle ref.16/00712/PPP for the residential development of the whole of site Hs10.

## 9 RECOMMENDATION

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

*Although the site is not allocated for housing in the adopted local plan there are material considerations which outweigh a presumption against the development, including the site's allocation for housing in the Proposed Midlothian Local Development Plan, the delivery of housing to help meet Midlothian's housing requirements and to safeguard construction jobs of a local employer. The proposed detailed scheme of development is of good design in terms of its layout, form and landscaping and meets the requirements of detailed policies in the Midlothian Local Plan and the Proposed Midlothian Local Development plan.*

Subject to:

- (i) the prior signing of a legal agreement to secure the provision of affordable housing, and contributions towards: education provision; off site children's play provision; open space maintenance; Borders Rail; and, A7 Urbanisation improvements.
- (ii) SEPA removing their objection to the application; and
- (iii) the following conditions:

1. The masterplan submitted with the application is not approved.

**Reason:** *The masterplan submitted with the application relates to the whole of site Hs10 which is the subject to an undetermined application for planning permission in principle ref. 16/00712/PPP.*

2. Notwithstanding that delineated on docketed drawing titled: 'Site Layout', construction of the house on each of plots 16, 17, 18 & 28 shall not commence unless and until detailed planning permission for a road crossing over the Pittendreich Burn connecting the application site with the northern part of site Hs10 has been granted by the planning authority and that crossing has been constructed in its entirety and is made available for use in accordance with the details so approved.

**Reason:** *The crossing over the Pittendreich Burn Corridor; which the Masterplan submitted with the current application identifies as being the principal access to the northern part of site Hs10 is not part of this current detailed planning application. The formation of the crossing over the burn corridor will require engineering works including cutting, filling and embankment formation. The proposed houses on plots 16, 17, 18 and 28 could not be constructed until*

*after the proposed road crossing has been completed owing to the proximity of them to/part of them being built on the cutting/filling/embankments. If these four houses were built in advance of the road crossing being constructed then they could impede the future formation of the crossing.*

3. Notwithstanding that delineated on docketed drawings the position on the plot, and the height and form of the house on plots 16, 17, 18 and 28 is not approved. A scale plan delineating finished ground levels of those plots and the finished floor levels of the houses on those plots; all in relation to a fixed datum, and revised floor plans and elevation drawings of the house types for these plots shall be submitted to and approved in advance in writing by the Planning Authority.

**Reason:** *The houses on plots 16, 17, 18 and 28 would be built on embankments of the crossing over the Pittendreich burn. Full details of the design of the road crossing including levels of the embankments have not yet been approved by the Council. The levels of the houses relative to the levels of the embankments require careful consideration by the Planning Authority to ensure that the houses are acceptably fitted into the landscape.*

4. Development shall not begin until a phasing plan 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, structural landscaping and landscaping in communal areas, SUDS provision and transportation infrastructure. Development shall thereafter be carried out in accordance with the approved phasing plan 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.*

5. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i 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 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;
- vii drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
- viii proposed car park configuration and surfacing;
- ix proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and
- x details of existing and proposed services; water, gas, electric and telephone.

6. 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). The scheme shall include the following; inter alia: (i) the planting of the woodland buffer along the eastern edge of the site in phase 1 of the development; (ii) the planting of the landscaping in the open spaces prior to the houses/buildings on adjoining plots being occupied; and, (iii) the landscaping of the area adjacent to plots 8 and 9 (which is constrained by the existing sewer) in a manner to deter its use as a play area and to deter loitering.

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 in the adopted Midlothian Local Plan and the Proposed Midlothian Local Development Plan and national planning guidance and advice.*

7. Development shall not begin until details of the following has been submitted to and approved in writing by the planning authority:
- i. the proposed upgrading of the existing vehicle access from the B6392, including details of associated localised road widening of the B6392 to form a dedicated right turn lane into the site entrance and the formation of a pedestrian crossing island on the access road ;
  - ii. the upgrading of the current public transport infrastructure at the existing bus stops adjacent to the site entrance on the B6392 including the introduction of a signal controlled pedestrian crossing point linking the two bus stops, the relocation of stops to accommodate the crossing and the provision of a new bus shelter at the eastbound bus stop;



- iii. except for over the short bridge section on the approach to the A7, the increasing in width to a minimum of 2.5m of the existing section of 2m wide public footway leading from the site entrance to the A7.
- iv. proposed cycle and pedestrian accesses;
- v. existing and finished ground levels for all roads, visitor car parking, pedestrian and cycle ways in relation to a fixed datum;
- vi. proposed visibility splays, traffic calming measures, street lighting and signage;
- vii. measures to close-off the vehicle/pedestrian access to the proposed burn crossing to be put in place until the burn crossing is completed and the development on the northern part of burn is ready to commence; and,
- viii. a programme for completion for the construction of access, roads, footpaths and cycle paths.

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 future occupants of the houses have safe and convenient access to and from the site.*

- 8. Prior to the first occupation of any of the house on plots 6, 7, 8, 11, 12, 13 the following shall be carried out in its entirety:
  - i. The central open space located to the immediate east of plot 23 shall be formed and made available for use; and,
  - ii. A 1 metre high metal railing incorporating a gate shall be erected along the roadside (north and east) boundaries of the central open space in accordance with details to be approved in advance by the Planning Authority.

Once formed the open space shall thereafter be retained as a communal open space unless otherwise approved by the Planning Authority.

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

- 9. The external finishing materials and finishes specified for the buildings and hard surfaces are not approved. Notwithstanding the material specified on drawings docketed to this planning permission, development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority.

Notwithstanding that specified on application drawings an enhanced quality of materials; including natural slate for roofs, wet dash render, good quality natural or reconstituted stone which replicates as closely as possible natural stone and coloured masonry mortar which replicates as closely as possible the colour of the masonry, shall be used in the Area of Improved Quality which shall include plots 16-18 and 24-28 inclusive. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

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

10. 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 in the adopted Midlothian Local Plan and the Proposed Midlothian Local Development Plan and national planning guidance and advice.*

11. 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.

Before any part of the site is occupied for residential purposes, the measures to decontaminate/remediate the ground conditions of the site shall be fully implemented in accordance with the approved scheme to the approval of the planning authority.

**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.*

12. Prior to works commencing on site a report on an assessment of the likely effects of road traffic noise on the amenity of the future occupants of the houses shall be undertaken by an acoustic specialist to identify any noise mitigation measures necessary to ensure compliance with the following criteria:
  - i. 50 dB LAeq(16hr) for daytime external garden amenity;
  - ii. 35 dB LAeq(16hr) for daytime internal living apartment; and,
  - iii. 30 dB LAeq(8 hour) for night time internal living apartment.

The night time sleep disturbance criteria shall be that contained in the WHO Night Noise Guidelines for Europe, LAmax of 42 dB(A).

Any recommended noise mitigation measures shall be implemented prior to the occupation of the houses.

***Reason:*** *In the interests of safeguarding the residential amenity of the future occupants of the houses.*

13. No house 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.*

14. Development shall not begin until a programme of archaeological works (Evaluation) has been submitted to and approved in writing in by the planning authority. The approved programme of works shall comprise a field evaluation by trial trenching reported upon initially through a Date 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 buried archaeological material in accordance with policies in the adopted Midlothian Local Plan and the Proposed Midlothian Local Development Plan.*

15. The recommendations made within Section 8.0 of the Dalhousie Mains Ecological Assessment report dated October 2016 shall be implemented in full in accordance with an action programme and

timetable to be submitted to and approved in writing by the Planning Authority.

**Reason:** *In the interests of safeguarding biodiversity.*

16. Prior to works commencing on plots 9-18 and plot 28 a report on a walkabout survey to identify otter holts or lying up places on the part of the Pittendreich burn and burn corridor which lie within site Hs10 and is located to the immediate north of the application site shall be submitted to and approved in writing by the planning authority. Any recommended measures to mitigate the impact of the development on otters shall be carried in full.

**Reason:** *In the interests of safeguarding otters, a European protected species.*

17. 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 dwellinghouse. 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.*

18. Prior to the commencement of development, the scope of and a subsequent report on a feasibility study of the operation of a community heating scheme for the development hereby approved as part of the wider HS10 site and; if practicable, other neighbouring developments/sites, in accordance with MLDP Policy NRG6, shall be submitted for the prior written approval of the planning authority.

19. No dwellinghouses on the site shall be occupied until a community heating scheme for the site and the wider HS10 site and; if practicable, other neighbouring developments/sites, is approved in writing by the planning authority. The approved scheme shall be implemented in accordance with a phasing scheme also to be agreed in writing in advance by the Planning Authority. There shall be no variation therefrom unless with the prior written approval of the Planning Authority.

**Reason for conditions 18 and 19:** *To ensure the provision of a community heating system for the site which is a part of the wider Hs10 development site, to accord with the requirements of MLDP Policy NRG6 and in order to promote sustainable development.*

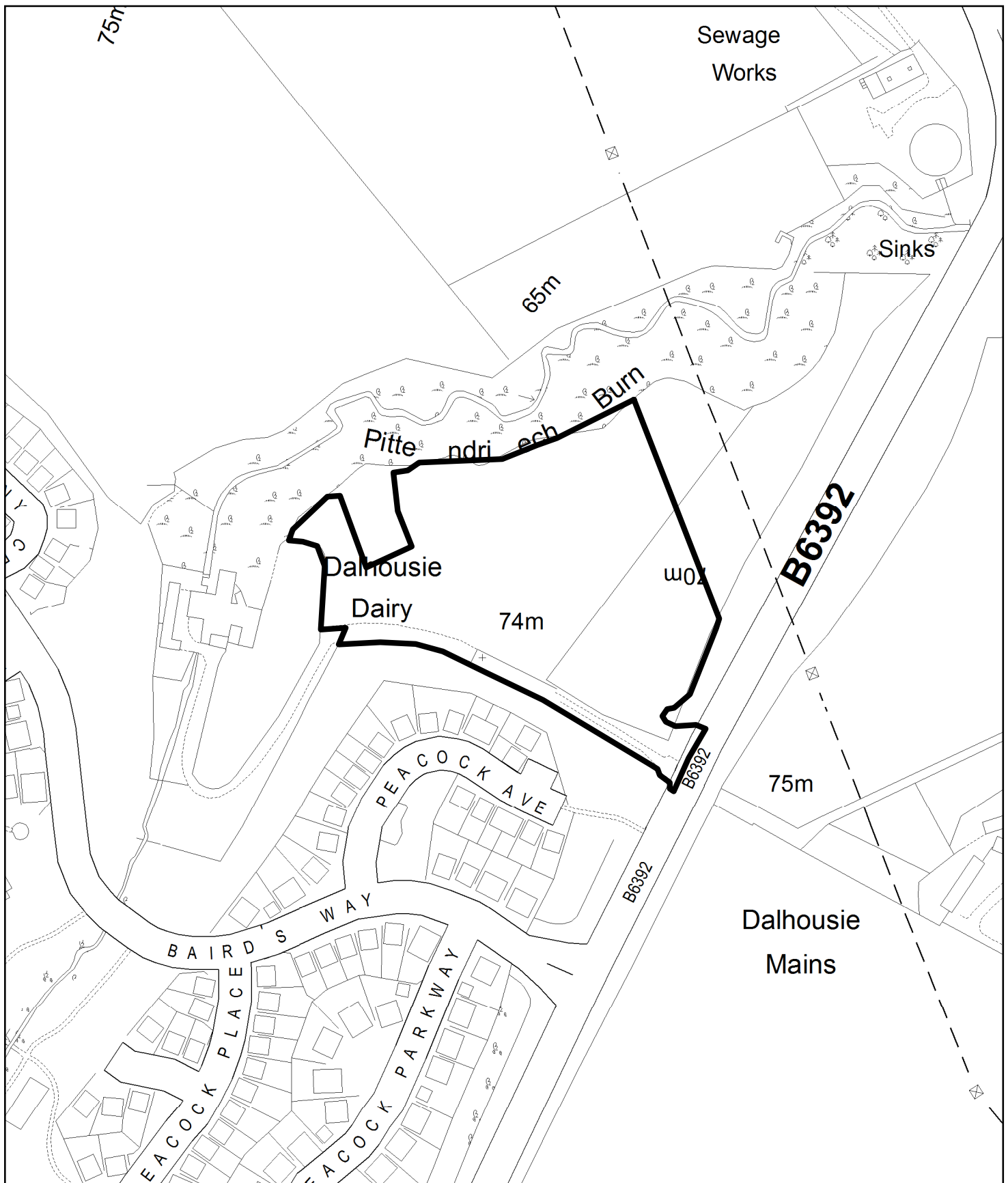
20. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts throughout

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.*

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

<b>Date:</b>	14/02/2017
<b>Application No:</b>	16/00855/DPP
<b>Applicant(s):</b>	Grange Estates (Newbattle) Limited, Westwood House, Royston Road, Deans Industrial Estate, Livingston, EH54 8AH
<b>Validation Date:</b>	5 <sup>th</sup> December 2016
<b>Contact Person:</b>	Adam Thomson
<b>Tel No:</b>	0131 271 3346
<b>Background Papers:</b>	15/00626/SCR & 16/00161/PAC



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

Erection of 29 dwellinghouses; formation of access roads and associated works at Land East of Dalhousie Dairy, Bonnyrigg

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## **APPLICATION FOR PLANNING PERMISSION (16/00770/DPP) FOR ERECTION OF STUDIO BUILDING AT 2 VIEWBANK ROAD, BONNYRIGG**

Report by Head of Communities and Economy

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### **1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1 **The application is for the erection of a studio building at 2 Viewbank Road, Bonnyrigg. There have been 4 representations objecting to the proposed development. The relevant development plan policies are RP20 and DP6 of the adopted Midlothian Local Plan 2008. The recommendation is to grant planning permission.**

### **2 LOCATION AND SITE DESCRIPTION**

- 2.1 The application site is located on the north west side of Viewbank Road.
- 2.2 The application property comprises a detached dwellinghouse with accommodation at first floor level within the roofspace. It is finished externally in painted render with white plastic framed windows and a slate roof. The house has been previously extended. There is an existing free standing garage to the west side of the house with a small outbuilding to the rear. The garage measures 3.8m deep and approximately 6m wide and is finished in render with a felt covered shallow hipped roof.

### **3 PROPOSAL**

- 3.1 It is proposed to demolish the existing hipped roof garage on the west side of the house and replace it with a studio building. The building measures 6.4m wide by 4.5m deep. (The plans are not all to scale, however they are annotated with the dimensions and the assessment of the proposal has been made on this basis. Also the orientation of the elevations of the proposed building has been annotated incorrectly on the submitted plans.) The building is to be finished externally in white render with a felt roof incorporating a cupola. The roof will be 3.2m high with the cupola extending to 3.55m high. It is also proposed to extend the existing boundary wall to the fill the gap which will arise when the existing garage is demolished. This new section of wall will match the adjoining sections of wall.



- 3.2 There is some ambiguity on the submitted plans with regard to the existing small storage outbuilding to the rear of the garage as to whether it is to be demolished or repaired. No elevations of a replacement building have been submitted and the assessment of this application is therefore based on the store building being repaired rather than demolished and rebuilt.
- 3.3 The applicant has confirmed verbally that the use of the proposed studio building is to be as an artist studio incidental to the use of the house at the application site. It has also been confirmed in writing on an amended copy of the site plan that the building is to be for domestic use only and not for use as a separate dwelling.

#### **4 BACKGROUND**

- 4.1 Planning application 11/00221/DPP for a single storey extension on the south west side of the house was approved in May 2011.
- 4.2 Planning application 11/00643/DPP for an amended scheme for a single storey extension on the south west side of the house was approved in November 2011. This permission has been implemented.
- 4.3 Planning application 12/00721/DPP for two dormer windows was refused in November 2012.
- 4.4 Planning application 13/00015/DPP for an amended scheme for two dormer windows was approved in February 2013. This permission has been implemented.
- 4.5 The agent has submitted correspondence in support of the application. The issues raised are summarised as follows:
- The neighbours would get more light in to their garden.
  - The neighbours can overlook the building more easily.
  - The building is an artist's studio not a garage therefore the space requirements are bigger than a garage.
  - Whilst the artist works from home, similar to home workers they have one room allocated to themselves as offices but the whole building is domestic.
- 4.6 The application has been called to Planning Committee by Councillor Milligan because of concerns over the potential impact the development has on the neighbouring properties.

#### **5 CONSULTATIONS**

- 5.1 No consultations were necessary in relation to the application.



## 6 REPRESENTATIONS

- 6.1 Four objections have been received in relation to the application from the occupiers of nos 7, 9, 11 and 13 Golf Course Road to the rear of the application property.
- 6.2 The concerns raised are as follows:
- Query the requirement for a kitchen and shower room within the building;
  - Concern that the building will be used for commercial purposes resulting in increased noise and traffic with a negative impact on the quality of life of existing residents;
  - Concern that the building will be used as a standalone unit of accommodation;
  - Query the requirement for the building to be 3.2m high with the cupola at 3.5m high almost 1m higher than the eaves of the existing house;
  - Impact on sunlight, daylight and outlook;
  - The proposed building is larger than the existing building and out of character with surrounding buildings; and
  - The height and size of the building should be reduced and the design amended to be a like for like replacement and conditions attached to prevent its use for accommodation or commercial use.

## 7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) (SESplan) and the Midlothian Local Plan (MLP), adopted in December 2008. The following policies are relevant to the proposal:

### Midlothian Local Plan (MLP)

- 7.2 Policy **RP20: Development within the Built-up Area** states that development will not be permitted within the built-up area where it is likely to detract materially from the existing character or amenity of the area;
- 7.3 Policy **DP6: House Extensions** requires that house extensions be well designed to maintain or enhance the appearance of the house and locality. The guidelines also relate to the size of extensions, external finishes, remaining garden area and impact on neighbouring properties.

### Midlothian Local Development Plan (MLDP)

- 7.4 While the MLDP has not yet been adopted it does represent Midlothian Council's preferred strategy for the future development of the Local Authority area. As such it is a material consideration in the assessment of this application. Of particular relevance are the policies which cover Protecting Amenity within the Built-Up Area (DEV2) and Layout and

Design of New Development (DEV6). These policies are generally reflective of the policies already set out in the section on Midlothian Local Plan. The MLDP is current subject to examination by the Scottish Ministers with an anticipated adoption timetable set for late spring/early summer.

## **8 PLANNING ISSUES**

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. The representations received are material considerations.
- 8.2 The central issues in the consideration of the application are the impact of the proposals on the character of the application property, on the visual amenity of the surrounding area, and the impact on the amenity of neighbouring properties.
- 8.3 The ridge of the existing garage structure is higher than the eaves of the existing house. At 3.2m high (not including the cupola) the studio building will be 0.55m higher than the eaves of the existing garage and a maximum of approx 0.2m higher than the ridge. At its highest point the solid part of the structure of the building will be 25 cm higher than the eaves of the existing house at the application property with the highest point of the cupola 0.55m higher than the eaves of the existing house, however it will be noticeably lower than the ridge of the house. The proposed studio building will not dominate or compete visually with the existing house. Apart from the glazing on the south east elevation and the cupola the proposed studio building is not dissimilar in appearance to a flat roof garage and will not detract from the appearance of the associated dwellinghouse as compared to existing. The colour of the render on the walls of the building should match the colour of the walls of the house. This can be covered by condition.
- 8.4 There are examples of single storey flat roof garages within the surrounding area including at the property on the opposite side of the road to the application property. Within this context the studio building and boundary wall will not have a significant impact on the visual amenity of the street scene as compared to existing.
- 8.5 Sufficient garden and driveway will remain after the erection of the building.
- 8.6 As regards the proposed accommodation within the studio building as stated above the applicant has confirmed verbally that the use of the proposed studio building is to be incidental to the use of the house at the application site (this has also been confirmed in writing on an amended copy of the site plan). The use of the building could include an artist's studio, similar to a home office. Accordingly it would not be necessary to restrict the use of the building by condition should

planning permission be forthcoming as the annotated plan would form part of the approved scheme restricting the use of the building. Furthermore a material change of use of the building to a use which is not incidental to the enjoyment of the dwellinghouse would require planning permission.

- 8.7 Whilst the building will be prominent to the outlook from the living room and kitchen to the rear at 7 Golf Course Road, the impact on the outlook is not sufficient to warrant refusal of planning permission. The impact is mitigated by the distance between the buildings and the presence of an existing garage and greenhouse within the back garden of no. 7 Golf Course Road. The studio building will not be overbearing to the outlook of the garden of no. 7. The building will overshadow only part of no. 7's garden, particularly in the early morning in the spring and winter months. The building will not have a significant impact on daylight to no.7.
- 8.8 The building will be visible from a glazed kitchen door at the rear of 9 Golf Course Road. This room is also served by two windows on the side. The impact on the outlook of the house and garden at no. 9 is not sufficient to warrant refusal of planning permission. The proposed building will not result in increased overshadowing of no. 9's garden and will not have a significant impact on daylight to this property.
- 8.9 The building will not have a significant impact on the amenity of the occupiers of nos. 11 and 13 Golf Course Road because of the separation between the site of the proposed new building and the these properties.
- 8.10 The proposed development will not have a significant impact on the character of the existing dwellinghouse, the visual amenity of the surrounding area or the amenity of neighbouring properties and as such the proposal is acceptable in terms of policies RP20 and DP6.

## **9 RECOMMENDATION**

- 9.1 That planning permission be granted for the following reason:

*The proposed building by means of its form, scale and design is compatible to the host building and the street scene and accords with the aims of Midlothian Local Plan policies RP20 and DP6.*

Subject to the following conditions:

1. Planning permission is hereby granted for the studio building only and not for any other outbuildings at the site.

**Reason:** *For the avoidance of doubt as the submitted plans refer to an outhouse being demolished however no elevations of a replacement building have been submitted.*

2. An amended copy of drawing no. 16/10/Design 003 with the elevations and floor plan drawn accurately to scale and the orientation of the elevations annotated correctly shall be submitted to the Planning Authority. The drawings shall show the height of the cupola not exceeding 3.55m and the height of the roof of the studio building not exceeding 3.2m as measured externally from ground level. No work shall start on the studio building until the amended drawing has been approved in writing by the Planning Authority.

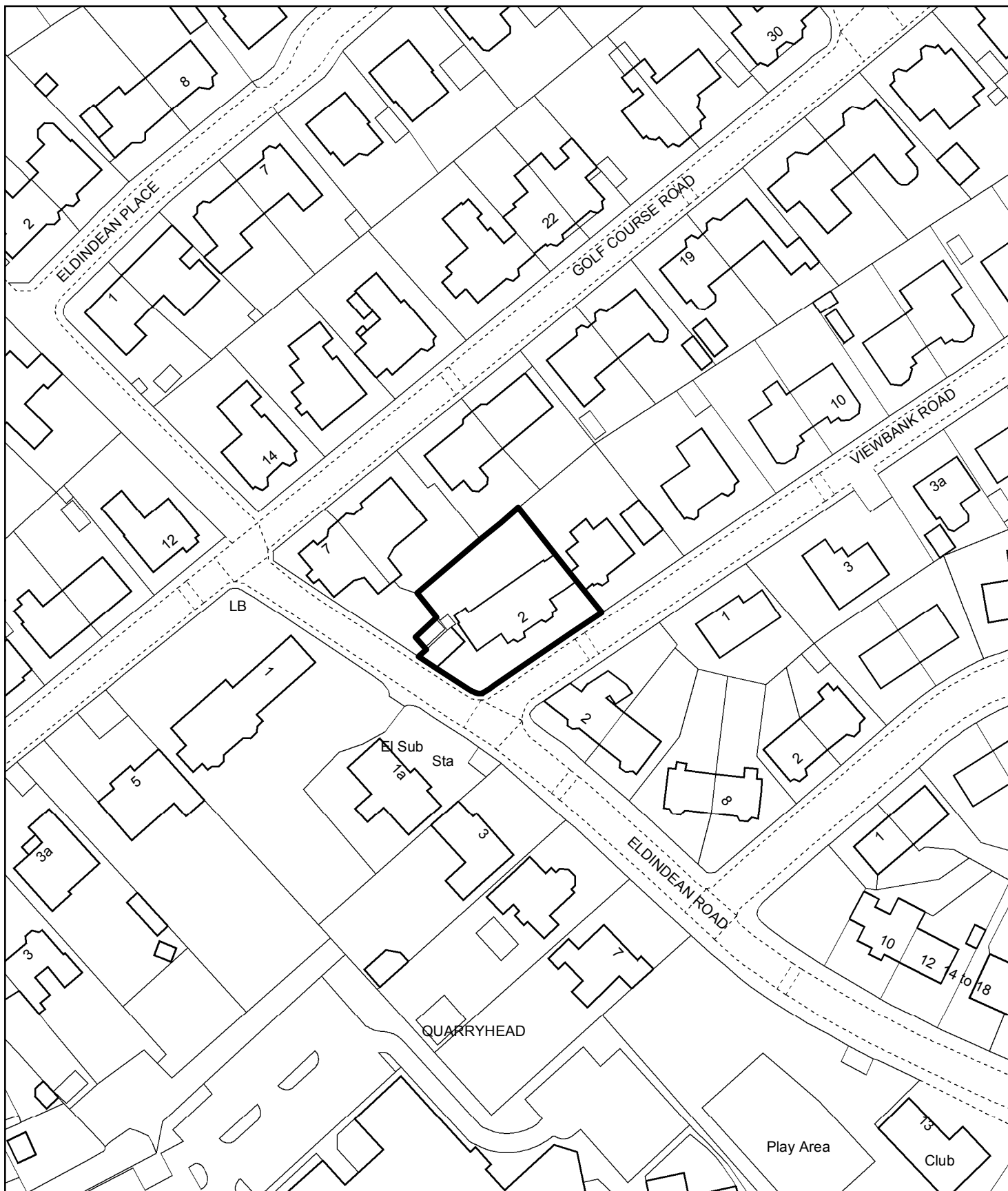
***Reason:*** *The plan is not to scale: for the avoidance of doubt as to what is approved.*

3. The colour of the render on the studio outbuilding shall match the colour of the render on the house at the application site.
4. Details of the material and colour finish of the frames of the windows and patio doors on the studio building shall be submitted to the Planning Authority and the patio doors and windows shall not be installed until these details have been approved in writing by the Planning Authority.

***Reason for conditions 3 and 4:*** *To safeguard the character of the existing building at the application site and the visual quality of the area.*

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

<b>Date:</b>	14 February 2017
<b>Application No:</b>	16/00770/DPP (Available online)
<b>Applicant:</b>	Mr & Mrs Taylor, 2 Viewbank Road, Bonnyrigg
<b>Agent:</b>	Project Managemnet and Architectural Services Limited
<b>Validation Date:</b>	7 November 2016
<b>Contact Person:</b>	Ingrid Forteath
<b>Tel No:</b>	0131 271 3316
<b>Background Papers:</b>	11/00221/DPP, 11/00643/DPP, 12/00721/DPP, 13/00015/DPP (Available online)



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Erection of studio buildings at 2 Viewbank Road, Bonnyrigg

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