

Notice of Meeting and Agenda



Planning Committee

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

Date: Tuesday, 08 October 2019

Time: 13:00

Director, Resources

Contact:

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

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Further Information:

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1 Welcome, Introductions and Apologies

2 Order of Business

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

3 Declaration of Interest

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

4 Minute of Previous Meeting

- 4.1** Minute of Meeting held on 27 August 2019 - For Approval 5 - 12

5 Public Reports

- 5.1** Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage – Report by Director, Education, Communities and Economy. 13 - 18

- 5.2** Appeals and Local Review Body Decisions - Report by Director, Education, Communities and Economy. 19 - 20

Pre-Application Consultation - Report by Director, Education, Communities and Economy.

- 5.3** Proposed Holiday Resort Development at Land at Drummond Moor Landfill Site, Rosewell (19/00626/PAC). 21 - 24

- 5.4** Proposed Residential Development with Associated Infrastructure at Land North of Seafield Road, Bilston (part of Site HS16) (19/00641/PAC). 25 - 30

Applications for Planning Permission Considered for the First Time – Reports by Director, Education, Communities and Economy.

- 5.5** Application for Planning Permission for the Erection of 91 Dwellinghouses; Formation of Access Roads; SUDS Feature and Associated Works (Amendment to Development Layout, House Numbers and House Types Approved in terms of planning permission 17/00068/DPP) at Land between Deanburn and Mauricewood Road, Penicuik (19/00727/DPP). 31 - 52

- 5.6** Application for Planning Permission for the Erection of 100 Dwellinghouses, Formation of Access Roads, SUDS Feature, Car Parking and Associated Works at Land between Rosewell Road and Carnethie Street, Rosewell (18/00403/DPP). 53 - 86

6 Private Reports

No Private Reports to be discussed at this meeting.

7 Date of Next Meeting

The next meeting will be held on Tuesday 19 November 2019 at 1.00 pm

Plans and papers relating to the applications on this agenda can also be viewed online - <https://planning-applications.midlothian.gov.uk/OnlinePlanning>

Minute of Meeting



Planning Committee

Date	Time	Venue
27 August 2019	1.00 pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Curran	Councillor Hackett
Councillor Lay-Douglas	Councillor McCall
Councillor Milligan	Councillor Muirhead
Councillor Parry	Councillor Russell
Councillor Wallace	Councillor Winchester

In Attendance:

Mary Smith, Director, Education, Communities and Economy	Peter Arnsdorf, Planning Manager
Alan Turpie, Legal Services Manager	Janet Ritchie, Democratic Services Officer

1. Apologies

Apologies for absence were intimated on behalf of Councillors Cassidy, Hardie, Johnstone, Munro and Smaill.

2. Order of Business

The Order of business was as set out in the Agenda

3. Declarations of interest

No declarations of interest were submitted.

4. Minutes of Previous Meetings

The Minute of Meeting of 18 June 2019 was submitted and approved as a correct record subject to an amendment to the apologies.

Councillor Hackett and Councillor Russell advised the Committee that they did not put in apologies for the meeting of 18 June 2019 they were suspended from attending following a decision by the Standards Commission.

5. Reports

Agenda No	Report Title	Presented by:
5.1	The Planning (Scotland) Act 2019	Peter Arnsdorf
Outline of report and summary of discussion		
<p>A report dated 16 August 2019 was submitted by the Director of Education, Communities and Economy updating the Committee with regard to the reforms to the Planning System resulting from the Planning (Scotland) Act 2019.</p> <p>The Planning Manager highlighted the main sections contained within the report and advised the Committee of the main changes proposed by the 2019 Act as outlined in the report. Thereafter he responded to a question regarding the interim guidance on transitional arrangements which will be published in the coming weeks.</p>		
Decision		
<p>The Committee noted:</p> <ul style="list-style-type: none">• The contents of the report• To receive further reports on changes to the Planning System when secondary legislation/regulations are published by the Scottish Government.		
Action		
Planning Manager		

Agenda No	Report Title	Presented by:
5.2	Major Applications: Applications currently being assessed and other Developments at Pre-Application Consultation Stage	Peter Arnsdorf
Outline of report and summary of discussion		
<p>A report dated 16 August 2019 was submitted by the Director of Education, Communities and Economy updating 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.</p> <p>The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants was outlined in Appendices A and B attached to this report.</p>		
Decision		
The Committee noted the major planning application proposals which are likely to be considered by the Committee in 2019 and the updates for each of the applications.		

Agenda No	Report Title	Presented by:
5.3	Supplementary Guidance: Housing Development in the Countryside and Green Belt	Peter Arnsdorf
Outline of report and summary of discussion		
<p>A report dated 16 August 2019 was submitted by the Director of Education, Communities and Economy updating the Committee on the adoption of the Housing Development in the Countryside and Green Belt Supplementary Guidance. At its meeting of 14 May 2019 the Committee agreed to adopt the Housing Development in the Countryside Supplementary Guidance following a formal consultation process.</p> <p>The adopted version of the Housing Development in the Countryside and Green Belt Supplementary Guidance document is now available on the Council website.</p>		
Decision		
The Committee noted the contents of the report.		

Agenda No	Report Title	Presented by:
5.4	Gorebridge Conservation Area Character Appraisal And Management Plan	Peter Arnsdorf
Outline of report and summary of discussion		
A report dated 16 August 2019 was submitted by the Director of Education, Communities and Economy, the purpose of this report was to seek agreement to undertake a formal consultation on the draft 'Conversation Area Character Appraisal and Management Plan' for the Gorebridge Conversation Area.		

The Planning Manager highlighted the main sections contained within the report and advised the Committee that a condition of the funding received from Historic Environment Scotland was the preparation and adoption by the Council of a Conservation Area Appraisal and Management Plan which is attached as appendix A to the report.

Decision

The Committee:

- Approved the draft Gorebridge Conservation Area Character Appraisal and Management Plan for consultation;
- Would consider a further report following the proposed consultation;
- Authorised the Planning Manager to make any necessary minor editing and design changes to the CAAMP prior to publication.

Action

Planning Manager

Agenda No	Report Title	Presented by:
5.5	Proposed Amendment to the Proposed Uses at Site E26, Whitehill Mains, Whitehill Road, Millerhill (19/00489/PAC).	Peter Arnsdorf
Outline of report and summary of discussion		
<p>A report dated 16 August 2019 was submitted by the Director of Education, Communities and Economy advising the Committee of a pre-application consultation regarding a proposal to expand the range of uses at site E26, Whitehill Mains, Whitehill Road, Millerhill, Shawfair. The land comprises economic site E26 in the Midlothian Local Development Plan 2017 (MLDP), allocated for class 4 (office/business) and class 5 (general industry) uses. The site was originally allocated in the now superseded 2003 Shawfair Local Plan.</p> <p>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. The Planning Manager provided a brief summary of the report.</p>		
Decision		
<p>The Committee noted:</p> <ul style="list-style-type: none"> • The provisional planning position set out in this report. • That any comments made by Members will form part of the minute of the Committee meeting. • That the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application. 		
Action		
Planning Manager		

Agenda No	Report Title	Presented by:
5.6	Proposed Erection of Primary School at the Former Site of the Newbattle Community High School, Easthouses Road, Easthouses (19/00445/PAC).	Peter Arnsdorf
Outline of report and summary of discussion		
<p>A report dated 16 August 2019 was submitted by the Director of Education, Communities and Economy advising the Committee of a pre-application consultation regarding the erection of a primary school at the site of the former Newbattle Community High School, Easthouses Road, Easthouses. 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.</p> <p>The Planning Manager provided a brief summary of the report and confirmed that the comments highlighted by Members with regards to the change of use from High School to Primary School and the consideration of road safety would be taken on board.</p>		
Decision		
<p>The Committee noted:</p> <ul style="list-style-type: none"> • The provisional planning position set out in this report. • That any comments made by Members will form part of the minute of the Committee meeting. • That the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application. 		
Action		
Planning Manager		

Agenda No	Report Title	Presented by:
5.7	Application for Planning Permission in Principle for the Erection of a Community Facility incorporating Secondary and Primary School, Early Learning Provision and Family Learning, Library, Leisure Facilities, Healthcare and Class 4 Business Facilities at the Former Site of Monktonhall Colliery, Monktonhall Colliery Road, Newton, Danderhall (19/00112/PPP).	Peter Arnsdorf
Outline of report and summary of discussion		
<p>A report dated 16 August 2019 was submitted by the Director of Education, Communities and Economy summarising an application for planning permission as detailed above.</p>		

The Planning Manager highlighted the main sections contained within the report and there followed comments and questions from the Elected Members with regards to road safety, flood risks and the mine workings in this area. It was also noted the comments with regards to the history of this area and this being the last working mine in Midlothian and the Planning Manager advised this would all be taken into consideration.

The Chair highlighted that this was another positive development for Midlothian and the ideal opportunity to put good practice into place with regards to facilities for both children and adults, cycle/foot path connections and good transport links.

Decision

The Committee agreed to grant the planning permission for the following reasons

The site is located within the settlement boundary of Shawfair and as such there is a presumption in favour of an appropriate education, community and business uses in support of the town centre and the wider objectives of the new settlement. The proposed development is compatible with the policies of the Edinburgh and South East Scotland Strategic Development Plan 2013 and the Midlothian Local Development Plan 2017 and does not undermine the overall objectives of the approved Shawfair Masterplan and the approved Shawfair Design Guide (and the associated addendums). The presumption for the development is not outweighed by any other material considerations.

Subject to the conditions as detailed within the report.

Action

Planning Manager

Agenda No	Report Title	Presented by:
5.8	Section 42 Application to Amend Conditions 4 and 5 (to Clarify Phasing Submissions) Imposed on a Grant of Planning Permission 15/00113/PPP for the Demolition of Existing Dwellinghouse, Erection of Hotel and Residential Development, Formation of Access Roads, Car Parking and Associated Works at Land at Calderstones, Biggar Road, Hillend, Damhead (18/00628/S42).	Peter Arnsdorf
Outline of report and summary of discussion		
<p>A report dated 16 August 2019 was submitted by the Director of Education, Communities and Economy advising that at its meeting on 25 August 2015 the Committee granted planning permission for the demolition of existing dwellinghouse, erection of hotel and residential development, formation of access roads, car parking and associated works at land at Calderstones, Biggar Road and Hillend. This section 42 application seeks to amend the wording of two of the conditions, one relating to hard and soft landscaping and the second relates to the siting and design of buildings.</p>		

The application is accompanied by an environmental impact assessment report. There have been no representations and there have been consultation responses from Scottish Environment Protection Agency, Scottish Natural Heritage, Historic Environment Scotland, Transport Scotland, the Council's Policy and Road Safety Manager and Fairmilehead Community Council.

The Planning Manager highlighted the amendments as detailed within the report and advised the Committee the recommendation was to grant planning permission subject to conditions.

Decision

The Committee agreed to grant the planning permission for the following reasons

The proposed development for a hotel/tourist accommodation accords with policy VIS2 of the Midlothian Local Development Plan 2017; as such there is a presumption in favour of the proposed development. This presumption in favour of the development is not outweighed by other policies in the development plan or other material considerations. The proposed amendments to conditions 4 and 5 are considered not to undermine this policy position or have a detrimental impact.

Subject to the conditions as detailed within the report.

Action

Planning Manager

6. Private Reports

No private business was discussed.

7. Date of Next Meeting

The next meeting will be held on Tuesday 8 October 2019.

The meeting terminated at 1.30 pm



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

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

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

2 BACKGROUND

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

3 DEVELOPMENT PLAN UPDATE

- 3.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan June 2013 (SDP1) and the Midlothian Local Development Plan 2017 (MLDP). The MLDP was adopted by the Council at its meeting of 7 November 2017.

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 2019 and 2020 and the updates for each of the applications.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 1 October 2019
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
17/00435/DPP	Land at Newbyres, River Gore Road, Gorebridge	Erection of 125 residential units; formation of access roads, SUDS features and associated works	Being held in abeyance	Pre-Application Consultation (13/00609/PAC) carried out by the applicants in August - November 2013. The application has been held in abeyance for a significant period of time whilst the applicant considers amending their layout.
18/00099/DPP	Land at Gore Avenue and Newbyres Crescent, Gorebridge	Erection of 46 flatted dwellings; 17 dwellinghouses and 12 extra care units associated works	Being held in abeyance pending additional information from the applicant	Pre-Application Consultation (17/00913/PAC) carried out by the applicants in November 2017 – February 2018. This application is being held in abeyance subject to the applicant submitting additional information regarding mine gas mitigation measures.
18/00403/DPP	Land between Rosewell Road and Carnethie Street, Rosewell	Erection of 100 dwellinghouses and associated works	October 2019	Pre-Application Consultation (15/00774/PAC) carried out by the applicants in September 2015 – December 2015. This application is reported to this meeting of the Committee.
18/00495/DPP	Land west of Burnbrae Terrace Bonnyrigg	Erection of resource facility including offices; training suites, stores, workshops, ambulance depot and enterprise units; formation of car parking, access roads and external storage areas; and associated works	November 2019	Pre-Application Consultation (17/00721/PAC) carried out by the applicants in September 2017 – December 2017. Additional information from the applicant in relation to noise mitigation, the operation of the facility and other environmental matters has been submitted and is subject to consultation and assessment. There is an outstanding objection from SEPA which needs addressing by the applicant.
18/00528/S42	Land at Calderstone, Biggar Road, Lothianburn	Section 42 Application to amend conditions 3, 4, 5, 6 and 10 of planning permission 15/00113/PPP, for the erection of hotel (to amend the phasing of the development).	Being held in abeyance	Section 42 applications do not require to go through the Pre-Application Consultation process. The conditions relate to the phasing of development, landscaping, building design and layout and transportation matters. The applicant is considering withdrawing this application.

19/00299/DPP	Land between Deanburn and Mauricewood Road, Penicuik	Erection of 91 dwellinghouses and associated works (amendment to house numbers, house types and layout approved in terms of planning permission 17/00068/DPP)	October 2019	<p>This application seeks to amend the house numbers, house types and layout of part of the development approved by planning permission 17/00068/DPP which was considered by the Committee at its meeting in November 2017.</p> <p>This application is reported to this meeting of the Committee.</p>
19/00432/S42	Land 470M West of Corby Craig Terrace, Bilston	Section 42 application to remove condition 15 of planning permission 17/00968/DPP (not to provide electric vehicle charging stations)	November 2019	Section 42 applications do not require to go through the Pre-Application Consultation process.
19/00579/DPP	Land south east of Tynewater Primary School, Crichton Road, Pathhead	Erection of 56 dwellinghouses and eight flat dwellings; car parking and associated works	November 2019	Pre-Application Consultation (19/00076/PAC) carried out by the applicants in February 2019 – April 2019.
19/00748/PPP <i>New addition to the table</i>	Whitehills, Whitehill Road, Millerhill	Planning permission in principle for Class 4 (Business), 5 (General Industry), 6 (Storage and Distribution) and sui generis uses (home improvement showrooms/warehousing).	January 2020	Pre-Application Consultation (19/00489/PAC) carried out by the applicants in May 2019 – August 2019.
19/00763/DPP <i>New addition to the table</i>	Former Site of Newbattle Community High School, Easthouses Road, Easthouses	Erection of primary school, nursery and formation of a MUGA, car parking and associated works.	January 2020	Pre-Application Consultation (19/00445/PAC) carried out by the applicants in May 2019 – August 2019.

APPENDIX B

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

Ref	Location	Proposal	Date of PAC submission	Earliest date for receipt of planning application and current position
17/00367/PAC	Site Hs12 Hopefield Farm 2 Bonnyrigg	Residential development The site is identified for an indicative 375 residential units in the MLDP.	9 May 2017	02/08/17 - no application yet received. A pre-application report was reported to the August 2017 meeting of the Committee.
17/00606/PAC	Land south east of Auchendinny, The Brae, Auchendinny (Site Hs20)	Residential development The site is identified for an indicative 350 residential units in the MLDP.	27 July 2017	20/10/17 - no application yet received. A pre-application report was reported to the November 2017 meeting of the Committee.
17/00663/PAC	Land bounded by A7, Stobhill Road and Pentland Avenue, Gorebridge	Mixed use development comprising residential and commercial land uses	16 August 2017	09/11/17 - no application yet received. A pre-application report was reported to the October 2017 meeting of the Committee.
18/00894/PAC	Land at Wull Muir, Gorebridge	Erection of up to 9 wind turbines (wind farm)	9 November 2018	02/02/19 - no application yet received. A pre-application report was reported to the January 2019 meeting of the Committee.
18/00962/PAC	Land east and west of Easthouses Road, Easthouses	Residential development and erection of school, with associated engineering works, open space and landscaping	14 December 2018	09/03/19 - no application yet received. A pre-application report was reported to the February 2019 meeting of the Committee.
18/00970/PAC	Midlothian Snow Sports Centre	Redevelopment of existing snowsports centre to include leisure facilities; tourist accommodation; hotel; function suite and ancillary retail and restaurant; formation of access and car parking	21 December 2018	16/03/19 - no application yet received. A pre-application report was reported to the February 2019 meeting of the Committee.

19/00012/PAC	Land east of Salters Road, Dalkeith	Mixed use development comprising film and TV studios including workshops/offices; reception/commissary; gatehouse; backlot; trailer park; film academy and associated student accommodation; and associated access, parking and infrastructure	9 January 2019	04/04/19 - no application yet received. A pre-application report was reported to the January 2019 meeting of the Committee.
19/00106/PAC	Land north of Oak Place, Mayfield, Dalkeith	Residential development The site is identified for an indicative 63 residential units in the MLDP.	8 February 2019	04/05/19 - no application yet received. A pre-application report was reported to the May 2019 meeting of the Committee.
19/00126/PAC	Former Lothianburn, Golf Club, 106 Biggar Road, Edinburgh	Mixed use development comprising mountain bike trail centre, indoor and outdoor leisure uses, food and drink, professional services, retail, visitor accommodation and associated works	14 February 2019	10/05/19 - no application yet received. A pre-application report was reported to the May 2019 meeting of the Committee.
19/00252/PAC	Land at Wellington School, Penicuik	Residential development The site is identified as an 'Additional Housing Development Opportunity' for an indicative 50 - 60 residential units in the MLDP.	20 March 2019	13/06/19 - no application yet received. A pre-application report was reported to the June 2019 meeting of the Committee.
19/00626/PAC	Land at Drummond Moor, Rosewell	Proposed holiday resort development	15 July 2019	08/09/19 - no application yet received. This pre application consultation is reported to this meeting of the Committee.
19/00641/PAC	Land north of Seafield Road, Bilston	Residential development The site forms part of a site (Hs16) identified for an indicative 350 residential units in the MLDP.	22 July 2019	15/09/19 - no application yet received. This pre application consultation is reported to this meeting of the Committee.



APPEALS AND LOCAL REVIEW BODY DECISIONS

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 This report informs the Committee of a notice of review determined by the Local Review Body (LRB) at its meeting in September 2019. There are no Scottish Government appeal decisions to report to the Committee.

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.

3 PREVIOUS REVIEWS DETERMINED BY THE LRB

- 3.1 At its meeting on 10 September 2019 the LRB made the following decision:

	Application Reference	Site Address	Proposed Development	LRB Decision
1	18/00756/DPP	Middleton Limeworks, Gorebridge	Change of use of former limeworks to HGV depot and road surfacing and transport contractors depot	Permission refused at LRB meeting of 10.09.2019
2	18/00759/S42	Land at Wester Cowden Farm, Wester Cowden, Dalkeith	Application to remove a condition from a grant of planning permission limiting the number of dwellinghouses on the site	Permission refused at LRB meeting of 10.09.2019

3	19/00159/DPP	26 Mavisbank, Loanhead	Erection of fence	Permission refused at LRB meeting of 10.09.2019
4	19/00326/DPP	17 Tipperwell Way, Howgate, Penicuik	Removal of condition restricting installation of windows	Permission refused at LRB meeting of 10.09.2019
5	19/00336/DPP	Land at 1A Kirkhill Terrace, Gorebridge	Erection of industrial building	Permission refused at LRB meeting of 10.09.2019

4 RECOMMENDATION

- 4.1 The Committee is recommended to note the decision made by the Local Review Body at its meetings in September 2019.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 1 October 2019
Contact Person: Peter Arnsdorf, Planning Manager
 peter.arnsdorf@midlothian.gov.uk
Tel No: 0131 271 3310

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



PRE - APPLICATION REPORT FOR PROPOSED HOLIDAY RESORT DEVELOPMENT AT LAND AT DRUMMOND MOOR LANDFILL SITE, ROSEWELL (19/00626/PAC)

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre-application consultation submitted regarding a proposal for a holiday resort at Drummond Moor Landfill Site, Rosewell. The land is within an area identified as countryside in the Midlothian Local Development Plan 2017 (MLDP).
- 1.2 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre-application consultation for a holiday resort at Drummond Moor Landfill Site, Rosewell was submitted on 15 July 2019.
- 2.3 As part of the pre-application consultation, a public event took place at Howgate Village Hall on 25 September 2019. On the conclusion of the requisite 12 week consultation process the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

- 2.4 Copies of the pre application notices have been sent by the prospective applicant to the local elected members and the Community Councils for Howgate and Rosewell & District.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP).
- 3.3 The site is approximately 30 hectares, part of which is currently undergoing the process of restoration following its use as a landfill site. The land is located within the countryside and covered by MLDP policy RD1: Development in the Countryside. The policy supports rural economic development provided the proposals; are of a scale and character appropriate to the rural area, integrate well into the rural landscape, are capable of being provided with drainage and a public water supply and are accessible by public transport.
- 3.4 The proposed self-catering tourist accommodation (indicatively shown as timber lodge/chalet buildings) are subject to MLDP policies VIS1 and VIS2, which relate to tourist attractions and tourist accommodation. Such proposals could be considered acceptable in principle provided that they are of a scale that is in keeping with the area, are sited and designed to fit unobtrusively into the rural landscape, are well located in terms of the strategic road network and that they maximise public transport access. The site is accessed off of the A6094 connecting Rosewell and Howgate, however this route does not have an existing public transport service.
- 3.5 Escaping gases from the previous use of the land as a landfill site could potentially have detrimental impacts on human health and as such restrict any future development of the site. MLDP policy ENV16: Vacant, Derelict and Contaminated Land, requires proposals for the use of such land to be suitable in relation to any potential risks from prior contamination. The applicant will need to demonstrate to the satisfaction of the planning authority that there is no risks to human health.
- 3.6 If an application is submitted there is a presumption in favour of supporting tourist accommodation subject to the applicant mitigating the shortfall in public transport and demonstrating there is not a risk to human health.

4 PROCEDURES

- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without

prejudice' view and to identify material considerations with regard to a major application.

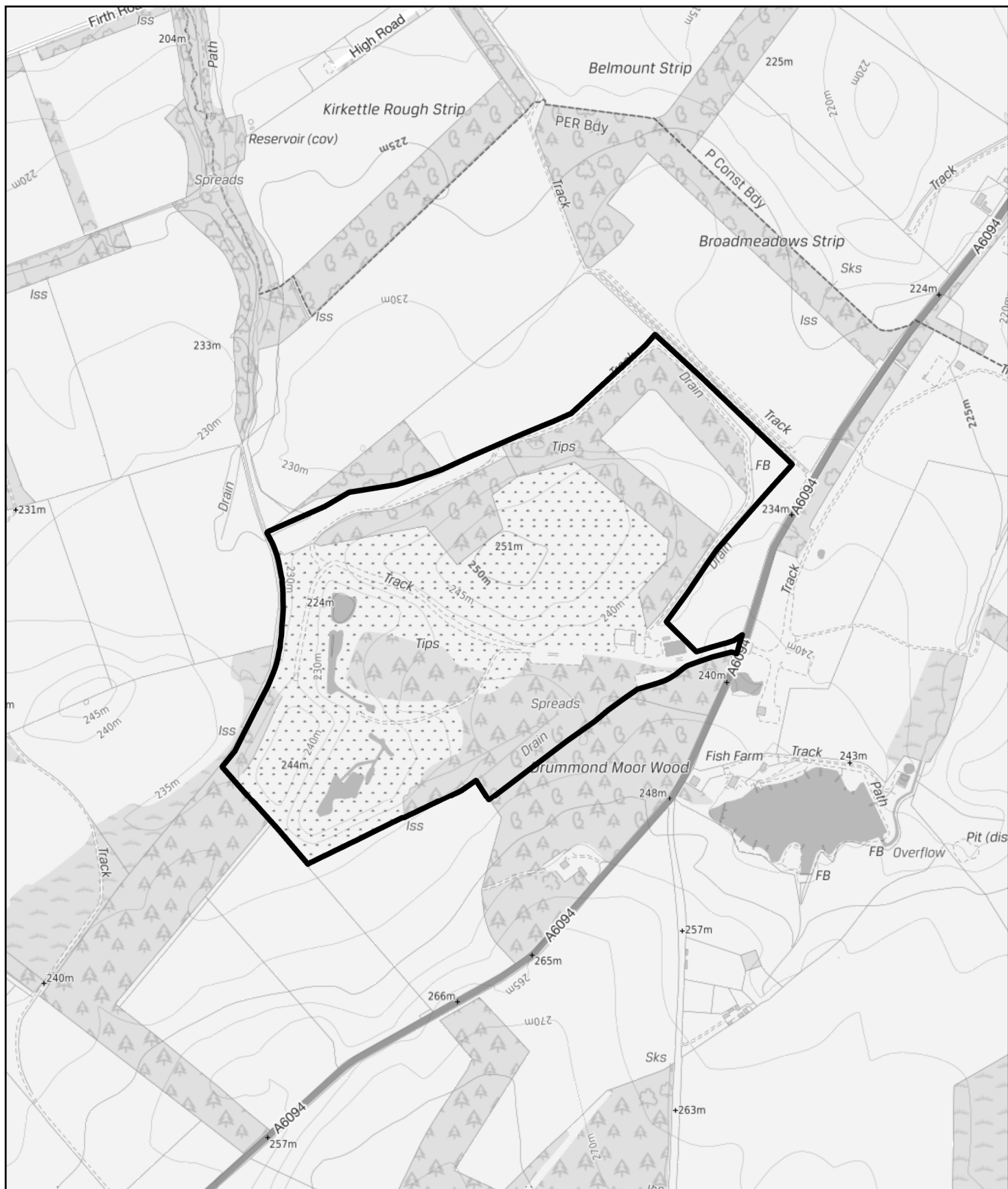
- 4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.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

5 RECOMMENDATION

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

Mary Smith
Director of Education, Communities and Economy

Date:	1 October 2019
Application No:	19/00626/PAC (Available online)
Applicant:	Sirius Planning
Validation Date:	23 July 2019
Contact Person:	Fraser James
Tel No:	0131 271 3514



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

Proposal of application notice for proposed holiday resort
development at Land At Drummond Moor, Rosewell

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PRE - APPLICATION REPORT REGARDING RESIDENTIAL DEVELOPMENT WITH ASSOCIATED INFRASTRUCTURE AT LAND NORTH OF SEAFIELD ROAD, BILSTON (19/00641/PAC)

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre- application consultation submitted regarding residential development with associated engineering works, open space and landscaping at land north of Seafield Road, Bilston. The land comprises part of allocated housing site Hs16 in the Midlothian Local Development Plan 2017 (MLDP) which has an indicative capacity for 350 residential units.
- 1.2 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre-application consultation for residential development with associated infrastructure at land north of Seafield Road, Bilston was submitted on 22 July 2019.
- 2.3 As part of the pre-application consultation, a public event took place at Bilston Miners Welfare and Social Club on 12 September 2019, from 2pm. On the conclusion of the requisite 12 week consultation process the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

- 2.4 Copies of the pre application notices have been sent by the prospective applicant to the local elected members and the Bilston & Roslin and Damhead Community Councils.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP).
- 3.3 The site is approximately 15.6 hectares of agricultural land with open views from the site westwards towards the Pentland Hills. The land comprises part of allocated housing site Hs16 in the Midlothian Local Development Plan 2017 (MLDP) which has an indicative capacity for 350 residential units.
- 3.4 As an allocated housing site within the established housing land supply, support for the early implementation of the site is supported. The specific policies any proposal is likely to be subject to include STRAT2 Strategic Housing Land Allocations; DEV2 Protecting Amenity within the Built-Up Area; DEV3 Affordable and Specialist Housing; DEV5 Sustainability in New Development; DEV6 Layout and Design of New Development; DEV7 Landscaping in New Development; DEV9 Open Space Standards; TRAN1 Sustainable Travel; TRAN5 Electric Vehicle Charging; IT1 Digital Infrastructure; ENV9 Flooding; ENV10 Water Environment; NRG6 Community Heating; IMP1 New Development; IMP2 Essential Infrastructure Required to Enable New Development to Take Place; and IMP3 Water and Drainage.
- 3.5 The site sits within a wider area of proposed development identified in the MLDP. The eastern part of the southern boundary adjoins the residential areas of Corby Craig Avenue and Corby Avenue Terrace, which is a modern development completed in 2012. The land to the west, up to the A703, also forms part of site Hs16, which was granted planning permission for 155 houses and 36 flats in 2018. The safeguarded route of the A701 Relief Road runs parallel to the northern boundary of this site, the exact location of which has still to be determined. The land between the northern boundary of this site and the A701 Relief Road is identified as safeguarded for consideration in the next local development plan once the route of the A701 Relief Road has been defined.
- 3.6 The Bilston Settlement Statement in the MLDP outlines a number of matters to be considered in the design of any proposed development (page 137). The plan notes that development of the site will depend on the delivery of the A701 Relief Road and that the capacity and layout of development on the site will be influenced by the eventual route of the

road. There will be a need to investigate the ground conditions considering part of the wider site for former landfill operations. The MLDP also states that the site will require significant landscaping to minimise the impact on the setting of Bilston and the wider views to the Pentland Hills, which include a 30m woodland belt along many parts of the northern and western boundaries.

- 3.7 The proximity of the dwellings to the new road line will be a material consideration. This is due to the potential loss of amenity to new residents from noise and air quality impacts from traffic. A detailed ground investigation has been completed for the new road line, which has determined that either the routes identified in the MLDP would be viable. The procurement for the project management work has reached the second stage, which will allow for the delivery of the next key stages, including preliminary survey, design and statutory procedures leading ultimately to construction. The more advanced the work for the Relief Road is, the more certainty there will be in assessing any effects on nearby dwellings, should a planning application be forthcoming.
- 3.8 If an application is submitted and there is a presumption in favour of residential development with associated engineering work, open space and landscaping development there may be a requirement for developer contributions towards infrastructure including the A701 Relief Road, education provision, equipped children's play provision, town centre improvements and a community facility. Additionally, any application would be subject to the need to provide affordable housing equal to or exceeding 25% of the total number of homes consented, as outlined in policy DEV3.

4 PROCEDURES

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

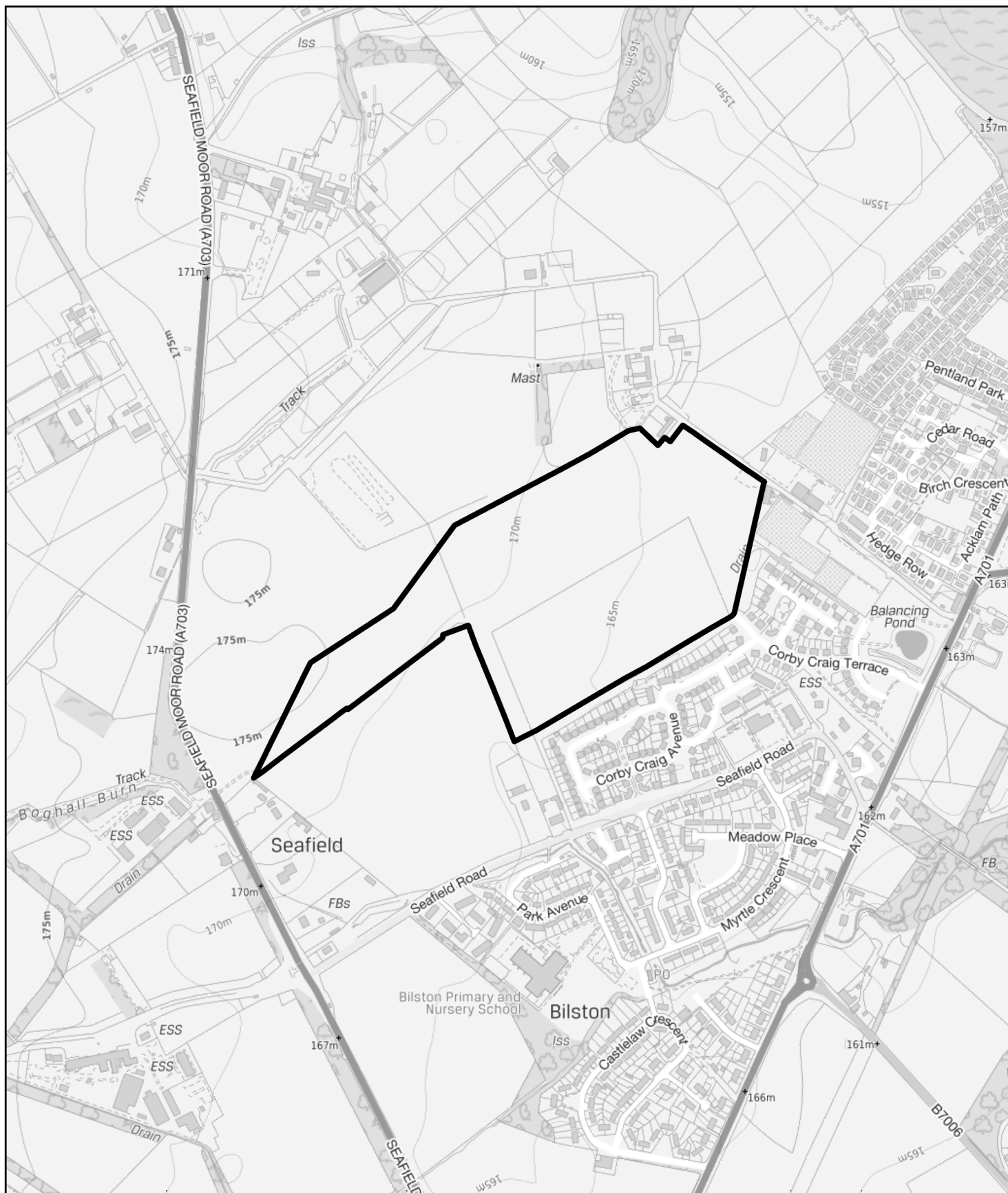
5 RECOMMENDATION

- 5.1 It is recommended that the Committee notes:
- a) the provisional planning position set out in this report;

- b) that any comments made by Members will form part of the minute of the Committee meeting; and
- c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

Mary Smith
Director of Education, Communities and Economy

Date:	1 October 2019
Application No:	19/00641/PAC (Available online)
Applicant:	Barton Willmore
Validation Date:	22 July 2019
Contact Person:	Fraser James
Tel No:	0131 271 3514



**Education, Economy
& Communities**
Midlothian Council
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Proposal of application notice for residential development
and associated infrastructure at Land North of Seafeld Road,
Bilston, Roslin

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APPLICATION FOR PLANNING PERMISSION (19/00727/DPP) FOR THE ERECTION OF 91 DWELLINGHOUSES, FORMATION OF ACCESS ROADS, SUSTAINABLE URBAN DRAINAGE SYSTEM AND ASSOCIATED WORKS (AMENDMENT TO DEVELOPMENT LAYOUT, HOUSE NUMBERS AND HOUSE TYPES APPROVED IN TERMS OF PLANNING PERMISSION 17/00068/DPP) AT LAND BETWEEN DEANBURN AND MAURICEWOOD ROAD, PENICUIK

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1** The application is for detailed planning permission for the erection of 91 residential units; formation of access roads, sustainable urban drainage systems (SUDs) and associated works at land between Deanburn and Mauricewood Road, Penicuik. The application is to amend the layout, the unit numbers and the house types of part of the residential development approved under planning permission 17/00068/DPP. There has been one representation objecting to the application and consultation responses from the Coal Authority, the Council's Archaeology Advisor, the Council's Head of Education, the Council's Policy & Roads Safety Manager and the Council's Environmental Health Manager.
- 1.2** The relevant development plan policies are policies 5 and 7 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT1, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).
- 1.3** The recommendation is to grant planning permission subject to conditions and the applicant modifying/entering into a Planning Obligation to secure contributions towards necessary infrastructure and the provision of affordable housing.

2 LOCATION AND SITE DESCRIPTION

- 2.1** The site; which is known as Deanburn (site h26), was allocated in the 2003 Local Plan with an indicative capacity of 90 units. The site comprises approximately 5.53 hectares of agricultural land. The Deanburn development area is one of the six development areas (Bellwood, Nursery, Mauricewood, Mauricewood North, Deanburn and Rullion Road) located adjacent to the north west of the built up area of

Penicuik. Detailed planning permission 17/00068/DPP for the erection of 554 residential units and associated works across the six development areas was granted in September 2018. (These development areas are referenced on the attached location plan).

- 2.2 The Deanburn site the subject of this current application slopes downwards steeply from northwest to southeast with approximately a 16 metre variation in levels across the site. The gradient of the site makes access and development challenging. There are open views from the higher parts of the site over Penicuik, and out towards East Lothian.
- 2.3 The site lies nearby to the west of Mauricewood Road. There is existing woodland planting around the site.
- 2.4 The existing housing to the south within Penicuik comprises predominantly traditional post war, two-storey terraced and semi detached houses and share the same form and character - typically fronting onto streets with front and rear gardens and either fenced or hedged boundaries. The majority of the buildings are characterised by various forms of rendered wall finish.

3. PROPOSAL

- 3.1 The proposed development comprises 91 dwellings all of which are two storey buildings with the exception of six three storey town houses (plots 25 - 30). The housing mix comprises:

terraced units	8	three bed units	28
semi-detached units	10	four bed units	52
<u>detached units</u>	<u>73</u>	<u>five bed units</u>	<u>11</u>
Total	91	Total	91

- 3.1 Two areas (area 1 comprising plots 25 – 35 and plots 90 – 91 and area 2 comprising plots 12 – 14 and plots 64 – 71) of improved quality (AIQ) are proposed, comprising a total of 24 plots; which equates to 26% of the total number of units in the development. A combination of the following finishing materials are proposed within the AIQs: wet dash render, buff coloured cast stone detailing, natural grey slate roof tiles. A combination of the following finishing materials are proposed outwith the AIQs: a mixture of white and tuscan beige on magnolia coloured dry dash render, buff cast stone and a grey concrete roof tile. Ground paving materials have not been specified.
- 3.2 The surface water treatment comprises a SUDS basin on the south eastern extremity of the site.
- 3.3 The layout incorporates a combination of traditional roads and footpaths as well as mixer courts/shared surfaces. There are proposed footpaths and cycleways within the site that connect to the existing footpath network within the wider area.

- 3.4 The proposed 91 units results in an additional 17 units on the Deanburn development site when compared to the original grant of planning permission 17/00068/DPP. The additional units will trigger an affordable housing requirement equating to five units. This is proposed outwith the Deanburn plot, but within the wider developments site – the provision is subject to a separate planning application 19/00576/DPP.
- 3.5 The current application is also accompanied by:
- a design and access statement;
 - a pre-application consultation report;
 - a site investigation report; and,
 - a landscape plan.

4 BACKGROUND

- 4.1 Planning application 19/00299/DPP for the erection of 91 dwellinghouses; formation of access roads; SUD's feature and associated works (amendment to house numbers, house types and layout approved in terms of planning permission 17/00068/DPP) was withdrawn in August 2019 in order for material design changes to be made to the scheme. The current application substitutes this application.
- 4.2 Planning application 19/00576/DPP for the erection of 13 dwellinghouses and associated works on the Nursery (east) development area of the wider site the subject of planning permission 17/00068/DPP is subject to assessment. This application includes five additional affordable housing units.
- 4.3 Planning application 17/00068/DPP for the erection of 554 residential units; formation of access roads, SUDS and associated works on land between Deanburn and Mauricewood Road, Penicuik (the wider site) was granted in September 2018. This application was considered by the Committee at its meeting in November 2017.
- 4.4 The applicant carried out a pre-application consultation (15/00987/PAC) for residential development on the site, which was reported to Committee at its meeting of 1 March 2016.
- 4.5 An environmental impact assessment (EIA) screening opinion request, 16/00403/SCR, for a proposed residential development on the site was submitted 31 May 2016. The applicant was advised that an EIA was not required under schedule 2 of the EIA Regulations.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application subject to the imposition of a condition on a grant of planning permission requiring a scheme of remediation works being implemented. The site falls within the defined 'Development High Risk Area' and therefore, there are coal mining features and hazards which need to be considered, specifically

both acute and probable shallow coal mining workings, a recorded mine entry (shaft) and thick coal seam outcrops. The Coal Authority notes the submitted site investigations report (September 2016 prepared by Mason Evans Partnership Ltd), which accompanies the planning application and welcomes the site layout, which appears to have been informed by the presence of the mine entry and the commitment to treat it. The report also confirms that identified shallow coal mine workings will require consolidation.

- 5.2 An initial archaeology desk based assessment and setting impact assessment was submitted as part of the original planning application (17/00068/DPP). In a consultation response on this application the Council's **Archaeology Advisor** informed that there is the potential for archaeological remains within the site, in particular because the site lies in close proximity to the Inventory Battlefield of Rullion Glen. 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. As a result of this study it was recommended that a programme of archaeological works (Trial Trench Evaluation) be carried out in accordance with a written scheme of investigation which is to be submitted by the applicant in advance of the works commencing. The area to be investigated should be no less than 5% of the total site area and should target specific areas of the site identified by the Council's Archaeology Advisor. In response to the stated position the applicant has undertaken further assessment work and is in liaison with the Council's Archaeology Advisor to secure a final 'sign off' of the archaeological investigative works. The Council's Archaeology Advisor does not object to the application.
- 5.3 The Council's **Head of Education** advises that a development of 91 dwellings would give rise to 29 primary school pupils and 23 secondary school pupils and advises that the applicant will be required to make a developer contribution to meet the provisional requirements. The site is in the catchment area of Mauricewood Primary School, Sacred Heart RC Primary School, Beeslack High School and St David's RC High School.
- 5.4 The Council's **Policy & Roads Safety Manager** does not object to the application subject to the imposition of the conditions imposed on the original grant of planning permission (17/00068/DPP).
- 5.5 The Council's **Environmental Health Manager** does not object 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 fully implemented prior to any part of the site being occupied.

6 REPRESENTATIONS

- 6.1 There has been one representation objecting to the application, expressing concern over the potential of noise from the foul sewage pumping station located within the site.

7 PLANNING POLICY

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

Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan)

- 7.2 **Policy 5 (HOUSING LAND)** requires Local Development Plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing requirements for each period.
- 7.3 **Policy 7 (MAINTAINING A FIVE YEAR HOUSING LAND SUPPLY)** states that sites for greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying each of the following criteria: (a) The development will be in keeping with the character of the settlement and local area; (b) The development will not undermine Green Belt objectives; and (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

Midlothian Local Development Plan (MLDP)

- 7.4 Policy **STRAT 1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, facilities and affordable housing, including sites in the established housing land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.
- 7.5 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.6 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do

not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.

- 7.7 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 Policy **DEV6: Layout and Design of New Development** requires good design and a high quality of architecture, in both the overall layout of developments and their constituent parts. The layout and design of developments are to meet set criteria.
- 7.9 Policy **DEV7: Landscaping in New Development** requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment.
- 7.1 Policy **DEV9: Open Space Standards** requires that the Council assess applications for new development against set open space standards and seeks an appropriate solution where there is an identified deficiency in quality, quantity and/or accessibility.
- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area, including the A701 realignment.
- 7.13 Policy **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.
- 7.14 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.15 Policy **ENV2 Midlothian Green Networks** supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the *Midlothian Green Network*.
- 7.16 Policy **ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local

landscapes and to enhance landscape characteristics where they have been weakened.

- 7.17 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.18 **Policy ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environmental.
- 7.19 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.
- 7.20 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.21 Policy **ENV24: Other Important Archaeological or Historic Sites** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting.
- 7.22 Policy **ENV25: Site Assessment, Evaluation and Recording** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.
- 7.23 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.24 Policy **IMP1: New Development**. This policy ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable

housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.

- 7.25 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.
- 7.26 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

National Policy

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

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

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

8 PLANNING ISSUES

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

The Principle of Development

- 8.2 The site is allocated for housing and is located within the built up area of Penicuik where there is a presumption in favour of appropriate development. The principle of residential development on this site is established by its allocation for housing, as part of the Deanburn/Mauricewood Road development area, within the adopted Midlothian Local Plan 2003 (Deanburn – site h26) and the Midlothian Local Plan 2008 (North West Penicuik – site h58). The MLDP continues this commitment to residential development, but revises the number of units to 109 on site h26 and 385 on site h58 (a total of 494). This application is to remix part of the Deanburn site (h26) – this part of the site was anticipated to accommodate 90 units.
- 8.3 Furthermore, the principle of residential development has been established by the grant of planning permission 17/00068/DPP for 544 residential units – considered by the Committee at its meeting in November 2017. The resulting increase from remixing the site is 17 units. The figure set in the MLDP is an indicative figure and the proposed level of variation is within the tolerances of the allocation and can be supported if the impact of the increase can be mitigated in terms of education provision and its impact on infrastructure.
- 8.4 The proposed residential development will not conflict with adjacent land uses.

Layout, Design and Materials

- 8.5 The proposed development is for 91 dwellings, 17 more units than was previously granted planning permission. The increased number of units on the site has been facilitated by remixing the units and introducing smaller house types. The increase in density of the development resulting from the proposed increase in the number of units would not be out of keeping with the density approved across the wider development site the subject of planning permission 17/00068/DPP. The density of the proposed development is appropriate to the established density of Penicuik. The proposed development in terms of the number of units, their size, massing and positioning on the site, would not appear cramped or been seen as overdevelopment. Furthermore, the layout and form of the development reflects the one approved under 17/00068/DPP.
- 8.6 In terms of their size, scale, heights, proportions, positioning and architectural form and style the buildings now proposed will be sympathetic to those proposed elsewhere in the wider development. It is important that their external finishing materials are in keeping with/complement the remainder of the development the subject of planning permission 17/00068/DPP. The mix of house types and sizes is acceptable. The architectural styles of the houses are traditional in form and complement the character and visual amenity of the area. Accordingly, in terms of architectural style the buildings would not harm the character or visual amenity of north west Penicuik. Policy and good practice requires that there is an added emphasis on the quality of design of a minimum of 20% of the dwellings on the site. This applies to individual buildings and the use of materials both in building finishes and also in boundary treatment and ground surfaces. The expectation is that such treatment is focused on prominent landmark groups or key individual buildings. The proposed Areas of Improved Quality (AIQ) for this site comprises buildings in the north east corner of the site fronting onto an area of open space and also buildings on the southern part of the site fronting onto the SUDS basin. In terms of the number of dwellings included, the locations and built form of the proposed two AIQs are acceptable. However, the distribution of external materials and colours of the buildings both within and outwith the AIQ requires refinement to ensure that they are in keeping with the building styles approved elsewhere within the wider north west Penicuik development. This includes, the use of a single material and colours on whole elevations and projecting gables in order to achieve vertical emphasis in architectural features. This can be secured by a condition on a grant of planning permission.
- 8.7 Elsewhere in the development, in order that the external finishes of the buildings are appropriate to the development and its location it should be made a condition on a grant of planning permission that samples are submitted for the prior approval of the planning authority.

- 8.8 The three-storey townhouses in the north east corner of the site provide some variation and interest to the built form. These buildings are not unduly high so as to impose themselves or appear obtrusive within the locality. No other building on the site would unduly impose itself on neighbouring properties.
- 8.9 The contiguous height of boundary walls and fences would not be unduly high such as to appear incongruous in the street scene or appear imposing from neighbouring residences within the proposed development. Where garden boundaries are abutting a road or are prominent in the street scene then it is important that they be bounded not by a fence as is proposed; but instead, by a high screen wall finished in the same external finishing material and colour as the house on the plot that they bound. This can be secured by a condition imposed on a grant of planning permission.
- 8.10 No phasing plan has been submitted with the application. It should be made a condition of a grant of planning permission that a comprehensive annotated phasing plan and phasing schedule is submitted for the prior written approval of the planning authority. The structural landscaping for the site should be completed in the early phases of development to enable it to grow and become established to complement the built form as it comes forward. Furthermore, the phasing should address the timing of pedestrian and cycling connections through the site.
- 8.11 Subject to the recommended landscaping condition the currently proposed development is acceptable in landscape terms and will comply with MLDP policy DEV7.
- 8.12 The MLDP requires good levels of amenity for residential development in terms of garden sizes, open space and the separation distances between dwellinghouses to mitigate against overlooking, loss of privacy and creating a sense of overbearing on neighbours. The required spatial standards were set out in the superseded Midlothian Local Plan 2008 and are likely to be incorporated into the supplementary guidance on 'Quality of Place' which is currently being drafted following the adoption of the MLDP in November 2017. These dimensional standards help those in the planning process quantify what good levels of amenity are and therefore it is reasonable to expect housing developments to meet these requirements unless there is justification not to do so. The size of the useable rear private garden space of the detached and semi-detached houses meet or exceeds the minimum size set out in the superseded Midlothian Local Plan 2008. The size of the useable rear private gardens of the terraced houses falls short of the minimum size, however they do not fall significantly below. However, they are narrow fronted houses and if the minimum size was applied they would have overly long gardens. The proposed houses are similar to those of the rest of the houses in the development, which is not significantly below the minimum size. Moreover, the layout and pattern of the proposed development follows that of the existing approved built form on the wider

site and it is this that justifies the planning authority allowing a relaxation in the size of the gardens of the terraced houses in this particular case. The distance between gable and rear of properties are acceptable. In general the currently proposed layout is acceptable and the proposed development will not undermine the objectives of MLDP policy DEV6.

- 8.13 All of the proposed buildings are sufficiently distanced from existing neighbouring houses so as not to give rise to any demonstrable harm to their residential amenity in terms of loss of daylight, loss of sunlight or overlooking. There would be no significant harm to the amenity of any existing neighbouring property from the proposed development.
- 8.14 The proposed development by means of its layout, form and separation would not harm the setting of nearby listed buildings including the category B listed Belwood House, and the category B listed Martyrs Cross House or any other nearby historic building.
- 8.15 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. The 'percent for art' adds interest and individuality to the development.

Open Space and Play Areas

- 8.16 The northern extremity of the site forms the southern part of an east to west orientated linear park approved by the grant of planning permission 17/00068/DPP and which will lie between the built development at Deanburn and that at Mauricewood. That linear park presents an opportunity for sport or outdoor recreation for the future residents of the proposed dwellings. It should be made a condition on a grant of planning permission that it be formed and made available for use prior to the first occupation of any of the houses which front onto it.

SUDS and Drainage

- 8.17 The SUDS proposal as delineated on the application comprise a SUDS basin, designed as a relatively soft feature in the landscape. The SUDS scheme will ensure that there will be no net detriment to the locality's surface water drainage whilst providing a locally attractive space which enhances biodiversity.
- 8.18 There has been one representation objecting to the application, expressing concern over the potential of noise from the foul sewage pumping station located within the site. The pumping station will be approximately 100 metres from the representors property. Typically pumping stations do generate intermittent noise when in operation, however this noise is mitigated by being encased in a building.

Access and Transportation Issues

- 8.19 The proposed development is acceptable in transportation terms. The transportation recommendations made by the Council's Policy and Road Safety Manager in respect of the original planning application 17/00068/DPP and which are relevant to the current application can be secured by condition/s imposed on a grant of planning permission. No additional road infrastructure is proposed from what was previously granted planning permission and therefore there would be no net impact on the SUDS basin.

Ground Conditions

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

Archaeology

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

Feasibility of Communal Heating System

- 8.22 In a consultation response on the original application (17/00068/DPP) SEPA stated that in order for the government's renewable energy and heat demand targets to be met, it is important that all types of new development consider the role they play in using heat from renewable sources. They highlighted that paragraph 154 of SPP states that the planning system should support the transitional change to a low carbon economy including deriving *"11% of heat demand from renewable sources by 2020"* and supporting *"the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity – and the development of heat networks"*. SEPA confirmed that it is their view that the proposed development offers the potential for a new District Heating Network to be created within the site. Consequently, SEPA objected to application 17/00068/DPP on the grounds of lack of information on the provision of heat and power to the proposed development. In response to SEPA's objection the applicants commissioned an engineer to undertake a feasibility study for the provision of community heating system for the new development. A feasibility statement was subsequently submitted by the applicant of application 17/00068/DPP. In a follow-up consultation response SEPA confirmed that the submission of a feasibility study is sufficient for them to remove their objection to the application on the grounds of lack of information in regards to district heating, low or zero carbon heat networks. The planning authority agreed with SEPA that the feasibility study into the provision of community heating system for the new development

satisfactorily demonstrates that such a system is not at this present time technically or financially viable for the wider development site.

Ecology

- 8.23 The report on the ecological survey of the whole of the site submitted with the original planning application did not recommend against the development on grounds of impact on biodiversity. The ecological survey report recommended a number of controls to safeguard/enhance biodiversity. These same recommended controls could be secured by a condition imposed on a grant of planning permission for the proposed development.

Developer Contributions

- 8.24 Planning application 17/00068/DPP for 544 dwellings was granted planning permission in 2018 subject to a planning obligation securing developer contributions. This application proposes to remix 74 of the 'original' units within a portion of the site and result in an additional 17 units. It is therefore necessary for the 'original' planning obligation to be modified so that the 74 'original' units are still bound by a planning obligation. Furthermore, the additional 17 units will pay an upfront payment via a standalone legal agreement towards primary and secondary education, the A701 Relief Road and improvements to Penicuik Town Centre. The 17 additional units also give rise to an additional provision of affordable housing within the site. The requirement for this will also be addressed through the modification of the existing planning obligation with the provision being met on the wider development site. A formal grant of planning permission for this application shall not be issued until the 'original' planning obligation is modified.

- 8.25 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:
- necessary to make the proposed development acceptable in planning terms (paragraph 15)
 - serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
 - relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)
 - fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)
 - be reasonable in all other respects

The requirements set out for the proposed planning obligation meet the above tests.

9 RECOMMENDATION

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

The proposed development site is identified as being part of the Council's safeguarded/committed housing land supply within the development plan. The currently proposed detailed scheme of development in terms of its layout, form, design and landscaping is acceptable and as such accords with development plan policies, subject to securing developer contributions. The presumption for development is not outweighed by any other material considerations.

Subject to:

- i) The completion of a modification application to the existing planning obligation to ensure that:
 - The 'original' 74 units contained within this application are bound by that agreement; and
 - The additional affordable housing requirement (5 units) generated by the additional houses contained within this application is secured.
- ii) The completion of a legal agreement in respect of the 17 'additional' dwellings to secure financial contributions towards:
 - a financial contribution towards education provision;
 - a financial contribution towards Penicuik Town Centre improvements; and
 - a financial contribution towards the A701 Relief Road.
- iii) the following conditions:
 1. Development shall not begin until details of the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of open space, structural landscaping, the SUDS provision and transportation/roads infrastructure. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

Reason: *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.*
 2. Notwithstanding that delineated/specified on application drawings the external finishing materials of the buildings hereby approved and the distribution of the external finishing materials of the buildings is not approved. Development shall not begin until the following have been submitted to and approved in writing by the planning authority: (i) amended house types delineating a revised

distribution of external finishing material which avoids a horizontal split in the materials; and, (ii) samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. An enhanced quality of materials shall be used in the area of improved quality which shall comprise the buildings and boundary walls on plots 12-14, 25-35, 64-71 & 90 & 91. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

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

3. Notwithstanding that delineated on docketed drawing No.PK/SITE/01 Rev J the boundaries delineated in blue on drawing No.PK/SITE/01 (Annotated) Rev K hereby approved shall not be bounded by a 1800mm high fence with stone piers; but instead, they shall be bounded by a 1800mm-2000mm high rendered wall topped with a pre-cast stone cope, albeit pedestrian gateways can be formed within them. The render applied to the walls shall match in every respect the render on the external walls of the house on the plot that it bounds. There shall be no variation therefrom unless with the prior written approval of the Planning Authority.

Reason: *The boundary treatment of a number of plot boundaries on the site requires refinement in order to ensure the quality of the development is enhanced by the appropriate distribution and use of quality materials to reflect its setting in accordance with policies DEV2 and DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

4. Notwithstanding that delineated on application drawing the development shall not begin until details of a revised scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
 - i other than existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
 - ii existing trees, landscaping features and vegetation 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 a woodland management plan for existing and proposed areas of woodland;
- viii a biodiversity action plan and maintenance plan to enhance the biodiversity value of the existing suds pond located nearby to the north east of the nursery area;
- ix drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
- x proposed car park configuration and surfacing;
- xi proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and
- xii details of existing and proposed services; water, gas, electric and telephone

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

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

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

5. Development shall not begin until details of the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- i existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
- ii proposed vehicular, cycle and pedestrian access;
- iii proposed roads (including turning facilities), footpaths and cycle ways;
- iv proposed visibility splays, traffic calming measures, lighting and signage;
- v proposed construction traffic access and haulage routes;
- vi a green transport plan designed to minimise the use of private transport and to promote walking, cycling, safe routes to school and the use of public transport:

- vii proposed car parking arrangements;
- viii an internal road layout which facilitates buses entering and leaving the site in a forward facing direction;
- ix proposed bus stops/lay-bys and other public transport infrastructure;
- x a programme for completion for the construction of access, roads, footpaths and cycle paths; and
- xi proposed on and off site mitigation measures identified by the traffic assessment submitted with the application.

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

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

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

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

6. 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.*

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

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

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

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

9. The recommendations made within Section 6.0 of the Mauricewood, Penicuik Preliminary Ecological Appraisal report, dated May 2016 and docketed to this planning permission 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.*

10. 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.*

11. A detailed plan and elevation drawings and details of the finishing materials and colours and boundary treatments of any electricity station(s) and pumping station(s) to be erected/installed on the site shall be submitted for the prior written approval of the Planning Authority.

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

12. Notwithstanding that delineated on docketed drawings the development shall conform to the following constraints in accordance with detailed plans/drawings and design details to be submitted for the prior written approval of the Planning Authority:
- i. Details of the proposed new junctions and pedestrian crossing points onto Mauricewood Road (identified in the Transport Assessment) shall be submitted for the prior approval of the Planning Authority.
 - ii. Technical details for the proposed SUDs basin are required including engineering sections through the basins showing the invert level, 1:200y flood level, side slopes and the level of any nearby new road / footpath. The details shall also show the anticipated overland flow route from the basins during extreme flood conditions.

Reason for 12i: *In the interests of road safety.*

Reason for 12ii: *In the interests of safeguarding the character and visual amenity of the area.*

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

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

14. Notwithstanding the requirements of condition 1 of this planning permission no house on plots 25-35 or plots 90 & 91 shall be occupied unless and until the communal open space located on the northern extremity of the site that they front over their front garden onto is formed in its entirety, landscaped to the approval of the Planning Authority in accordance with condition 4 of this planning permission and made available for use. There shall be no variation therefrom unless with the prior written approval of the Planning Authority.

Reason: *In the interest of safeguarding the amenity of the future occupants of the houses on plots 25-35 and 90 and 91.*

Dr Mary Smith
Director of Education, Communities and Economy

Date: 1 October 2019

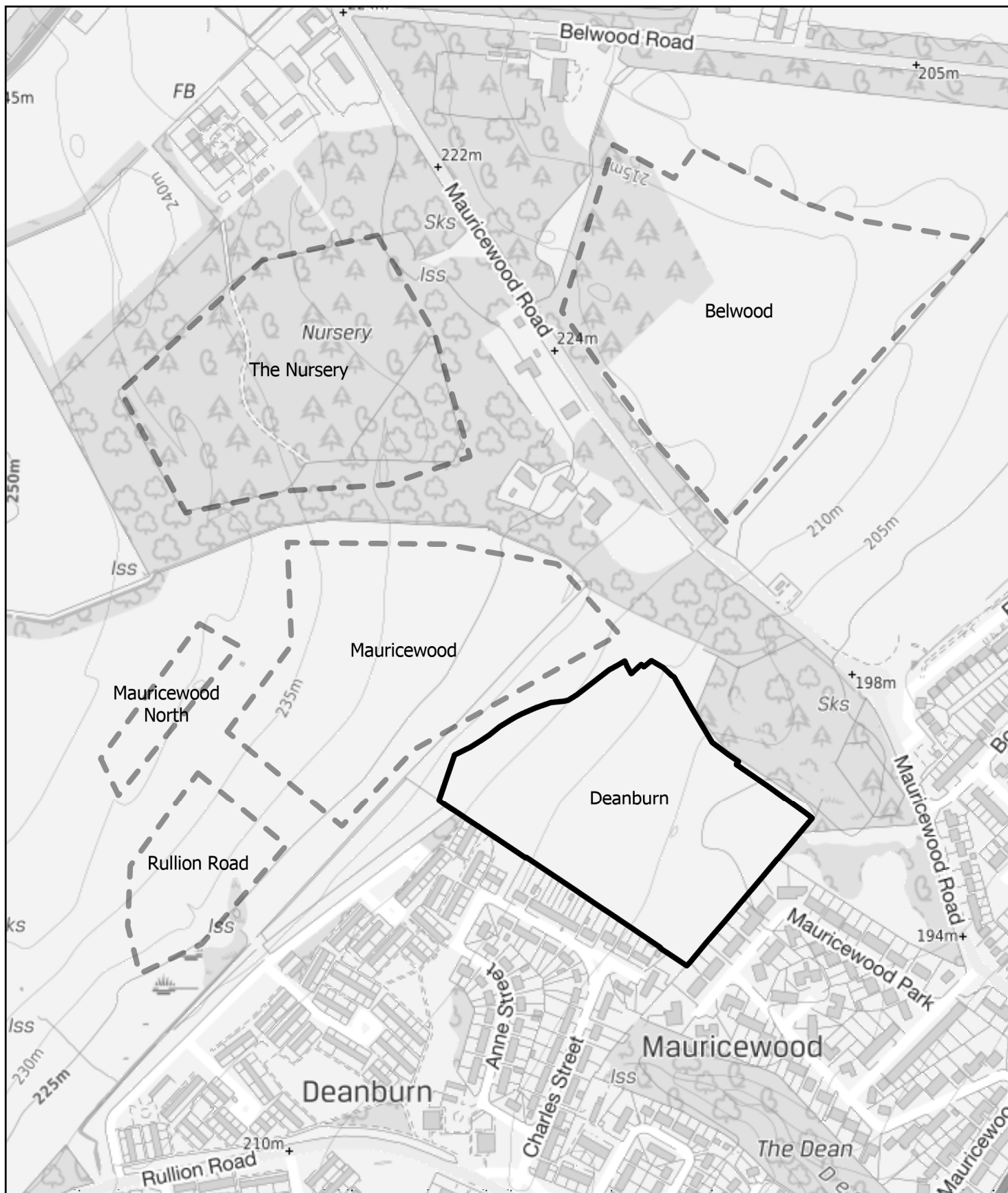
Application No: 19/00727/DPP
Applicant(s): The Technical Department, Bellway Homes Ltd
(Scotland East), 6 Almondvale Business Park,
Almondvale Way, Livingston, EH54 6GA

Validation Date: 26 August 2019

Contact Person: Adam Thomson

Tel No: 0131 271 3346

Background Papers: 19/00299/DPP, 17/00068/DPP, 15/00987/PAC,
16/00403/SCR.



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

Erection of 91 dwellinghouses; formation of access roads; SUDS feature and associated works (amended to have numbers, house types and layout approved in terms of planning permission 17/00068/DPP) at Land between Deanburn and Mauricewood Road, Penicuik

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File Nos. 19/00727/DPP

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

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

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

2 LOCATION AND SITE DESCRIPTION

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

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

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

3 PROPOSAL

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

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

4 BACKGROUND

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

5 CONSULTATIONS

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

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

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

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

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

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

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

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

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

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

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

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

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

6 REPRESENTATIONS

- 6.1 There have been 37 representation received, which can be viewed in full on the online planning application case file. A summary of the points raised are as follows:

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

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

7 PLANNING POLICY

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

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan)

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

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

Midlothian Local Development Plan 2017 (MLDP)

- 7.4 Policy **STRAT3: Strategic Housing Land Allocations** states that strategic land allocations identified in the plan will be supported provided they accord with all other policies. The development strategy supports the provision of an indicative 60-100 housing units on the site (Hs14). The settlement statement in the MLDP states that: "The stability of the ground will have to be assessed given the history of mining in the area. In addition, the neighbouring dog kennels may cause some noise disturbance, which will have to be taken into account in the design of the development. This possible limitation has been considered in assessing site capacity".
- 7.5 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.6 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.
- 7.7 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 Policy **DEV6: Layout and Design of New Development** requires good design and a high quality of architecture, in both the overall layout of developments and their constituent parts. The layout and design of developments are to meet set criteria.
- 7.9 Policy **DEV7: Landscaping in New Development** requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment.
- 7.10 Policy **DEV9: Open Space Standards** requires that the Council assess applications for new development against set open space standards and seeks an appropriate solution where there is an identified deficiency in quality, quantity and/or accessibility.

- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.
- 7.13 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.14 Policy **ENV2 Midlothian Green Networks** supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the *Midlothian Green Network*.
- 7.15 Policy **ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.
- 7.16 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.17 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environmental.
- 7.18 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.

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

National Policy

- 7.27 The **SPP (Scottish Planning Policy)** sets out Government guidance for housing. All proposals should respect the scale, form and density of their surroundings and enhance the character and amenity of the locality. The individual and cumulative effects of infill must be sustainable in relation to the social and economic infrastructure of a place, and must not lead to over-development.

- 7.28 The SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to be considered high quality, as such a development should be; distinctive; safe and pleasant; welcoming; adaptable; resource efficient; and, easy to move around and beyond. The aims of the SPP are developed within the local plan and local development plan policies.
- 7.29 The SPP states that *design is a material consideration in determining planning applications* and that *planning permission may be refused and the refusal defended at appeal or local review solely on design grounds*.
- 7.30 The SPP supports the Scottish Government's aspiration to create a low carbon economy by increasing the supply of energy and heat from renewable technologies and to reduce emissions and energy use. Part of this includes a requirement to guide development to appropriate locations.
- 7.31 The SPP notes that "high quality electronic communications infrastructure is an essential component of economic growth across Scotland". It goes on to state that
- "Planning Authorities should support the expansion of the electronic communications network, including telecommunications, broadband and digital infrastructure, through the development plan and development management decisions, taking into account the economic and social implications of not having full coverage or capacity in an area"*.
- 7.32 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.
- 7.33 **Designing Places, A Policy Statement for Scotland** sets out the six key qualities which are at the heart of good design namely identity, safe and pleasant environment, ease of movement, a sense of welcome, adaptability and good use of resources.
- 7.34 The **Scottish Government's Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

8 PLANNING ISSUES

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

The Principle of Development

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

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

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

Layout and Form of Development

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

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

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

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

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

Open Space, Play Areas

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

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

Foul Pumping Station and Electricity Substation

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

Landscaping and SUDS

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

Access and Transportation Issues

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

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

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

Green Networks and pedestrian and cycle links

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

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

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

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

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

Ground Conditions

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

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

Archaeology

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

Feasibility of Communal Heating System

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

Ecology

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

Developer Contributions

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

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

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

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

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

Other Matters

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

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

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

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

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

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

9 RECOMMENDATION

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

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

Subject to:

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

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

ii) the following conditions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Dr Mary Smith
Director of Education, Communities and Economy

Date: 1 October 2019

Application No: 18/00403/DPP

Applicant: Banks Property Dev Ltd, 2nd Floor, Block C,
Brandon Gate, Leechie Road, Hamilton, ML3 6AU

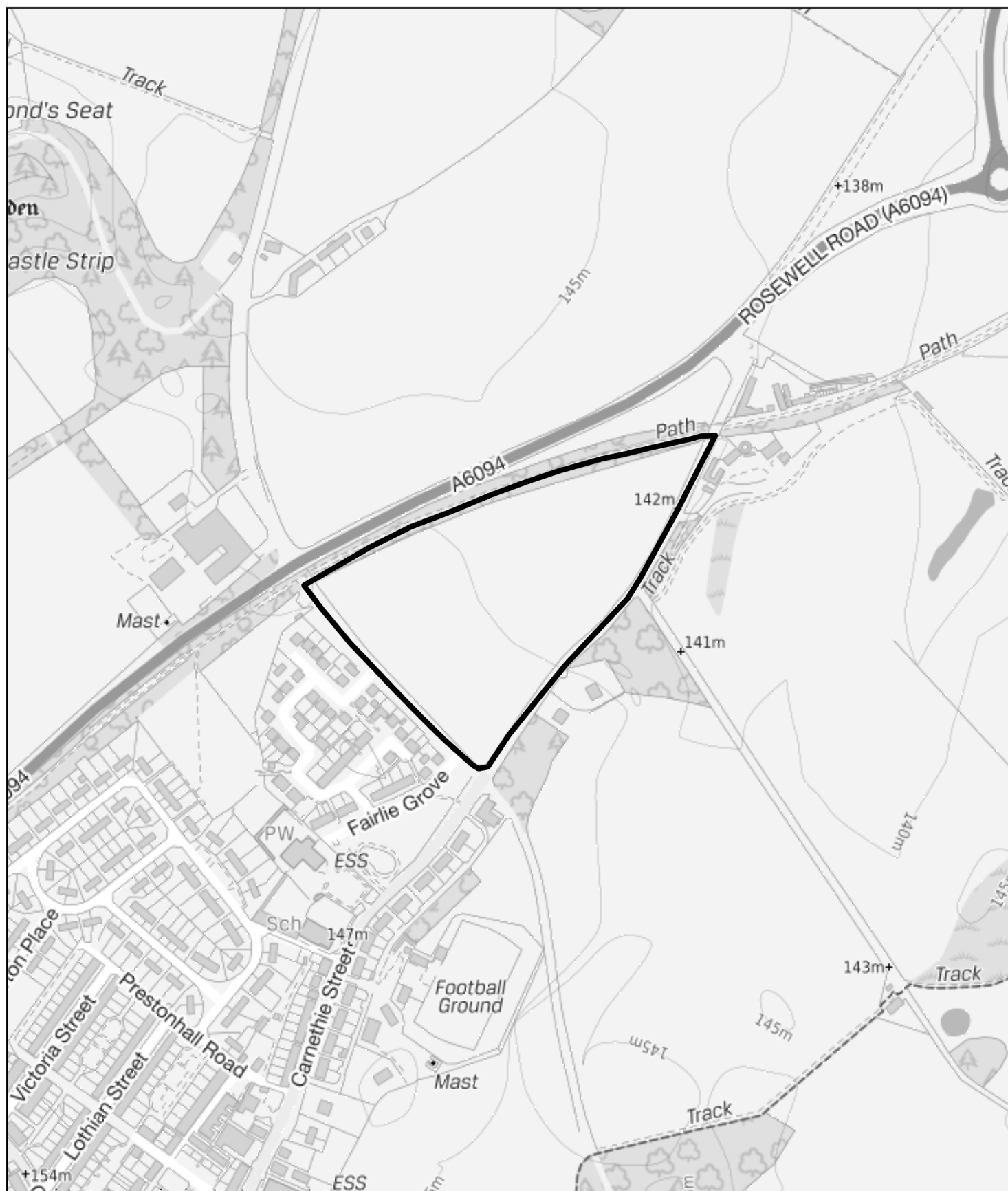
Agent: James Seabury, Banks Property Dev Ltd, 2nd Floor,
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Validation Date: 12 June 2018

Contact Person: Adam Thomson, Planning Officer

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



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

Erection of 100 dwellinghouses; formation of access roads
and car parking and associated works at Land between
Rosewell Road and Carnethie Street, Rosewell

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