

# Minute of Meeting

Planning Committee  
Tuesday 11 October 2022  
Item No: 4.1



## Planning Committee

Date	Time	Venue
Tuesday 30 August 2022	1.00 pm	Via MS Teams

### Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Bowen	Councillor Cassidy
Councillor Curran	Councillor Drummond
Councillor McCall	Councillor McEwan
Councillor McKenzie	Councillor McManus
Councillor Milligan	Councillor Parry
Councillor Pottinger	Councillor Russell
Councillor Scott	Councillor Smail
Councillor Virgo	Councillor Winchester

### In Attendance:

Derek Oliver	Chief Officer Place
Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
William Venters	Principal Solicitor
James Gilfillan	Consultant Policy and Planning
Janet Ritchie	Democratic Services Officer

## 1. Apologies

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No apologies were received

## 2. Order of Business

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The order of business was as set out in the Agenda.

## 3. Declarations of interest

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Councillor Winchester declared an interest with regards to 5.7 advising that she had met the Applicant's representative whilst in the Council buildings but at no time had she expressed a view on the Application.

## 4. Minutes of Previous Meetings

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The minute of the meeting of 14 June 2022 was submitted and approved as a correct record.

## 5. Reports

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Agenda No	Report Title	Submitted by:
5.1	Planning Obligations Annual Report 2021/2022	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of this Report was to provide details of:</p> <ul style="list-style-type: none"><li>a) The framework in which planning obligations secure developer contributions and governance behind their spent;</li><li>b) The planning obligations entered into by the Council in financial year 2021/2022; and</li><li>c) The value of contributions paid to the Council in financial year 2021/2022.</li></ul> <p>The Planning, Sustainable Growth and Investment Manager presented this report highlighting the background to the report and the use of planning obligations to secure developer contributions, transfer land, restrict uses of land or require physical work and how this is governed. It was noted that planning obligations are also referred to as a legal agreement or a Section 75 agreement.</p> <p>The Planning, Sustainable Growth and Investment Manager also highlighted the appendices attached to the report which outline the details of the planning obligations that were entered into in the last financial year 2021/22 (Appendix 1) and planning obligations received in the same financial year (Appendix 2).</p> <p>In response to a question raised the Planning, Sustainable Growth and Investment Manager confirmed that there was no formal legal table on Developer's contribution although Midlothian is near the top in this respect.</p>		

<b>Decision</b>
<p>The Planning Committee:</p> <ul style="list-style-type: none"> <li>a) Noted the information set out in the report and attached appendices; and</li> <li>b) Agreed to receive an annual report setting out the level of developer contributions secured by planning obligations and the sum of developer contributions recovered within the reporting financial year.</li> </ul>
<b>Action</b>
The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.2	Tree Protection in Midlothian and the role of the Trees in mitigating Climate Change and Protecting and Enhancing Biodiversity.	Chief Officer Place

<b>Outline of report and summary of discussion</b>
<p>The purpose of this Report was to inform the Committee of the protection given to trees in Midlothian, their important role in mitigating the effects of climate change and their contribution to biodiversity.</p> <p>At its meeting of 13 June 2022 the Committee requested a report with regard:</p> <ul style="list-style-type: none"> <li>• the current legislation and policies that seek to protect trees and encourage their planting as part of the development process;</li> <li>• the value trees have in mitigating against climate change; and</li> <li>• Trees contribution towards biodiversity.</li> </ul> <p>The Planning, Sustainable Growth and Investment Manager in presenting this report highlighted the main sections of the report advising that the report sets out the legislative and regulatory framework with regards to trees.</p> <p>Thereafter the Planning, Sustainable Growth and Investment Manager responded to questions and comments raised and it was noted that the canopy cover in Midlothian could be given further consideration in the next local plan. The Planning, Sustainable Growth and Investment Manager also provided clarification on the removal of trees and the penalty if these have a TPO and advised that hedgerows do not have the same protection but further confirmed with the new Scottish Government National Framework to be adopted next year this will give additional weight to trees as well as green space.</p>
<b>Decision</b>
The Planning Committee noted the contents of the report.
<b>Action</b>
The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.3	Supplementary Guidance: Low Density Rural Housing	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of this Report was to update the Committee on the adoption of the Low Density Rural Housing Supplementary Guidance.</p> <p>In presenting this report the Planning, Sustainable Growth and Investment Manager advised that following its meeting in June 2022 the Committee agreed to adopt the Low Density Rural Housing Supplementary Guidance following the formal consultation process and that the Scottish Ministers were informed of the Council's intention to adopt the supplementary guidance. The Scottish Ministers did not propose to issue a direction in relation to the guidance and that the Council was free to adopt the guidance and this guidance is now available on the Council's website.</p>		
Decision		
The Planning Committee noted the contents of the Report.		

Agenda No	Report Title	Submitted by:
5.4	Guidance on the Role of Councillors in the Consideration of Pre-Application Consultations for Major Developments	Chief Officer Place
Outline of report and summary of discussion		
<p>The purpose of this Report was to advise the Committee of the recommended procedures for Councillors in the pre-application process.</p> <p>The Planning, Sustainable Growth and Investment Manager outlined the background to the report and the main procedures as detailed in Section 3 of the report.</p> <p>The Chair highlighted that following the Seminars and Training provided to Members it was important to put this on the agenda for the newly appointed Members to clarify the position with regards the proposals at pre-application stage.</p>		
Decision		
<p>The Committee:</p> <ul style="list-style-type: none"> <li>a) Noted the established guidance and Committee procedures set out in this report;</li> <li>b) Agreed to receive a regular report regarding any formal pre- application consultations by prospective applicants.</li> </ul>		
Action		
The Planning, Sustainable Growth and Investment Manager		

Agenda No	Report Title	Submitted by:
5.5	Pre - Application Report regarding Residential Development, the Erection of a Primary School and Associated Roads, Landscaping, Open Space, Footpath/Cycle Ways, Suds and Infrastructure on Land South East of Auchendinny, The Brae, Auchendinny, Penicuik (22/00577/PAC)	Chief Officer Place
<b>Outline of report and summary of discussion</b>		
<p>The purpose of this report was to advise the Committee of the submission of a Proposal of Application Notice (PAN) and corresponding pre application consultation for residential development, the erection of a primary school and associated roads, landscaping, open space, footpath/cycle ways, sustainable urban drainage system (SUDS) and infrastructure on land south east of Auchendinny, The Brae, Auchendinny, Penicuik.</p> <p>The pre application consultation was 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.</p> <p>The Planning, Sustainable Growth and Investment Manager outlined the main sections contained within the report and thereafter responded to questions and comments from the Committee. In responding to an issue raised with regards to infrastructure he explained the different processes regarding the different types of infrastructure and a further comment was made by Councillor McEwan highlighting that the systems monitoring this should be robust. It was also noted that with regards to all future applications that dust suppression is in place and covered under conditions. The Planning, Sustainable Growth and Investment Manager in responding to a further question regarding flooding advised that all housing schemes install SUDS to ensure there is no detrimental effect on or off site with regards to flooding, however, if there is a particular problem at present on site it should not make it worse and generally would improve the situation.</p> <p>The Planning, Sustainable Growth and Investment Manager also confirmed that with regards to the map on P63 he would provide an amended map identifying the different types of land within the orange boundary and this would be attached to the minute.</p>		
<b>Decision</b>		
<p>The Committee:</p> <ul style="list-style-type: none"> <li>a) Noted the provisional planning position set out in this report;</li> <li>b) Noted that any comments made by Members will form part of the minute of the Committee meeting;</li> </ul> <p>Noted that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.</p>		

- d) Agreed that the Planning, Sustainable Growth and Investment Manager would provide a further detailed map outlining the different types of land within the orange boundary of map on P63 of the report and this would be appended to the minute.

#### Action

The Planning, Sustainable Growth and Investment Manager/Democratic Services

Agenda No	Report Title	Submitted by:
5.6	Pre - Application Report regarding the Erection of High School, Community Facilities, Veterinary Clinic, Formation of Sports Pitches, Car Parking and Associated Works at Land East and West of Seafield Moor Road, Bilston (22/00581/PAC)	Chief Officer Place

#### Outline of report and summary of discussion

The purpose of this report was to advise the Committee of the submission of a Proposal of Application Notice (PAN) and corresponding pre application consultation for the erection of a High School, Community Facilities, and Veterinary Clinic, formation of Sports Pitches, car parking and associated works at land to the East and West of Seafield Moor Road, Bilston.

The pre application consultation was 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.

The Planning, Sustainable Growth and Investment Manager outlined the main sections contained within the report and thereafter in responding to a question raised by the Chair whether the Council would have to find alternative housing land if this application was to go ahead and he confirmed that it would not be necessary to find alternative housing land as it was already covered in another development which exceeded the planned housing build.

With regards the Science Park he confirmed there was still a quantum of land within the Science Park to develop and grow so this will not displace any bioscience projects coming forward. Also noted was comments regarding dust suppression and traffic management.

#### Decision

The Committee noted:

- 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;
- c) That the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

**Action**

The Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Submitted by:
5.7	Application for Planning Permission in Principle for a Mixed Use Development Comprising Class 2 (Professional Services), Class 8 (Residential Institutions), Class 9 (Residential), Class 10 (Non- Residential Institutions) and Sui Generis (Mixed Use of Retirement Flats and Assisted Living/Extra Care Flats) Uses; Affordable Housing; and Associated Enabling Works on an Area of Open Space at the Junction of the A701 and Pentland Road, Straiton. (21/00958/PP)	Chief Officer Place

**Outline of report and summary of discussion**

The application was for planning permission in principle for a mixed use development comprising Class 2 (professional services), Class 8 (residential institutions), Class 9 (residential), Class 10 (non-residential institutions) and sui generis (mixed use of retirement flats and assisted living/extra care flats) uses; affordable housing; and associated enabling works. The application site was an area of open space at the junction of the A701 and Pentland Road, Loanhead.

The Planning, Sustainable Growth and Investment Manager outlined the main sections contained within the report highlighting the proposal set out in section 3, the background and the consultations detailed within section 4 and 5 of the report and advised that the recommendation is to refuse planning permission for the reasons detailed in Section 9 of the report.

The Planning Sustainable Growth and Investment Manager in responding to a question regarding infrastructure confirmed that there was no additional infrastructure planned other than what was already identified in the application.

In response to several questions regarding the structure and stability of the ground he provided some background details of the ground condition in that area advising that any new development would require to carry out extensive survey work and this would be assessed on a case by case basis. He further advised that in principle any new development would require to stabilise the ground in which it needs to develop for the development to take place safely without causing any instability out with the site.

Councillor Parry, seconded by Councillor Imrie moved to refuse the application for the reasons as set out in the report.

Councillor Smail sought clarification on the process if the application was refused and the Planning Sustainable Growth and Investment Manager advised that the Applicant has 4 options:

- To appeal to the Scottish Minister

- To re-submit an amended scheme improving the application
- To put forward a business case for the land to be allocated in next Local Plan
- To accept the decision

#### Decision

The Planning Committee refused the application for the reasons as set out in the report.

#### Action

The Planning, Sustainable Growth and Investment Manager

## **6. Private Reports**

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No items for discussion

## **7. Date of Next Meeting**

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The next meeting will be held on Tuesday 11 October at 1.00pm

The meeting terminated at 14.12 pm

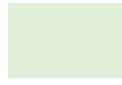


# Auchendinny – Midlothian Local Development Plan (2017) Policy

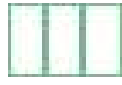


## Legend

**ENV1** – Protection of the Green Belt



**ENV4** – Prime Agricultural Land



**ENV6** – Special Landscape Areas



**ENV8** – Protection of River Valleys



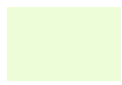
**ENV14** – Regionally and Locally Important Nature Conservation Sites



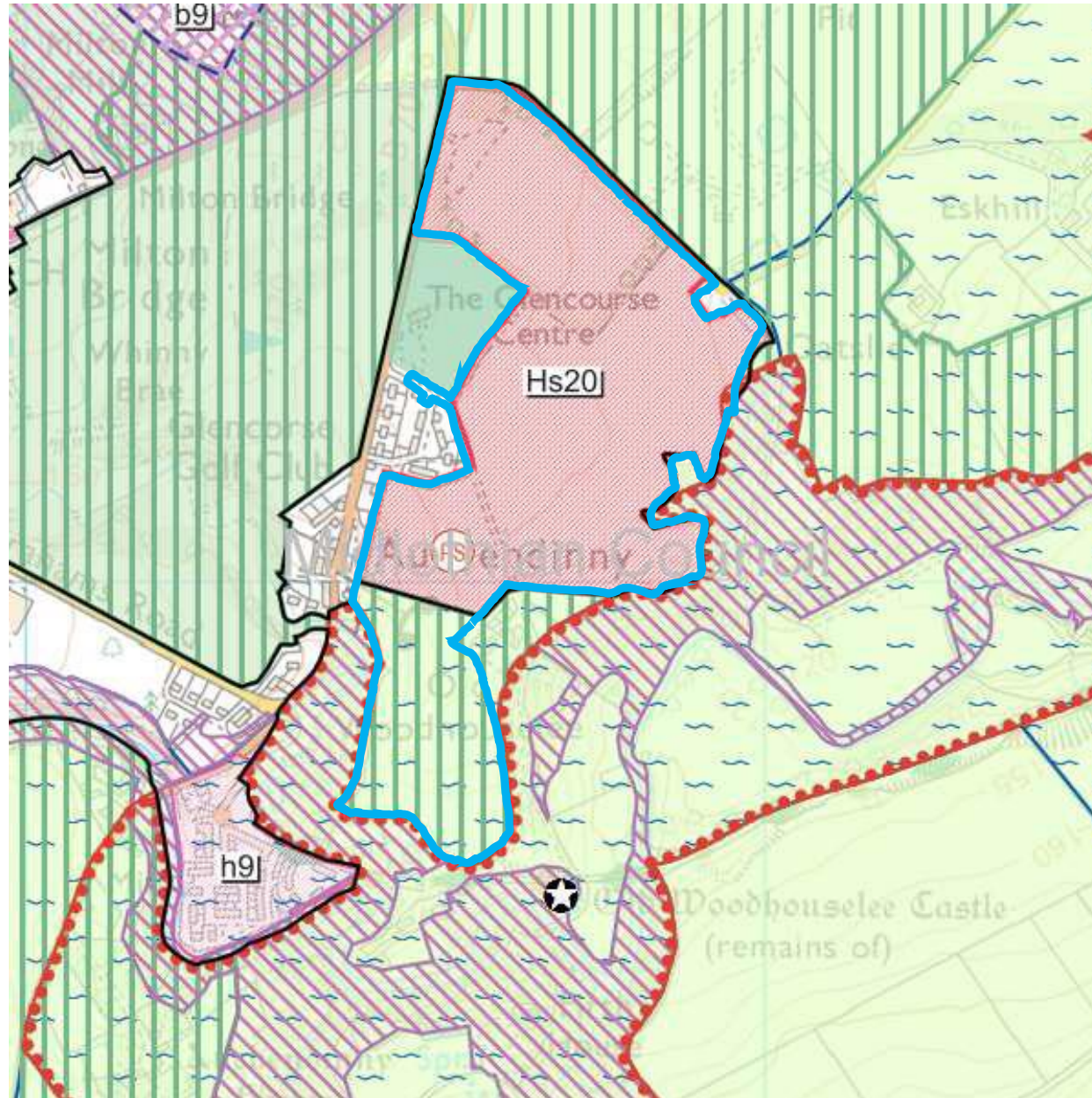
**ENV23** – Scheduled Monuments



**RD1** – Development in the Countryside



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 MLDP Map produced by Lovell Johns Ltd



## Legend



**Application Boundary** – 22/00577/PAC



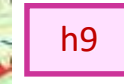
**DEV2** – Protecting Amenity in Built-Up Area



**DEV8** – Open Spaces (In Settlement Area)



**STRAT3** – Strategic Housing Land Allocations



**STRAT1** – Established Housing Land Supply



**STRAT1** – Established Economic Land Supply



**ECON2** – Midlothian Science Zone



**IMP2** – Education Facilities: Primary School