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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

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## **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

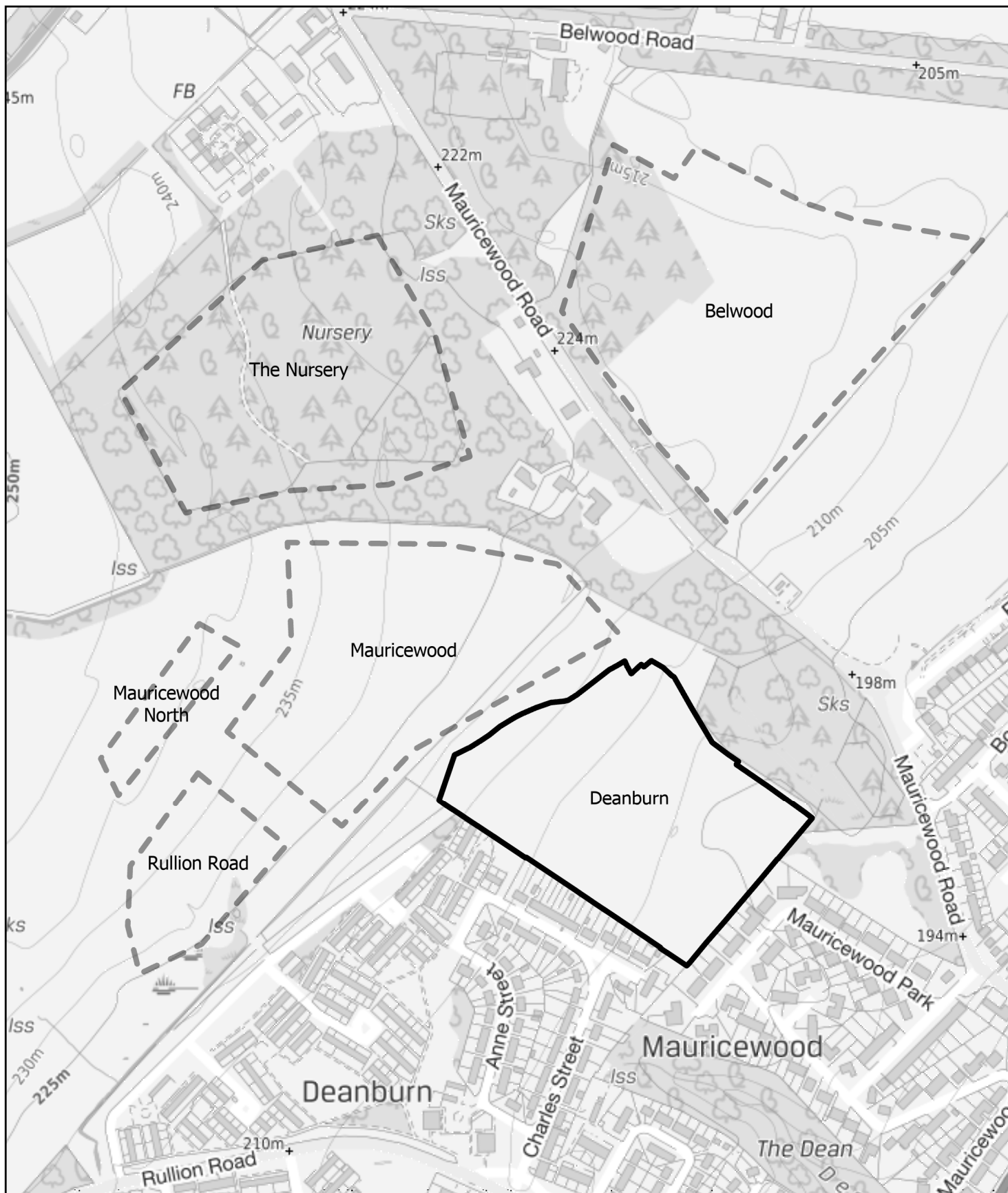
**Application No:** 19/00727/DPP  
**Applicant(s):** The Technical Department, Bellway Homes Ltd  
(Scotland East), 6 Almondvale Business Park,  
Almondvale Way, Livingston, EH54 6GA

**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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