



SECTION 42 APPLICATION 23/00700/S42 TO AMEND CONDITION 14 (SUSTAINABLE URBAN DRAINAGE SYSTEM) IMPOSED ON A GRANT OF PLANNING PERMISSION 17/01001/DPP FOR ALTERATIONS AND CONVERSION OF FORMER HOSPITAL AND EXISTING BUILDINGS TO FORM 72 DWELLINGS; ERECTION OF 24 NEW DWELLINGHOUSES AND ASSOCIATED WORKS AT FORMER ROSSLYNLEE HOSPITAL, ROSLIN

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 In December 2019 planning permission was granted for alterations and conversion of former hospital and existing buildings to form 72 dwellings; erection of 24 new dwellinghouses and associated works at the former Rosslynlee Hospital, Roslin. The current application to amend condition 14 enables the installation of an adoptable (by Scottish Water) sustainable urban drainage system (SUDS), rather than the SUDS approved as part of the original planning application.**
- 1.2 There have been no representations received or consultations required.**
- 1.3 The relevant development plan policies are policy 18 and 22 of the National Planning Framework 4 (NPF4) and policy ENV10 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.4 The recommendation is to grant planning permission subject to conditions and the variation to the existing Planning Obligation either by a Minute of Variation or a Section 75A application as the original planning application, 17/01001/DPP, is subject to a Planning Obligation securing developer contributions and this agreement needs to continue with the 'new' planning application.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is at Rosslynlee, a rural part of Midlothian between Rosewell and Penicuik. At its heart is the Category C listed former Rosslynlee Hospital and its associated buildings (a number of which are also Category C listed). The hospital site is surrounded by farmland including two fields which have planning permission for enabling residential development (currently under construction). The application**

site is accessible by an unclassified road (Firth Road/Farm Road) connecting to the B7026 (heading towards Auchendinny/Howgate) or unclassified roads connecting to the A6094 (heading towards Rosewell) or the B7003 (heading towards Roslin). The former hospital is within a landscape comprising tree belts and woodlands.

- 2.2 The hospital was listed as a Category C Listed Building in 1998. It closed as an NHS medical facility in 2010 and has remained redundant since its closure. To the north of the site is the former Edinburgh to Peebles railway line which closed in 1967. Rosslynlee Hospital had its own station until passenger trains ceased in 1962.
- 2.3 The hospital complex comprises an array of buildings - the original stone buildings being designed by Robert Lambie Moffat in 1874. Significant extensions/additions were added in 1902 (designed by Robert Rowand Anderson). It's these components which have the most architectural value. Further extensions and infills were added in the late 20th century for the function of the hospital but have little or no architectural merit. To the southwest of the former hospital there is a large formal open space with large terraces, steeped embankments and a gentle north-facing slope. Located to the north between the former hospital and old railway line is an area of open space that was formerly a walled garden. The wall remains largely intact, but the wider area is now overgrown. To the southeast along Firth Road and Farm Road there are a number of farm buildings and staff accommodation buildings associated with the hospital, these are in a poor state of repair.
- 2.4 The listed buildings on the site comprise; the principal hospital building, the morgue, the boiler-house, the entrance gate-piers, the gate lodge (Pentland House), a number of residential properties in Firth Road, the farm managers house and the cart shed.

3 PROPOSAL

- 3.1 The application, made under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc. (Scotland) Act 2006 and the Planning (Scotland) Act 2019) (hereafter referred to as the Act), is to amend the wording of condition 14 of planning permission 17/01001/PPP. The condition currently reads as follows:

No dwelling shall be occupied until the Sustainable urban Drainage detention pond shown on the approved drawings and the infrastructure to provide for surface water arising from this site to drain into it has been installed in accordance with the approved details.

- 3.2 It is proposed that the condition be amended to read as follows:

No dwelling shall be occupied until the Sustainable urban Drainage detention basin approved under 23/00219/DPP and the infrastructure to provide for surface water arising from this site to drain into it, or any subsequent amendments, has been installed in accordance with the approved details.

- 3.3 The implication of this change enables the installation of an adoptable (by Scottish Water) SUDS scheme which has approval by way of planning application 23/00219/DPP, rather than the SUDS approved as part of the original planning application. The adoption process is a separate regulatory process between the applicants and Scottish Water. The 2023 scheme results in a change in design which is compatible to the latest standards compared to the 2017 designed scheme.
- 3.4 A Section 42 application, is in itself a planning application - a particular kind of planning application for development without complying with a condition/s previously imposed on an earlier grant of planning permission. A grant of planning permission under Section 42 results in an entirely new planning permission.
- 3.5 Although a Section 42 application is a new planning application in law the Act states *“on such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted”*. The principle, layout and form of development are not subject to assessment. Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should still apply.

4 BACKGROUND

- 4.1 Planning permission in principle 17/00980/PPP for residential development of up to 280 dwellings; commercial use of Class 1, 2, 3 or 4 with a floor space of up to 250sqm; and associated works was granted in 2019.
- 4.2 Planning permission 17/01001/DPP for alterations and conversion of former hospital and existing buildings to form 72 dwellings; erection of 24 new dwellinghouses and associated works was granted in 2019.
- 4.3 Listed building consent 18/00061/LBC for the Internal and external alterations to the former Rosslynlee Hospital and associated listed buildings to form 69 dwellings and one office including; demolition of the former boiler house, outbuildings and elements of the main building, re-slating of roof, alterations to existing window and door openings and associated works was granted in 2019.
- 4.4 Planning permission 21/00904/DPP for the formation of footpath was granted in 2022.

- 4.5 Planning permission 21/01025/DPP for the formation of car parking and bus turning area; and associated works was granted in 2022.
- 4.6 Planning permission 22/00787/DPP for the alterations to existing junctions, resurfacing and other associated works was granted in 2023.
- 4.7 Planning permission 23/00219/DPP for the formation of SUDS and associated works was granted in 2023.
- 4.8 The application site exceeds two hectares and therefore the proposed development constitutes a 'Major Development' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and thereby is required to be determined by the Planning Committee.

5 CONSULTATIONS

- 5.1 No consultations were required.

6 REPRESENTATIONS

- 6.1 No representations have been received.

7 PLANNING POLICY

- 7.1 The development plan is comprised of National Planning Framework 4 (2023) and the Midlothian Local Development Plan 2017.
- 7.2 The following policies are relevant to the proposal:

National Planning Framework 4 (NPF4)

- 7.3 Policy **18 Infrastructure first**; sets out to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.
- 7.4 Policy **22 Flood risk and water management**; sets out to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.

Midlothian Local Development Plan 2017 (MLDP)

- 7.5 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environment.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise.

Condition 14

- 8.2 Planning permission was originally granted in December 2019 for alterations and conversion of former hospital and existing buildings to form 72 dwellings; erection of 24 new dwellinghouses and associated works at the former Rosslynlee Hospital, Roslin. As part of this application, a drainage strategy and SUDS Pond was approved, and its installation was secured by condition 14 (the SUDS Pond was not implemented).
- 8.3 However, the SUDs Pond that was originally proposed was not sufficient in terms of Scottish Waters latest adoption requirements and therefore it needed to be redesigned to a basin so as to ensure there was adequate capacity – changing from a pond to a basin increased the size of the engineering feature and the land take required to implement it.
- 8.4 In March 2023, the applicant submitted a planning application for the formation of a SUDS scheme and associated works at the former Rosslynlee Hospital, Roslin (23/00219/DPP). The application was fully assessed in terms of the residential proposals at Rosslynlee and approved subject to conditions in August 2023.
- 8.5 The reason for condition 14 of planning permission 17/01001/DPP is in the interests of ensuring a satisfactory drainage system for the site and to accord with MLDP Policies ENV9 and IMP3. The re-wording of the condition does not change this position and ensures that a suitable and sufficient SUDS scheme for the residential development at Rosslynlee is installed.

Other Conditions and Planning Obligation

- 8.6 With regards to condition 1 (bus drop off and turning), it is in part a pre commencement condition that has been discharged under planning permission 21/01025/DPP, therefore it is appropriate to modify condition 1 to ensure it is relevant to the current permission, if granted.
- 8.7 Condition 2 (improvements to Gourlaw Junction) is a pre commencement condition that has been discharged under planning permission 22/00787/DPP; therefore, this condition has been updated to ensure that the works are completed as per the approved plans.
- 8.8 The remaining conditions relate to; works to the access drive, agreeing materials, the provision of a tree protection plan and arboricultural

method statement, on-site engineering works, drainage provision, street lighting and constructional details, archaeological works, landscaping, addressing ground contamination, biodiversity enhancement, electric vehicle charging and refuse storage. These conditions are still relevant, and it is proposed to attach them to the new permission if granted. In addition, in line with current practice, a Construction Environment Management Plan (CEMP) condition should be added to the new planning permission.

- 8.9 A Planning Obligation is in place in relation to planning permissions 17/00980/PPP and 17/01001/DPP to provide developer contributions towards primary and secondary education, school transport and off-site footpath improvements. Those requirements remain unchanged, however as planning permission 17/01001/DPP is defined in the agreement it will be necessary for the agreement to be modified/varied to ensure that this new permission in law (23/00700/S42) is bound by the agreement.

9 RECOMMENDATION

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

The proposed amendment to condition 14 does not fundamentally change the development which is being implemented under a previous grant of planning permission. The proposed development does not have adverse environmental impacts subject to detailed/technical matters being agreed/secured by condition. This presumption in favour of development is not outweighed by any other material considerations and accords with the principles approved by the Council. The proposed development accords with the Midlothian Local Development Plan (2017).

Subject to the variation to the existing Planning Obligation either by a Minute of Variation or a Section 75A application; and

the following conditions:

1. No dwelling shall be occupied until the approved (or temporary) bus pick up/drop off and bus turning facilities have been provided in accordance with the approved details of planning permission 21/01025/DPP and an agreed phasing plan, which thereafter shall be maintained in accordance with the approved details.

Reason: *In the interests of highway safety and to accord with Scottish Planning Policy and Policy DEV6 of the Midlothian Local Development Plan 2017.*

2. No dwelling shall be occupied until the improvements to the Gourlaw junction (the junction of the unclassified road leading from the A6094 to the site) have been fully implemented in accordance

with the approved details as per planning permission 22/00787/DPP, unless otherwise agreed in writing by the planning authority.

Reason: *In the interests of highway safety and to accord with NPF Policy 18.*

3. No dwelling shall be occupied until the formation of the footpath has been fully implemented in accordance with the approved details of planning permission 21/00904/DPP.

Reason: *In the interest of highway safety and to accord with NPF Policy 18.*

4. No phase of the new built development shall be constructed above foundation level until samples of the new external materials to be used in the new buildings within that phase of the development have been submitted to and approved in writing by the planning authority. No external materials shall be installed in relation to existing buildings until samples of those materials have been submitted to and approved in writing by the planning authority. Development in that phase shall be carried out in accordance with the approved details.

Reason: *In the interests of good design and to accord with Policy DEV6 of the Midlothian Local Development Plan 2017.*

5. Development of each phase shall not commence until details of fencing, a Tree Protection Plan (TPP) and Arboricultural Method Statement (AMS) and other measures to protect trees or other landscape features to be retained in that phase, in line with the recommendations of BS5837:2012 have been submitted to and approved in writing by the planning authority. No operations shall commence on site in connection with a particular phase of development (including any soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until such time as the TPP and AMS for that phase have been formally approved by the local planning authority and all root protection measures for that phase are in place. The approved details shall remain in place for the duration of construction of that phase of development.

Reason: *To ensure the protection of existing landscape features, in line with advice contained in the current versions of BS 5837 Trees in relation to construction and BS8545:2014, in the interests of visual amenity and to accord with Policy ENV11 of the Midlothian Local Development Plan 2017.*

6. No dwelling within each phase shall be occupied until full engineering, drainage, street lighting and constructional details of

the streets proposed for adoption by the highway authority within that phase have been submitted to and approved in writing by the planning authority. Thereafter, the development shall be constructed in accordance with the approved details.

Reason: *In the interests of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the amenities of the locality and users of the highway and to accord with Policy DEV6 of the Midlothian Local Development Plan 2017.*

7. No development shall take place on each phase of the proposed site until the applicant has undertaken and reported upon a programme of archaeological (Historic Building Recording (Enhanced); Historic Building Recording (Appraisal) and Monitored Soil Strip) work in accordance with a written scheme of investigation for that phase which has been submitted by the applicant (or their agent) and approved by the planning authority.

Reason: *In the interests of the integrity of any archaeological remains and to accord with Policies ENV24 and ENV25 of the Midlothian Local Development Plan 2017.*

8. Development shall not commence until a scheme of temporary security measures to protect the Rosslynlee Hospital listed buildings site from vandalism have been submitted to and approved in writing by the planning authority. No development shall take place until the approved measures have been implemented in full.

Reason: *In the interests of the integrity of the listed buildings and to accord with Policy ENV22 of the Midlothian Local Development Plan 2017.*

9. No dwelling shall be occupied until a scheme outlining the landscaping matters for that phase including full details of both hard and soft landscape works has been submitted to and approved in writing by the planning authority. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; a scheme of public art; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (such as street furniture, play equipment, refuse or other storage units, signs, amenity lighting); proposed functional services above and below ground (such as drainage, power and communications cables or pipelines); planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants (noting species, plant sizes and proposed numbers/densities as appropriate); the identification of all trees and hedgerows to be retained (within the site and on its boundaries) and measures for their protection throughout the course of construction

works; an implementation programme; and a management and maintenance programme. All landscaping shall be carried out in accordance with the approved details and the agreed phasing plan.

Reason: *In the interests of the overall design and layout of the development*

10. No dwelling shall be occupied until the vehicular and pedestrian access to it, both onsite and at the junction with the Rosslynlee Hospital access road, and the parking space(s) for it within its curtilage, has been constructed in accordance with the approved details, unless otherwise agreed in writing by the planning authority.

Reason: *In the interests of highway safety and to accord with NPF Policy 14 and 18.*

11. No new build dwelling shall be occupied until details of a sustainability/biodiversity scheme for each phase of the site, including the provision of house bricks and boxes for bats and swifts has been submitted to and approved in writing by the planning authority. Thereafter the works shall be carried out in accordance with the approved details and the agreed phasing plan.

Reason: *In the interests of biodiversity and ecology and to accord with NPF Policy 3.*

12. 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 the site shall be fully implemented as approved by 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; to ensure the remediation works are undertaken and to accord with Policy ENV16 of the Midlothian Local Development Plan 2017.

13. On completion of any decontamination/ remediation works required in condition 12 and prior to the dwellinghouse being occupied on site, 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 part of the development shall be occupied until this report has been approved by 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; to ensure the remediation works are undertaken and to accord with Policy ENV16 of the Midlothian Local Development Plan 2017.*

14. No dwelling shall be occupied until the Sustainable Urban Drainage detention basin approved under 23/00219/DPP and the infrastructure to provide for surface water arising from this site to drain into it, or any subsequent amendments, has been installed in accordance with the approved details.

Reason: *In the interests of ensuring satisfactory drainage for the site and to accord with Policies ENV9 and IMP3 of the Midlothian Local Development Plan 2017.*

15. Construction of homes within any phase shall not commence until details have been submitted to and approved in writing by the planning authority of:

- a) the provision and use of electric vehicle charging stations throughout that phase of the development and
- b) a timetable of implementation, of high-speed fibre broadband to each house within that phase.

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

Reason: *In the interests of sustainability and to accord with Policies TRAN 5 and IT1 of the Midlothian Local Development Plan 2017.*

16. No construction shall commence on any individual dwelling(s) pursuant to this permission at:

- Plot 3
- the Village Core

until large scale details of the elevations of the relevant dwelling(s) in those locations have been submitted to and approved in writing by the local planning authority. Thereafter works shall be carried out in accordance with the approved details.

Reason: *In the interests of ensuring the high quality of design of the development and to accord with policies and to accord with Policy DEV6 and DEV7 of the Midlothian Local Development Plan 2017.*

17. No dwelling contained within a listed building shall be occupied until the refuse storage facilities to serve that dwelling have been provided in accordance with the approved details.

Reason: *In the interests of the amenity of future residents and the character and appearance of the listed buildings and to accord with Policies DEV6 and DEV7 of the Midlothian Local Development Plan 2017.*

18. Notwithstanding the details submitted, development shall not commence until a phasing plan is submitted to and agreed in writing by the planning authority. Thereafter the development shall be undertaken only in accordance with the approved phasing plan. For the purpose of this planning permission the extent of a 'phase' shall be determined in accordance with this condition.

Reason: *In order to achieve a satisfactory form of development and to accord with Policy DEV6 and DEV7 of the Midlothian Local Development Plan 2017.*

19. No dwelling shall be occupied until the surface water drainage arrangements to serve it have been put in place in accordance with the approved details and the agreed phasing plan.

Reason: *In the interests of ensuring the satisfactory drainage of the site and to accord with Policies ENV9 and IMP3 of the Midlothian Local Development Plan 2017.*

20. Development shall not begin until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:

- i. Details of a construction access;
- ii. signage for construction traffic, pedestrians and other users of the site;

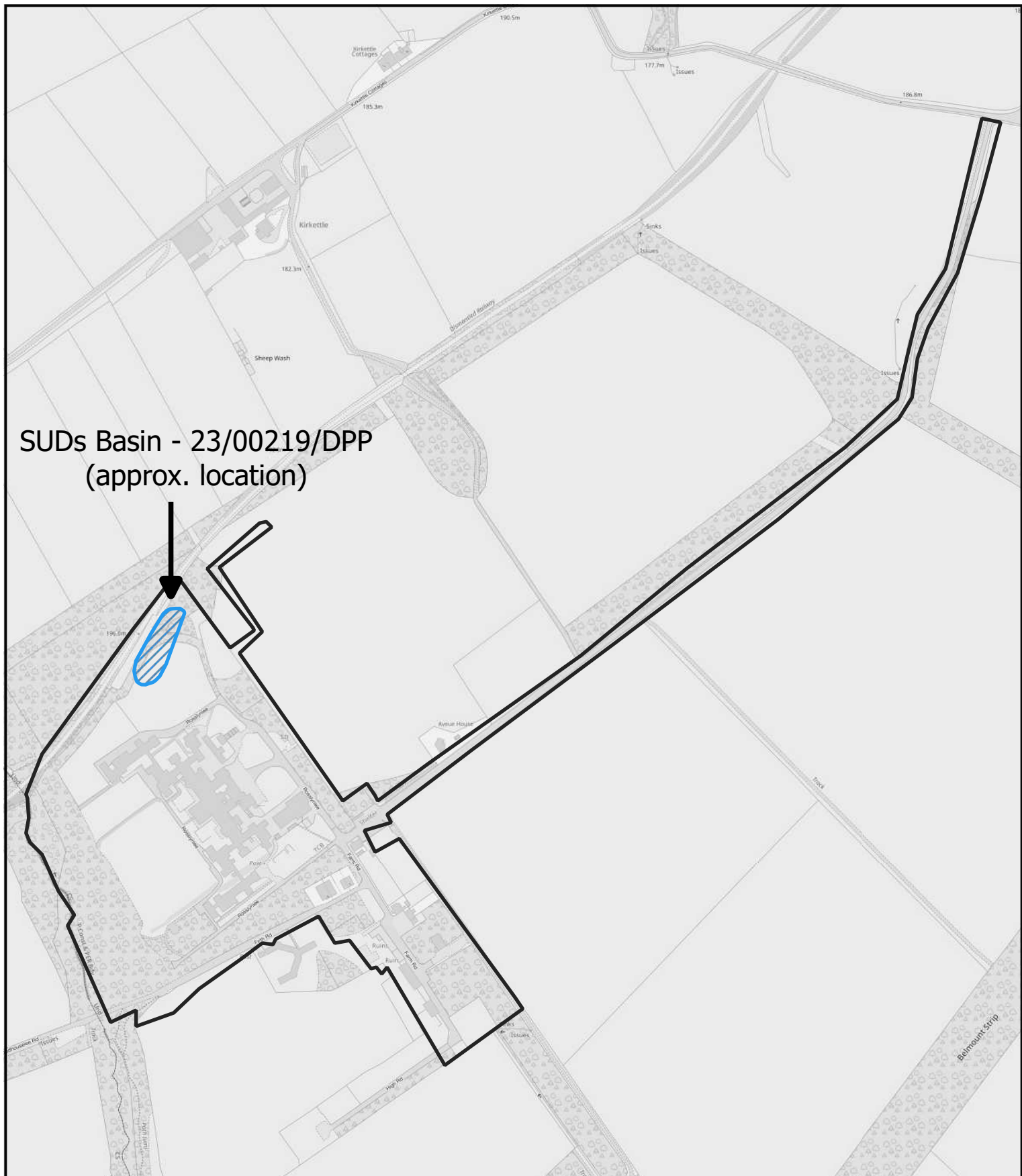
- iii. controls on the arrival and departure times for construction vehicles, delivery vehicles and for site workers (to avoid school arrival/departure times);
- iv. details of piling methods (if employed);
- v. details of any earthworks;
- vi. control of emissions strategy;
- vii. a dust management plan/strategy;
- viii. waste management and disposal of material strategy;
- ix. a community liaison representative will be identified to deal with the provision of information on the development to the local community and to deal with any complaints, regarding construction on the site;
- x. prevention of mud/debris being deposited on the public highway;
- xi. material and hazardous material storage and removal; and
- xii. controls on construction, engineering or any other operations or the delivery of plant, machinery and materials (to take place between 0700 to 1900hrs Monday to Friday and 0800 to 1300hrs on Saturdays).

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: *In order to control the construction activity on the site, ensure environmental impact during the construction period is acceptable and to ensure appropriate mitigation is in place.*

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date:	1 March 2023
Application No:	23/00700/S42
Applicant:	Oakridge Group
Agent:	Nikki McAuley, Ironside Farrar
Validation Date:	26 October 2023
Contact Person:	Whitney Lindsay
Email:	Whitney.Lindsay@midlothian.gov.uk
Background Papers:	Applications - 17/00980/PPP, 17/01001/DPP, 18/00061/LBC, 21/00904/DPP, 21/01025/DPP, 22/00787/DPP and 23/00219/DPP
Attached Plans:	Location plan.



SUDs Basin - 23/00219/DPP
(approx. location)



**Planning Service
Place Directorate**
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Section 42 application to amend condition 14 of planning permission 17/01001/DPP at Former Rosslynlee Hospital, Roslin.

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