

Notice of Meeting and Agenda



Planning Committee

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

Date: Tuesday, 22 January 2019

Time: 13:00

Director, Resources

Contact:

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

Clerk Email: mike.broadway@midlothian.gov.uk

Further Information:

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

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

1 Welcome, Introductions and Apologies

2 Order of Business

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

3 Declaration of Interest

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

4 Minute of Previous Meeting

- | | | |
|------------|--|--------|
| 4.1 | Minute of Meeting of 20 November 2018 - For Approval | 1 - 10 |
|------------|--|--------|

5 Public Reports

- | | | |
|------------|---|---------|
| 5.1 | Supplementary Guidance: Special Landscape Areas – Report by Director, Education, Communities and Economy. | 11 - 12 |
|------------|---|---------|

- | | | |
|------------|---|---------|
| 5.2 | Supplementary Guidance: Resource Extraction – Report by Director, Education, Communities and Economy. | 13 - 76 |
|------------|---|---------|

- | | | |
|------------|--|---------|
| 5.3 | Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage – Report by Director, Education, Communities and Economy. | 77 - 84 |
|------------|--|---------|

- | | | |
|------------|---|---------|
| 5.4 | Appeals and Local Review Body Decisions - Report by Director, Education, Communities and Economy. | 85 - 86 |
|------------|---|---------|

Pre-Application Consultations - Reports by Director, Education, Communities and Economy.

- | | | |
|------------|---|---------|
| 5.5 | Pre-Application Report Regarding Proposed Erection of up to 9 wind turbines at Wull Muir, Gorebridge (18/00558/PAC) | 87 - 90 |
|------------|---|---------|

- | | | |
|------------|--|---------|
| 5.6 | Pre-Application Report Regarding Proposed Erection of a Mixed Use Development comprising Film & TV Studios including Workshops/Offices; Reception/Commissary; Gatehouse; Backlot; Trailer Park; Film Academy and Associated Student Accommodation; and Associated Access, Parking and Infrastructure at Land East of Salters Road, Dalkeith (19/00012/PAC) | 91 - 96 |
|------------|--|---------|

Application for Planning Permission Considered at a Previous Meeting – Report by Director, Education, Communities and Economy.

- | | | |
|---|---|-----------|
| 5.7 | Applications for Planning Permission in Principle, for Planning Permission and for Listed Building Consent for the Conversion of Listed Buildings to Dwellings and Residential and Commercial Development in the Grounds of the former Rosslynlee Hospital, Roslin (17/00980/PPP, 17/01001/DPP and 18/00061/LBC). | 97 - 128 |
| Applications for Planning Permission Considered for the First Time – Reports by Director, Education, Communities and Economy. | | |
| 5.8 | Application for Planning Permission for Residential Development including Park and Ride; Allotments; Land Safeguarded for possible Education Use; Formation of Access Roads and Car Parking and Associated Works at Land At Newton Farm and Wellington Farm, Old Craighall Road, Millerhill, Dalkeith (17/00408/DPP and 17/00408/DPP) | 129 - 158 |
| 5.9 | Application for Planning Permission for the Subdivision of Existing Dwellinghouse to Form Two Dwellinghouses and Associated Erection of Porch and External Alterations; Erection of Garage; Erection of New Dwellinghouse and Associated Works and Formation of Access Points at 1 Braeside Road, Loanhead (18/00777/DPP) | 159 - 174 |
| 5.10 | Application for Planning Permission for the Erection of dwellinghouse; formation of access and car parking and associated works at Land at 3 Eskview Villas Dalkeith (18/00760/DPP) | 175 - 188 |

6 Private Reports

No Private Reports to be discussed at this meeting.

7 Date of Next Meeting

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

Plans and papers relating to the applications on this agenda can also be viewed online at www.midlothian.gov.uk.

Minute of Meeting



Planning Committee

Date	Time	Venue
20 November 2018	2.00 pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Baird	Councillor Cassidy
Councillor Curran	Councillor Hackett
Councillor Hardie	Councillor Lay-Douglas
Councillor McCall	Councillor Milligan
Councillor Muirhead	Councillor Munro
Councillor Russell	Councillor Smail
Councillor Winchester	

1. Apologies

Apologies received from Councillor Johnstone, Parry and Wallace.

2. Order of Business

The Clerk confirmed that that order of business was as outlined in the agenda that had been previously circulated, with exception of agenda item 5.7 - .Application for Planning Permission for the Change of Use of Retail Unit to Hot Food Takeaway at 70 Lothian Road, Bonnyrigg (18/00654/DPP), which it was proposed should not be considered by Committee due to a procedural matter, and this was agreed.

3. Declarations of interest

Councillors Muirhead, Milligan, Lay-Douglas, Smaill, Cassidy and Alexander (non-pecuniary) all declared an interest in agenda item 5.5 - Application for Planning Permission in Principle, for Planning Permission and for Listed Building Consent for the Conversion of Listed Buildings to Dwellings and Residential and Commercial Development in the Grounds of the former Rosslynlee Hospital, Roslin (17/00980/PPP, 17/01001/DPP and 18/00061/LBC) – on the grounds that, at the invitation of the applicants, they had all visited the application site, but at no time had offer an opinion on the current applications before Members.

Councillors Hackett (non-pecuniary) and Baird (business) both declared an interest in agenda item 5.4 - Application for Planning Permission for the Erection of two Drive-Through Restaurants; Formation of Access and Car Parking; and Associated Works at Land South West of Tesco Superstore, Dalkeith (18/00181/DPP). Councillor Hackett on the grounds that he knew socially someone who was an employee of one of the companies that were prospective occupants of one of the units and Councillor Baird on the grounds that the application related to the food and drink industry.

Councillor Curran sought guidance regarding his participation in consideration of the foregoing agenda item, as at the previous meeting he had proposed a course of action based on the information available at that time. The Monitoring Officer in response advised that as long as Members felt confident that they could approach the issue with an open mind and had not pre-judged matters then in terms of the Councillors Code of Conduct they could participate in proceedings. Councillor Curran thanked the Monitoring Officer for the guidance, confirming that was indeed the case and that any decision he reached today would be based on the information currently available.

4. Minutes of Previous Meetings

The Minutes of Meeting of 9 October 2018 were submitted and approved as a correct record.

5. Reports

Agenda No	Report Title	Presented by:
5.1	Supplementary Guidance: Special Landscape Areas	Peter Arnsdorf
Executive Summary of Report		
<p>With reference to paragraph 5.2 of the Minutes of 19 June 2018, there was submitted report, dated 8 November 2018, by the Director, Education, Communities and Economy, advising the Committee of the responses received to the public consultation on the proposed supplementary guidance on 'Food and Drink and Other Non-Retail Uses in Town Centres' and seeking agreement to the adoption of the Midlothian Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance.</p> <p>The report explained that the consultation period had run for six weeks from 28 August to 10 October 2018 with responses being received from six external parties - two Community Councils, two individual members of the public, a private business and Scotland's Town Partnerships. A summary of the consultation responses, together with details of the Council's proposed response and a track change copy of the draft Supplementary Guidance document showing proposed deletions and additions (shown in red) to the document arising from the consultation were appended to the report.</p>		
Summary of Discussion		
<p>The Committee, having heard from the Planning Manager who clarified the process for approving the Supplementary Guidance and also it's standing in terms of considering any applications for planning permission, welcomed the comments received as a result of the public consultation on the proposed Supplementary Guidance.</p>		
Decision		
<p>After further discussion, the Committee agreed:-</p> <ol style="list-style-type: none"> to adopt the Midlothian Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance (as amended following the consultation process); that the Midlothian Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment; to instruct the Planning Manager to undertake the required notification/ advertisement advising that the Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment; 		

d) to instruct the Planning Manager to notify the Scottish Ministers of the Council's intention to adopt the Midlothian Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance; and
e) to be advised of the outcome of the notification of the Scottish Ministers procedure.
Action
Planning Manager

Agenda No	Report Title	Presented by:
5.2	Major Developments: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 8 November 2018, by the Director, Education, Communities and Economy, updating the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.</p> <p>The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants was outlined in the Appendices to the report.</p>		
Decision		
<p>The Committee agreed:-</p> <p>(a) To note the current position in relation to major planning application proposals which were likely to be considered by the Committee in 2019; and</p> <p>(b) To note the updates for each of the applications.</p>		
Action		
Planning Manager		

Agenda No	Report Title	Presented by:
5.3	Appeal and Local Review Body Decisions	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 8 November 2018, by the Director, Education, Communities and Economy, detailing the notices of review determined by the Local Review Body (LRB) at its meeting in October 2018, and one appeal decision received from Scottish Ministers.</p> <p>Appended to the report was a copy of the following appeal decision notice from the Scottish Government, Planning and Environmental Appeals Division:-</p>		

- Dated 17 October 2018, dismissing an appeal by EG Group Ltd/Buccleuch Property against refusal of planning permission for the erection of petrol filling station and shop; restaurant with drive thru, café with drive thru and associated works at land at Sheriffhall South, Melville Gate Road, Dalkeith (17/00537/DPP, dated 14 July 2017, refused by notice dated 18 May 2018).

Decision

The Committee:

- (a) Noted the decisions made by the Local Review Body at its meeting on 16 October 2018; and
- (b) Noted the outcome of the Appeal determined by the Scottish Ministers.

Action

Planning Manager

Sederunt

With reference to item 3 above, Councillor Baird, having declared an interest in the following item of business, left the meeting at 2.13 pm, taking no part in the consideration thereof.

Agenda No	Report Title	Presented by:
5.4	Application for Planning Permission for the Erection of two Drive Through Restaurants; Formation of Access and Car Parking; and Associated Works at Land South West of Tesco Superstore, Dalkeith (18/00181/DPP).	Peter Arnsdorf

Executive summary of report

With reference to paragraph 5.8 of the Minutes of 9 October 2018, there was submitted report, dated 8 November 2018, by the Director, Education, Communities and Economy concerning the above application.

Summary of Discussion

Having heard from the Planning Manager, who responded to Members' questions/ comments, the Committee discussed at length the likely impact that the proposed development could potentially have on neighbouring town centres, most notably Bonnyrigg and Dalkeith, having particular regard to the supplementary guidance on 'Food and Drink and Other Non-retail Uses in Town Centres' which had been approved earlier (paragraph 5.1 above refers). The possible impact on the adjoining road network was also discussed, with volume of traffic and road safety issues being of particular concern and drawing a number of comments.

After further discussion, Councillor Milligan, seconded by Councillor Hackett, moved that in light of the concerns regarding the potentially detrimental impact on Bonnyrigg and Dalkeith town centres, and also the potentially adverse effect on the adjoining road network that planning permission be refused.

As an amendment, Councillor Hardie, seconded by Councillor Winchester, moved that planning permission be granted for the reasons, and subject to the conditions, detailed in the Director's report.

Thereafter, on a vote being taken, four Members voted for the amendment and eight for the motion, which accordingly became the decision of the meeting.

Decision

The Committee agreed to refuse planning permission for the following reasons:-

1. The impact of development on the vitality and viability of local town centres is a material consideration in the assessment of the application. The Planning Authority considers that the mix of uses, for the sale of food and drink for consumption on the premises and off the premises, is detrimental to Bonnyrigg and Dalkeith town centres; and is contrary to the aim of the "town centre first" approach to town centres set out in Scottish Planning Policy.
2. Road safety is a material consideration in the assessment of the proposal. Additional traffic, over and above traffic associated with existing uses and further consented development, entering and exiting the Tesco arm of Eskbank roundabout will result in queuing traffic and threaten the safe and effective operation of the roundabout.

Action

Planning Manager

Sederunt/Declaration of Interest

Councillor Baird re-joined the meeting at the conclusion of the foregoing item of business at 2.44 pm.

Thereafter, Councillor Milligan explained that as a Member of the NHS Lothian Board he was unsure if he required to declare an interest in the following item of business with the application site being a former NHS property. Having heard from the Monitoring Officer, Councillor Milligan declared a non-pecuniary interest and withdrew from the meeting at 2.45pm, taking no part in the consideration thereof.

Agenda No	Report Title	Presented by:
5.5	Application for Planning Permission in Principle, for Planning Permission and for Listed Building Consent for the Conversion of Listed Buildings to Dwellings and Residential and Commercial Development in the Grounds of the former Rosslynlee Hospital, Roslin (17/00980/PPP, 17/01001/DPP and 18/00061/LBC).	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 8 November 2018, by the Director, Education, Communities and Economy concerning the above applications.

Summary of Discussion

Having heard from the Planning Manager, who responded to Members' questions/ comments, the Committee discussed the position regarding the requirement for developer contributions towards infrastructure and affordable housing at length. With particular consideration being given to whether there was scope to potentially relax the current requirements in order to help secure the retention of the Grade C Listed former Rosslynlee Hospital building. The fact that additional land had been allocated for complementary enabling development was acknowledged, however, questions were raised regarding whether or not this was sufficient for the purpose for which it had been provided and also if, in the current financial climate, the Council was in a position not to secure the full developer contributions.

After further discussion, Councillor Hackett, seconded by Councillor Smaill, moved that consideration of the matter be continued in order that further information could be circulated, in private if necessary, to Members addressing the foregoing issues.

In terms of Standing Order 11.3 (vii), the Chair directed that a vote be taken for and against the motion to continue consideration of the matter and if this was carried that would be the end of the matter. If however it fell then he would open the matter up for further more detailed discussion.

Thereafter, on a vote being taken, three Members voted against the motion and 10 for, which accordingly became the decision of the meeting.

Decision

The Committee agreed that consideration of the matter be continued in order that further information could be circulated, in private if necessary, to Members addressing the above issues. At the suggestion of the Chair, Councillor Imrie, it was further agreed that should the appropriate opportunity arise a Special meeting of the Committee could be arranged to consider the matter, failing that it would be brought back to the next meeting on 22 January 2019.

Action

Planning Manager/Democratic Services

Sederunt

At the conclusion of the foregoing item of business Councillor Milligan re-joined the meeting at 3.06 pm, at which point Councillor Baird left.

Agenda No	Report Title	Presented by:
5.6	Application for Planning Permission for the Erection of 4 Dwellinghouses at Airybank, Quarrybank, Cousland (18/00582/DPP and 18/00593/DPP).	Peter Arnsdorf
Executive Summary of Report		
There was submitted report, dated 8 November 2018, by the Director, Education, Communities and Economy concerning the above application.		
Summary of Discussion		
<p>The Committee, having heard from the Planning Manager who responded to Members' questions and comments, discussed the planning history of the application site and also the current development plan policies. In particular, consideration was given to the proposed dwellinghouses, their design, layout and size and the potential impact that they would have on the area. The need to ensure that the bat roost identified within the application site was properly protected; bats being a European Protected Species, was also discussed.</p> <p>Thereafter, Councillor Smaill, seconded by Councillor Imrie moved that the planning application be granted subject to appropriate conditions.</p> <p>As an amendment Councillor McCall, seconded by Councillor Alexander moved that planning permission be refused for the reasons detailed in the Director's report.</p> <p>On a vote being taken, six Members voted for the Motion and 7 Members voted for the amendment which accordingly became the decision of the meeting.</p>		
Decision		
<p>The Committee agreed that planning permission be refused for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposed dwellinghouses by means of their scale, massing, form and design are incompatible with their edge-of village setting and the wider settlement of Cousland and will therefore have a detrimental impact on the character and appearance of the area contrary to policies DEV2 and STRAT2 of the Midlothian Local Development Plan 2017 and Scottish Planning Policy. 2. It has not been demonstrated to the satisfaction of the Planning Authority that the proposed development would not have a detrimental impact on European Protected Species and is therefore contrary to policy ENV15 of the adopted Midlothian Local Development Plan 2017. 		
Action		
Planning Manager		

6. Private Reports

Exclusion of Members of the Public

In view of the nature of the business to be transacted, the Planning Committee agreed that the public be excluded from the meeting during discussion of the undernoted item, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraph 13 of Part I of Schedule 7A to the Local Government (Scotland) Act 1973

Report No.	Report Title	Presented by:
6.1	Application for Planning Permission and Enforcement Considerations: Pathhead.	Peter Arnsdorf
Decision		
To approve the recommendations contained in the report.		

The meeting terminated at 3.20pm.



SUPPLEMENTARY GUIDANCE: SPECIAL LANDSCAPE AREAS

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to update Committee on the adoption of the Special Landscape Areas Supplementary Guidance.

2 BACKGROUND

- 2.1 At its meeting of 9 October 2018 Committee agreed to adopt the Special Landscape Areas Supplementary Guidance following a formal consultation process which ran from 24 April to 7 June 2018 and agreed that the supplementary guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment. In addition the Committee:
- a. instructed the Head of Communities and Economy to undertake the required notification/advertisement advising that the Special Landscape Areas Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
 - b. instructed the Head of Communities and Economy to notify the Scottish Ministers of the Council's intention to adopt the Special Landscape Areas Supplementary Guidance; and
 - c. required notification of the outcome of the notification to the Scottish Ministers.
- 2.3 The notification/advertisement referred to in paragraph 2.1a was published in the Midlothian Advertiser newspaper on 17 October 2018. The advertisement was required to comply with Strategic Environmental Assessment legislation and regulations and was for information purposes only.
- 2.4 In line with paragraph 2.1b Scottish Ministers were informed of the Council's intention to adopt the supplementary guidance. Scottish Ministers informed the Council by letter dated 26 October 2018 that they did not propose to issue a direction in relation to the guidance and that the Council is free to adopt the guidance. The adopted version of the Special Landscape Areas Supplementary Guidance document is on the Council's website.

3 RECOMMENDATION

3.1 The Committee is recommended to note the contents of the report.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 15 January 2019
Contact Person: Grant Ballantine, Lead Officer Conservation and Environment - grant.ballantine@midlothian.gov.uk
Tel No: 0131 271 3429
Background Papers: MLDP 2017 adopted 7 November 2017.



SUPPLEMENTARY GUIDANCE: RESOURCE EXTRACTION

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek agreement to the adoption of the Resource Extraction Supplementary Guidance.

2 BACKGROUND

- 2.1 At its meeting of 7 November 2017 the Council adopted the Midlothian Local Development Plan 2017 (MLDP). The MLDP included a commitment to prepare Supplementary Guidance and Planning Guidance on a number of topic areas (Section 7.2, pages 81 and 82 of the MLDP). Additional guidance is required to provide further detail and interpretation of the policies and strategy set out in its development plan. One of the topic areas which needs further detail is with regard Resource Extraction.
- 2.2 At its meeting of 28 August 2018 the Committee approved the draft Resource Extraction Supplementary Guidance for consultation and agreed to consider a further report on the Guidance following the proposed consultation.
- 2.3 The consultation period ran for five weeks from 7 September to 12 October 2018.
- 2.4 The draft Resource Extraction Supplementary Guidance was published on the Council's website and available for inspection at Fairfield House and in all Midlothian Council libraries. All Midlothian Community Councils were consulted, as were a variety of other Midlothian community groups, those who had commented on the Resource Extraction section of the Proposed Midlothian Local Development Plan and other known parties considered to have an interest in the document. This included Midlothian residents, adjoining local authorities, Government agencies, third sector organisations, representatives of the development industry and developers with a known interest in sites identified in the Local Development Plan with Resource Extraction implications from the draft supplementary guidance and the adopted Midlothian Local Development (2017).

3 REPRESENTATIONS

- 3.1 As part of the consultation process responses from eight parties were received. Responses were received from a spread of consultees including; community councils, the quarrying industry and Government agencies.
- 3.2 A summary of the consultation responses received with the proposed officer response and a track change copy of the draft Resource Extraction Supplementary Guidance document showing proposed deletions and additions to the document arising from the consultation is attached to this report. New text within the Guidance document is shown in red.
- 3.3 The responses received comprised:
- The Coal Authority emphasised the need for restoration of sites to enhance the biodiversity and environmental value of sites;
 - Dalgleish Associates consider that there may be a need in some cases for a more flexible approach to operating hours. They also note the difference in scale of restoration liabilities between coal and aggregates operations;
 - The Mineral Products Association states that the industry would prefer the use of planning conditions rather than Section 75 agreements as a means of securing financial provision for site restoration. They also wish to avoid duplication of monitoring between the Council and other regulatory agencies;
 - Moorfoot Community Council (MCC) considers that the Guidance should be delayed to reflect the Scottish Government's pending policy clarification on climate change. Furthermore MCC request that there should be provision for longer term aftercare and note that non Scottish companies are able to disclaim restoration responsibilities;
 - Roslin and Bilston Community Council requests that advanced surveys of properties which are likely to be affected by works in terms of structural damage, are undertaken at the operators expense;
 - Scottish Environment Protection Agency (SEPA) advised that monitoring, restoration and aftercare should take into account the time required for water levels to recover fully post extraction operations and the potential for pollution discharges to emerge after restoration. Furthermore SEPA encourages operators and regulators to use their guidance and to develop Watercare Environment Monitoring and Mitigation Plans covering the full life of the site, with the use of Technical Review Panels for more complex sites;
 - Scottish Natural Heritage advised on the need to monitor extraction sites over the long term, with a focus on securing funds towards restoration as well as the use of conditions for site restoration.

Applicants should undertake appropriate wildlife surveys in advance of any blasting operations; and

- Scottish Water request reference is made to the need to contact them regarding protection of assets and Drinking Water Protection Areas.

4 STRATEGIC ENVIRONMENTAL ASSESSMENT

- 4.1 All Scottish public bodies and a few private companies operating in a 'public character' (e.g. utility companies) within Scotland are required to assess, consult and monitor the likely impacts of their plans, programmes and strategies on the environment. This process is known as Strategic Environmental Assessment (SEA).
- 4.2 As required by the Environmental Assessment (Scotland) Act 2005, screening for likely significant environmental effects from the draft supplementary guidance has been undertaken with the Consultation Authorities - SEPA, Scottish Natural Heritage and Historic Environment Scotland. The Consultation Authorities agree with the Council's opinion that no such effects are likely.
- 4.3 The Council is now in a position to make a formal determination that no such effects are likely, thereby exempting the supplementary guidance from any requirement for Strategic Environmental Assessment ('SEA'). The supplementary guidance cannot be considered adopted until such a determination has taken place. The determination requires to be advertised in a local paper within 14 days and copied to the consultation authorities.
- 4.4 The guidance has also been screened for a Habitats Regulations Appraisal (HRA) and because of the protection of sites within the MLDP a HRA is considered not to be required.

5 RESOURCE EXTRACTION SUPPLEMENTARY GUIDANCE

- 5.1 The Midlothian Local Development Plan (2017) has a commitment to prepare supplementary guidance on Resource Extraction. Not adopting this supplementary guidance would weaken the Council's position in managing resource extraction sites and their restoration and aftercare. It would also result in less information being available for preparing and assessing development proposals.
- 5.2 The supplementary guidance includes:
- operating standards in respect of a number of the key environmental factors, such as noise, dust and vibration;
 - approaches to better ensure the restoration of resource extraction sites; and

- measures to increase community involvement and oversight of mineral operations, through the use of community liaison committees.
- 5.3 Section 22 of the Planning etc. (Scotland) Act 2006 requires the Council to send Scottish Ministers a copy of the Resource Extraction Supplementary Guidance intended for adoption, together with a statement setting out the publicity measures undertaken for the consultation, the comments received and how comments submitted were taken into account. Unless Scottish Ministers have directed otherwise, after at least 28 days have elapsed the Council may adopt the Supplementary Guidance,

6 RECOMMENDATION

- 6.1 The Committee is recommended to:
- a) adopt the Resource Extraction Supplementary Guidance (as amended following the consultation process);
 - b) agree that the Resource Extraction Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
 - c) instruct the Planning Manager to undertake the required notification/advertisement advising that the Resource Extraction Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
 - d) instruct the Planning Manager to notify the Scottish Ministers of the Council's intention to adopt the Resource Extraction Supplementary Guidance; and
 - e) be advised of the outcome of the notification to the Scottish Ministers.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 15 January 2019
Contact Person: Colin Davidson, Planning Officer
colin.davidson2@midlothian.gov.uk
Tel No: 0131 271 3470
Background Papers: MLDP 2017 adopted 7 November 2017.

Resource Extraction Supplementary Guidance (SG) - Schedule of comments received and Midlothian Council proposed response

Consultee	Summary of Consultation response	Proposed Midlothian Council Response
Question 1 <i>Should a stronger requirement for the establishment of Community Liaison committees be included?</i>		
Moorfoot Community Council	Yes. Supports a stronger requirement for CLCs, considers that this should be a requirement for all developments requiring EIA.	<p><u>Change proposed.</u> The Council does consider that the circumstances where a community liaison committee is required should be further defined, but not in the way suggested by the respondent. EIA can be triggered by a number of factors, some of these may be distant from human population with little community interest in the operation; conversely there may also be developments which do not require EIA but where human population and communities are in closer proximity.</p> <p>Proposed revised text will define need for CLC at large developments (>25ha) and additional text shall clarify potential need for CLCs in other circumstances.</p>
Roslin and Bilston Community Council	<p>At pre application stage detailed negotiation should take place between applicant, Midlothian Council and communities affected (including places on transport routes).</p> <p>Legal obligation requiring restoration of the land and clear time limit of two years.</p> <p>Should be express obligation on developer to repair all damage to local roads and ensure that local residents to not suffer unnecessary and prolonged road closures.</p>	<p><u>No change proposed</u> in respect of this representation, Council considers that CLCs should only be established for projects granted planning permission and that there are sufficient statutory pre-application measures in place to involve the community at this stage.</p> <p><u>No change proposed</u> in respect of this representation, matters relating to restoration matters are addressed below in relation to questions 8-14.</p> <p><u>No change proposed</u> in respect of this representation, Midlothian Council considers that the guidance makes sufficient provision in this</p>

	<p>Clear programme required as to how development will take place, what phases will be and when completion expected.</p> <p>Clear information about how leachate will be prevented at later stage.</p> <p>Absolute necessity for CLCs to be appointed and maintained.</p>	<p>respect, under point 7 of the guidance 'Effect on the road network'</p> <p><u>No change proposed</u> in respect of this representation, the Council considers that the provisions it has made for mine and quarry progress plans provide the necessary framework for monitoring the progress of development.</p> <p><u>No change proposed</u> in respect of this representation: with regard to leachate the Council does not expect any further landfill developments generating leachate (any proposals that do emerge would require a separate application and be handled under MLDP policy WAST3).</p> <p><u>Change proposed</u>, the Council does consider that the circumstances where a community liaison committee is required should be further refined, see proposed text set out below.</p>
<p>Changes proposed in respect of responses to Question 1.</p> <p>Remove reference to '...those requiring EIA...' and replace with '...those where site area is greater than 25ha...'</p> <p>Insert additional text; 'The Council will come to a judgement on the need for CLCs at other minerals developments based on the nature of the proposal and the proximity of human population and communities.'</p>		
<p>Question 2 <i>Should the guidance be more prescriptive on how Community Liaison committees operate?</i></p>		
Moorfoot Community Council	<p>Yes. Considers that through SG the planning authority should be committed to taking part in any CLC established, and should be committed to providing CLC with any necessary documents.</p>	<p><u>No change proposed</u> in respect of this representation; the nature of the community and the operations will vary from place to place. To maintain flexibility, it is not proposed to define the operation of the CLC further than it already is in the guidance.</p>

<p>Roslin and Bilston Community Council</p>	<p>CLCs should be provided with detailed guidance in respect of matters raised in RBCC reply to question 1.</p> <p>CLCs should be advised to seek dilapidation surveys on properties likely to be affected, and advising them how to proceed in relation to any structural damage or rodent infestation. CLCs need to be advised how to proceed with regard to contacting development site managers.</p> <p>Matters to be discussed should include light, vibration, dust and noise nuisance.</p> <p>Working hours should be restricted to 0800-1800 weekdays, and 0800-1300 on Saturdays. There should be no moving of heavy machinery outside these hours.</p>	<p><u>No change proposed</u> in respect of this representation; the nature of the community and the operations will vary from place to place. To maintain flexibility, it is not proposed to define the operation of the CLC further than it already is in the guidance.</p> <p><u>Change Proposed.</u> The Council considers that the SG has made adequate provision in respect of preventing structural damage, and that community and developer representation on the CLC would allow for dialogue in the manner suggested: however in relation to rodent infestation some additional text is proposed in the context of maintaining agricultural efficiency.</p> <p><u>No change proposed</u>, these may be matters raised at a CLC meeting, but it is not proposed to be more prescriptive at the matters to be addressed.</p> <p>Operating hours matters are addressed below in relation to Question 6 on operating hours.</p>
<p>Changes proposed in respect of responses to Question 2.</p> <p>Insert additional text in section referring to prime agricultural land; 'So that agricultural efficiency is preserved, site operators shall be required to control weeds and vermin'.</p>		
<p>Question 3 <i>The Council has chosen the most demanding of the range of acceptable deposition rates quoted in Scottish Government guidance to reflect rising environmental expectations. Do you agree with this approach?</i></p>		
<p>Moorfoot Community Council</p>	<p>Yes. However considers that SG should allow for the Council to apply more stringent criteria in future.</p>	<p><u>Change proposed</u> in respect of this representation; SG would have to be revised, consulted upon and approved if any material change were made.</p> <p>However, additional text is proposed in the introductory</p>

		<p>paragraphs to relate the SG where new national standards are introduced. Express reference is made elsewhere in the Guidance to particular aspects of environmental protection where reviews are known to be underway (for example review of Clean Air policy).</p>
<p>Roslin and Bilston Community Council</p>	<p>Supports approach on deposition standards, but considers 500m separation from housing not enough to protect housing.</p> <p>Considers that it should be compulsory to provide bunds, tree belts and other screening where long term extraction proposed.</p> <p>Consideration should be given to people living on route taken by construction traffic.</p>	<p><u>No change proposed</u> in respect of this representation, environmental criteria in SG and in MLDP provide framework to protect housing and other sensitive places.</p> <p><u>Change proposed.</u> The SG refers to the uses of screening bunds in relation to protecting landscape, but it is recognised that screening has multiple benefits in containing noise and dust. Additional text references are to be made in the SG to secure provision of such screening at an appropriate stage.</p> <p><u>No change proposed</u> in respect of this representation, the Council considers that this matter is adequately addressed by the SG.</p>
<p>SNH</p>	<p>Supports proposed adoption of dust deposition rates that offer the highest degree of environmental protection, considers that the following should be identified as sensitive locations: any site protected by international, national or local natural heritage designations (biodiversity, geodiversity or landscape); Water courses and adjacent bankside habitats (extending a suitable distance to either side of the water course); and Peatlands – as identified on the Carbon and peatland 2016 map. (http://soils.environment.gov.scot/maps/thematic-maps/carbon-and-peatland-2016-map/)</p>	<p><u>Change proposed.</u> Additional text proposed to define these, using SNH definitions as well as schools, dwellinghouses and residential institutions.</p>
<p>Changes proposed in respect of responses to Question 3.</p> <p>Additional text in introduction. 'If new standards are adopted at national level in the period in which this SG is in force which relate to the environmental performance of minerals operations, then Council is likely to treat these as material considerations for the planning system.'</p>		

Insert additional text in sentence on bunding and planting; ‘..at an appropriate stage of the development...’

Insert additional text to last sentence in relation to dust, viz:

‘..including schools, dwellinghouses, residential institutions, sites protected by international, national or local natural heritage designations, water courses and adjacent bankside habitats, peatlands (as identified on the Carbon and peatland 2016 map or successor documents).’

Question 4 *Is the approach to noise, including suggested noise limit values appropriate?*

Moorfoot Community Council	Yes. Welcomes commitment to best practice, irrespective of maximum noise values.	<u>No change proposed</u> in respect of this representation.
Roslin and Bilston Community Council	As well as monitoring by Community Liaison Committee site manager should be available to field complaints. Noise screening should be routinely required.	<u>No change proposed</u> in respect of this representation, it is likely that discussion of any concerns over noise shall be a main concern of a CLC, but the Council do not consider it necessary to make further express reference to this.

Changes proposed in respect of responses to Question 4.

No changes proposed.

Question 5 *Is the approach to vibration, including the values for PPV appropriate?*

Mineral Products Association Scotland	States that it is sometimes problematic for operators to agree set blasting times in advance due to production requirements, weather conditions and other factors – and so a degree of flexibility is required. The distance between blasting areas and sensitive receptors may negate need for pre-blasting notification.	<u>No change proposed</u> in respect of this representation, the Council considers that the guidance as written provides the appropriate level of flexibility for different site circumstances.
Moorfoot Community Council	No. States that as currently proposed, the section on vibration deals only with blasting. There should also be limits on vibration generated by drilling and other activities. Considers that SG in respect of consulting/ informing the local community should be strengthened. The timing and frequency of	<u>Change proposed.</u> Vibration is predominantly associated with blasting and there is extensive literature and guidance on this subject – it is unlikely that any other activity would exceed the vibration guidelines set in the SG. However, the Council considers that it would be appropriate to make provision for other vibration sources, and additional text is proposed below. <u>No change proposed</u> in respect of this representation, it is difficult to be more

	blasting should only be decided after consultation with the local community, and the SG should be more specific about “efforts to inform the community” prior to blasting.	specific as circumstances will vary from site to site, and not all developments will have a community liaison committee.
Roslin and Bilston Community Council	<p>Dilapidation surveys must be obligatory before work begins on site, nearby properties must receive a letter advising them as to procedure if damage suspected, site manager must be available to discuss. Community must be clearly warned in advance of any blasting.</p> <p>If Council is prepared to impose lower PPV levels in special cases mentioned, these should be imposed across board.</p>	<p><u>No change proposed</u> in respect of this representation, the Council considers that the SG has made adequate provision in respect of preventing structural damage, and that community and developer representation on the CLC would allow for dialogue in the manner suggested.</p> <p><u>No change proposed</u> in respect of this representation, the standard values chosen represent best current practice and the Council does not think there is a justification for a blanket imposition of higher standards.</p>
Scottish Natural Heritage (SNH)	Suggests that as part of development management process appropriate wildlife surveys are carried out prior to commencement of any blasting programme. This would allow SNH to advise planning authority on any measures or mitigation required to avoid impacts on wildlife.	<u>Change proposed.</u> Propose inserting additional text in Section 5 in respect of this comment, to address the need for wildlife surveys.
<p>Changes proposed in respect of responses to Question 5.</p> <p>Insert additional text; ‘It should be demonstrated to the Council’s satisfaction that activities other than blasting cause no significant vibration effects at a dwellinghouse, residential institution, school or at another sensitive building. Depending on the nature of the site and the proposals, the Council may require appropriate wildlife surveys to be carried out. These will be necessary prior to the commencement of any blasting programme and will inform the Council about any measures required to avoid impacts on wildlife’.</p>		
<p>Question 6 <i>Do you agree with the proposed controls on operating hours?</i></p>		
Dagleish Associates	Refers to PAN 50 Annex A normal working hours 0700-1900, and considers that in some local circumstances appropriate to have longer hours. Considers that there could be particular reasons (for example dispatching ready mix concrete or asphalt) for longer hours. Considers that operational needs and amenity impacts should be taken into account rather than imposing standard hours.	<u>Change proposed.</u> In respect of his representation the Council considers that it is reasonable to allow for longer hours where there are no or minimal impacts on sensitive receptors. Revised text proposed.

Mineral Products Association Scotland	States that many quarries begin operations between from 0700 to make best use of daylight hours- suggested that hours of operation should be discussed on site by site basis, depending on topography and siting of sensitive receptors.	<u>Change proposed</u> , see response above to Dalgleish Associates.
Moorfoot Community Council	Yes, considers these to be standard operating hours for minerals operations.	<u>No change proposed in respect of this representation.</u> Noted, however the Council considers that it is reasonable to amend the SG as proposed by industry representatives.
Roslin and Bilston Community Council	Acceptable operating hours should be weekdays 0800 to 1800 and Sat 0800 to 1300. Low impact activities should be raised through CLC and discontinued if residents object.	<u>No change proposed in respect of this representation.</u> Noted, however the Council considers that it is reasonable to amend the SG as proposed by industry representatives. <u>No change proposed</u> , the Council does not consider it necessary to provide further guidance for the working of a CLC.
Changes proposed in respect of responses to Question 6. Revised text proposed in respect of operating hours, viz. 'Starting hours of 7.00 may be permissible where it is demonstrated to the Council's satisfaction that the noise and amenity impact on communities and dwelling places is minimal.'		
Question 7 <i>Do you have any views on the other detailed criteria with respect to site implementation?</i>		
Dalgleish Associates	Effect on landscape. Acknowledged that hard rock extraction will often have permanent adverse impact on landscape, but not necessarily significant or unacceptable. Although Pentland Hills RP and SLAs are more sensitive this doesn't mean that minerals development should automatically be seen as unacceptable. Considers that to have a presumption against minerals development in these areas is unreasonable. Considers that presumption against development outwith areas of search is unreasonable due to limited range of areas. In respect of roads, EIA may be triggered for a number of reasons, and need for Transport Assessment (TA) might not fall within scope of the EIA. Considers that in respect of cumulative impacts many aggregates quarries operate for longer	<u>No change proposed</u> , policy context set by approved LDP <u>No change proposed</u> , policy context set by approved LDP <u>Change proposed</u> , text change to clarify requirements around transport assessment. <u>Change proposed</u> . The Council considers that

	than 10 years without any significant impact on environment. Acceptable duration for operations should be considered on an individual basis.	amended text is appropriate, to make allowance for sites without impacts on human receptors.
Mineral Products Association Scotland	<p>Does not consider that green belt is particularly sensitive landscape and that it is a tool for control of coalescence.</p> <p>The MPA Scotland is supportive of the statement that development proposals will be expected to be compatible the Midlothian LBAP. Evidence provided on the SSSIs hosted on UK mineral sites, potential to support priority habitats and reference made to UK Mineral Strategy viz. 'The industry will continue to deliver net gain in environmental assets, and will increasingly measure this in terms of natural capital and ecosystem services provided, such as biodiversity, water and flood management, recreation, and carbon sequestration.'</p>	<p><u>No change proposed</u>, the landscape value of the green belt is the separation between settlements and the setting it affords to the City of Edinburgh.</p> <p><u>No change proposed</u>, comment noted.</p>
Moorfoot Community Council	Considers that, with reference to Middleton Quarry in-fill, there should be more stringent criteria in relation to impacts on roads and other road users. This could include a requirement for shaker bars and/or a wheelwash, with a minimum length of surfaced road between those facilities and the public road.	<u>No change proposed</u> , provision made to reduce mud on roads and spillage in the guidance.
Roslin and Bilston Community Council	<p>Site implementation – restoration should be enforced</p> <ul style="list-style-type: none"> - Green belt and park areas excluded from development - Prime agricultural land should not be used <ul style="list-style-type: none"> – wishes SEPA involved at every stage and constant monitoring - Detailed consultations at start with bodies involved in biodiversity and green network plan - No excavation at or close to authenticated archaeological site - Routes lorries take must be clearly defined and developer responsible for any wear and tear or inconvenience. Certain roads excluded (such as Roslin Glen), wheel washers obligatory. - Cumulative effects considered, routes such as B6094, B7003 and A701. - Negative effects in a sensitive area best avoided through not developing there 	<u>No change proposed</u> , many of these matters are covered in the policy context established in the LDP, in respect of presumption against development outwith Areas of Search.
Scottish Environment	States that SEPA will be moving towards a new Integrated Authorisation Framework. The	<u>Change proposed</u> . Insert (alongside reference to

Protection Agency (SEPA)	activities that SEPA regulates in relation to the water environment are anticipated to remain the same.	CARS) reference to future change in SEPA regulatory framework.
Scottish Water	Points out in respect of section in SG seeking to protect the Water Environment that Scottish Water (SW) required to ensure that any proposed activity does not impact upon ability of SW to meet regulatory requirements. Under Article 7 of Water Framework Directive, waters used for drinking water are designated as Drinking Water Protection Areas (DWPA). The WFD has the objective of ensuring that the activity does not result in the deterioration of waters within the DWPA. Requests that any proposals or applications for mineral extraction are submitted to SW for review to assess for impact on drinking water quality and quantity, and below ground assets	<u>Change Proposed</u> . Insert additional text in Section 4 in respect of this comment.
<p>Changes proposed in respect of responses to Question 7.</p> <p>Additional text inserted in Section 4; ‘Midlothian Council will require to be satisfied that public water and sewerage infrastructure and Drinking Water Protection Areas are adequately protected. Applicants are advised to liaise with Scottish Water at an early stage of project design.’</p> <p>Amend text in respect of Section 7; Effect on the road network, to make reference to role of scoping in determining need for EIA to consider transport, and potential for stand-alone transport assessments at developments that do not require EIA: insert words ‘...scoping may determine a need for...’ and delete text reading ‘...this should include...’ and delete reference in brackets to ‘...depending on circumstances...’ and replace with freestanding sentence stating that Council may require stand alone Transport Assessment for smaller developments.</p> <p>Transport Assessment spelled out in full on all occasions (not using initials TA)</p> <p>Replace last sentence in respect of cumulative impacts with new text. ‘The SG seeks to avoid environmental effects on sensitive receptors. The Council is mindful of the potential effects of moderate impacts on a long term basis. Where such impacts are predicted on a community or individual dwellinghouse, the Council will require to be satisfied that the operators have minimised the duration of these, and that the overall impact in terms of intensity and duration of exposure is acceptable.’</p> <p>Insert additional text in Section 4 in respect of SEPA comments viz. ‘SEPA are moving towards a new Integrated Authorisation Framework, but the activities that SEPA regulates in respect of the water environment are anticipated to remain the same’.</p>		
Question 8 <i>Do you support the approach to monitoring?</i>		
Dalglish Associates	While setting up of CLC is good practice and should be encouraged, it should not be seen as a regulator	<u>Change proposed</u> . Extra text proposed to clarify role of the CLC.
Mineral Products	Respondent considers that it is implied that issues associated with opencast coal sector may be duplicated in quarry sector - little evidence to	<u>Change proposed</u> . Not intention of SG to imply commonality of problems,

Association Scotland	support this. Industry accepts that monitoring is a necessary requirement – this should have been undertaken throughout the operational lives of opencast coal workings to avoid the issues that have arisen.	have included text referring to matters specific to coal mines. Changes in wording proposed to section 10. on 'Robustness of restoration proposals' to remove focus on coal operations
Moorfoot Community Council	<p>Considers that there should be a clearer commitment to devoting Council resources to monitoring. Burden of monitoring should not be left to the community.</p> <p>Welcomes the developer funded compliance assessor approach, but considers that this leaves open question of what will happen at schemes which are not very large (which might be the only projects in Midlothian).</p>	<p><u>Change proposed.</u> Extra text proposed to clarify CLC role, and role of environmental agencies role.</p> <p><u>Change proposed,</u> Council considers that question of appropriate monitoring at small sites should be addressed flexibly, depending on nature of the proposal. Text changes make clear ongoing Council and other agency regulatory role.</p>
Roslin and Bilston Community Council	Supports approach to monitoring	<u>No change proposed</u> in respect of this representation.
Scottish Environment Protection Agency (SEPA)	Supports approach to monitoring, provided that a Watercare Environment Monitoring and Mitigation Plan covering the full life of the site, from operational through to closure and aftercare is required. Notes importance of link between monitoring and mitigation, and supports use of Technical Review Panels for more complex sites – where monitoring is reported and action taken where necessary.	<u>Change proposed (in part),</u> to make express reference to need for Watercare Environment Monitoring and Mitigation Plan in some cases (to be decided in consultation with SEPA).
SNH	Support proposed approaches of using existing development management processes; or - Compliance Assessor or 'Environmental Clerk of Works' for large projects.	<u>No change proposed</u> in respect of this representation.

Changes proposed in respect of responses to Question 8.

Insert additional text in Section 4, viz: 'In consultation with SEPA, The Council may require preparation of a Watercare Environment Monitoring and Mitigation Plan, covering the full life of the site (including operations and aftercare). At more complex sites, Technical Review Panels may be necessary (these panels will review the results of monitoring and take action where required).

Delete current text at start of section 10 (Robustness of proposals for restoration and aftercare) referring to coal industry task force. Replace with text 'The Council will seek high quality restoration which should at least restore the previous usefulness of the site, and shall seek enhancement of a sites environmental and biodiversity value where possible'

Insert text to make clear a CLC is not a regulator viz. 'This will not replace the regulatory activity carried out by the Council in respect of planning and other statutory functions, and the work of other environmental agencies.'

Insert text under section 10, monitoring sub point, viz. 'At smaller sites the Council will come to a judgement on the appropriate level of monitoring and oversight'.

Question 9. *Should the supplementary guidance with respect to restoration matters be split to recognise opencast coal extraction as an activity distinct from other types of minerals extraction, requiring a different approach?*

Coal Authority	No strong view on whether or not separate policy is required in respect of restoration for coal extraction. All works should be of the highest quality and be carried out in a timely manner and should seek where possible to enhance biodiversity and environmental value of the site.	<u>Change proposed</u> in respect of comments on site restoration and seeking enhanced biodiversity and environmental value
Dalglish Associates	Considers opencast coal and aggregates sites very different in terms of size and restoration liabilities re requirement to excavate and replace large quantities of overburden.	<u>No change proposed.</u> The Council proposes no intrinsic difference in treatment between aggregates quarries and coal mining, and proposes to treat them consistently (although the different nature of the development types may mean different approaches are taken, as the SG is applied).
Mineral Products Association Scotland	MPA Scotland consider that the guidance on restoration should differentiate between opencast coal and quarry operations as they differ considerably both in terms of scale of operations and their potential environmental risks and impacts.	<u>No change proposed.</u> The Council proposes no intrinsic difference in treatment between aggregates quarries and coal mining, and proposes to treat them consistently (although the different nature of the development types may mean different approaches are taken, as the SG is applied).
Moorfoot Community Council	Yes. Separate approaches needed.	<u>No change proposed.</u> The Council proposes no intrinsic difference in treatment between aggregates quarries and coal mining, and proposes to treat them consistently (although the different nature of the development types may mean different approaches are taken, as the SG is applied).
Roslin and Bilston Community Council	Considers that there is limited justification for additional coal extraction.	<u>No change proposed.</u> Position in respect of coal in the SG is governed by LDP, SDP and SPP.

Scottish Environment Protection Agency (SEPA)	Considers that issue is one of scale, adequate bonds need to be put in place to address restoration particularly at large surface coal mines where restoration issues can be complex.	<u>No change proposed.</u> MC notes SEPA response, restoration matters addressed later in SG.
SNH	Seeks coherent and consistent advice and requirements that applies to all extractive industries rather than split across types. Wishes approach to restoration which fits local landscape character, delivers enhancement for biodiversity and improved access for local communities. Long term management key part of restoration, encourages clarity on long term expectations.	<u>No change proposed.</u> The Council proposes no intrinsic difference in treatment between aggregates quarries and coal mining, and proposes to treat them consistently (although the different nature of the development types may mean different approaches are taken, as the SG is applied).
Changes proposed in respect of responses to Question 9. Insert additional text after comment on restoring to previous function viz: 'The Council will seek to secure restoration proposals which enhance the sites biodiversity and landscape value, as a long term benefit of the development'.		
Question 10. <i>Should the support for mine and quarry progress plans be strengthened to a requirement?</i>		
Coal Authority	No objection to introducing a requirement for Mine and Quarry Progress Plans (MQPP).	<u>Change proposed.</u> The Council considers that there may be some proposals (particularly those of short duration or one phase only) where such an approach would be superfluous, so propose to keep the current degree of flexibility in the draft SG. Propose extra text to clarify the situation where they are applicable.
Moorfoot Community Council	Yes, supports making MQPP a requirement.	<u>Change proposed</u> (but not in manner requested in representation). The Council considers that there may be some proposals (particularly those of short duration or one phase only) where such an approach would be superfluous, so propose to keep the current degree of flexibility in the draft SG. Propose extra text to clarify the situation where they are applicable.
Roslin and Bilston	Support for MQPP strengthened to a requirement	<u>Change proposed</u> (but not in manner requested in representation). The Council

Community Council		considers that there may be some proposals (particularly those of short duration or one phase only) where such an approach would be superfluous, so propose to keep the current degree of flexibility in the draft SG. Propose extra text to clarify the situation where they are applicable.
Scottish Environment Protection Agency (SEPA)	Considers that progress plans should be a requirement. States that this is particularly important at surface coal mines where a treatment scheme forms part of the restoration and needs to be in place within a defined timescale.	<u>Change proposed</u> (but not in manner requested in representation). The Council considers that there may be some proposals (particularly those of short duration or one phase only) where such an approach would be superfluous, so propose to keep the current degree of flexibility in the draft SG. Propose extra text to clarify the situation where they are applicable.
SNH	Considers that reference to Mine and Quarry Progress plans in SG suggests that they are a requirement	<u>Change proposed.</u> The Council considers that there may be some proposals (particularly those of short duration or one phase only) where such an approach would be superfluous, so propose to keep the current degree of flexibility in the draft SG. Propose extra text to clarify the situation where they are applicable.
Changes proposed in respect of responses to Question 10. Insert text in section referring to Mine and Quarry Progress plans viz. 'These, or another approved mechanism to document the phasing of the work and the planned progress towards environmental and site restoration, are necessary in large developments involving multiple phases.'		
Question 11 <i>Is it appropriate to require progress plans for aggregates quarries as well as coal mines?</i>		
Moorfoot Community Council	Yes. If this is now best practice, it is sensible to apply the approach to aggregates quarries too.	<u>No change proposed.</u> Noted, as written the SG supports the use of such plans for all types of mining and quarrying and it is proposed to retain this approach.

Roslin and Bilston Community Council	Yes approach should apply to aggregates quarries as well as coal mines	<u>No change proposed.</u> Noted, as written the SG supports the use of such plans for all types of mining and quarrying and it is proposed to retain this approach.
SNH	Considers that proportionate updating of actual resource extraction against planned extraction is important in order to accurately document the phasing of work and the planned progress towards environmental and site restoration.	<u>No change proposed.</u> Noted, as written the SG supports the use of such plans for all types of mining and quarrying and it is proposed to retain this approach.
Changes proposed in respect of responses to Question 11.		
No changes proposed.		
Question 12 <i>Do you support the approach set out in the SG with respect to securing site restoration?</i>		
Coal Authority	No objection to proposed method of securing site restoration.	<u>No change proposed.</u>
Dalglish Associates	Scottish Government guidance advises that legal agreements should not be used when planning conditions will suffice. In this respect it should be noted that restoration bonds can be secured by planning condition.	<u>Change proposed.</u> Approach to monitoring has been informed by work of the Scottish Opencast Coal Task Force, resulting in the report ('Surface Coal Mine Restoration: Towards Better Regulation.' Historically legal agreements have covered the financial guarantee and other matters that cannot be conditioned. There is a possibility that simpler systems of guarantee can be achieved: whether it is a legal agreement or a condition, it is simply acting as a framework to secure the funding. Additional sentence proposed below, and some slight textual changes are proposed to allow for different approaches to the same end.
Mineral Products Association Scotland	The industry would prefer use of planning conditions rather than Section 75 agreements as a means of securing financial provision for site restoration. States that this is supported by Scottish Government.	<u>Change proposed,</u> see response in respect of Dalglish Associates above.
Moorfoot Community Council	Yes. Phased restoration using escrow funds, substantially reduces the risk of abandonment.	<u>No change proposed</u> in respect of this representation, although text change proposed to permit

		consideration of other approaches.
Roslin and Bilston Community Council	Supports approach to site restoration.	<u>No change proposed</u> in respect of this representation, although text change proposed to permit consideration of other approaches.
Scottish Environment Protection Agency (SEPA)	Considers that the money could be profiled but the water environment at surface coal mines can be complex. The greatest risks might be after restoration, when water levels recover fully, with the potential for polluting discharges at the surface. The funding arrangements need to reflect this.	<u>Change proposed</u> , to reflect need for monies to be available at all stages, and potential for additional demand to fall after restoration.
SNH	Supports the proposed approach to securing site restoration. Refers to the recommendations made by SEPA/SNH in respect of setting up site restoration plan for Auchencorth Moss – focus should be on securing restoration funds as opposed to merely setting up site conditions suitable for restoration.	<u>No change proposed</u> in respect of this representation, although text change proposed to permit consideration of other approaches.
<p>Changes proposed in respect of responses to Question 12.</p> <p>Revise text at start of this section to read ‘The Council supports the use of ring-fenced funds secured through legal agreement to provide a robust financial instrument to effect restoration and aftercare’</p> <p>Insert additional text viz: Depending on the circumstances, the Council will consider other simpler approaches to securing site restoration, but it must at all times be demonstrated to the Council's satisfaction that there is no risk of a site being left in un-remediated condition.</p> <p>Insert additional text viz: ‘In the case of surface coal mines, funding arrangements must make allowance for handling any polluting discharges at the surface, post restoration when water levels have recovered fully’.</p>		
<p>Question 13. <i>Do you have any views on the best way to account for uncertainties and risk in restoration?</i></p>		
Dalglish Associates	Council makes reference to the compliance assessor. The regular assessment of the site will ensure that no site specific factors occur that will significantly increase restoration liability. The restoration liability could also be reviewed periodically by the assessor to ensure that any restoration funds are uplifted as required (or reduced if sufficient restoration has occurred).	<u>Change proposed (although not in manner requested by respondent)</u> . Midlothian Council would wish to avoid periodic review once a project has commenced in case additional monies cannot be raised. However, a small text change is proposed to provide greater clarity and readability.
Mineral Products Association Scotland	States that it may be appropriate to periodically review costs subject to a mutually acceptable timetable as they may decrease as well as increase.	<u>Change proposed (although not in manner requested by respondent)</u> . Midlothian Council would wish to avoid periodic review once a project

		has commenced in case additional monies cannot be raised. However, a small text change is proposed to provide greater clarity and readability.
Moorfoot Community Council	Considers that there should be provision for a suitably qualified person to be employed to assess the adequacy of the proposed funds, and their phasing, to inform the Council's approval of any schemes.	<u>No change proposed.</u> the SG refers to the potential for independent advice to determine sums required for restoration.
Roslin and Bilston Community Council	Considers that full EIA initially, with ring fenced funds for re-instatement including repair of roads is best approach	<u>No change proposed.</u> The Council considers that these matters are addressed adequately by the SG as written.
Changes proposed in respect of responses to Question 13. Change sentence that reads 'In determining ring fenced funds for restoration, the Council is concerned that adequate provision is made for restoration that may happen several years after the proposal is granted' to replace 'concerned' with 'must be assured'.		
Question 14. <i>Is it necessary for the supplementary guidance to provide a framework for long term monitoring beyond the active restoration stage?</i>		
Coal Authority	Useful to have a framework in place to guide long term monitoring following restoration	<u>Change proposed.</u> Additional text to provide further guidance on long term monitoring framework.
Mineral Products Association Scotland	Wishes all references to environmental monitoring that are within SEPA's remit to be removed from SG, as this would add duplication and potential complication, as would go against the principle that 'The planning system should not be used to secure objectives that are more properly achieved under other legislation', and that would be contrary to the principles of the Regulatory Reform (Scotland) Act 2014 and to Scottish Government policy and guidance.	<u>Change proposed.</u> Additional text to provide further guidance on long term monitoring framework (includes note to effect that planning system shall not duplicate regulation carried out by other bodies).
Moorfoot Community Council	<p>Yes. States that experience from coal industry shows that negative environmental impacts can occur long after a site is closed and restored. This is especially true when the restoration includes ongoing maintenance of drainage systems and water quality.</p> <p>Wishes to point out that Court of Session case determining "that a liquidator could not disclaim ownership" applied only to Scottish-registered companies. Abandoned sites that were in the ownership of non-Scottish companies were able to disclaim their restoration responsibilities.</p>	<p><u>Change proposed.</u> Additional text to provide further guidance on long term monitoring framework.</p> <p><u>Change proposed.</u> Additional text with regard to disclaiming land by non-Scottish companies.</p>
Roslin and Bilston	Considers it necessary to provide framework for monitoring beyond active restoration phase.	<u>Change proposed.</u> Additional text to provide further

Community Council		guidance on long term monitoring framework.
Scottish Environment Protection Agency (SEPA)	Long term monitoring of the water environment beyond the restoration stage is essential. Groundwater levels that have been lowered to enable operation can take a considerable period of time to recover. The aftercare period needs to reflect this and sufficient funding should be in place to mitigate any water environment issues, such as providing treatment where necessary.	<u>Change proposed.</u> Additional text to provide further guidance on long term monitoring framework.
SNH	States that it has been demonstrated through the open cast review and other evidential cases that it is important to monitor extraction sites over the long term. SEPA advice in terms of peat extraction for recent casework in Midlothian was that the best measure of successful restoration is how much of the site is actually restored. This requires yearly survey, reporting and maintenance action for a period of at least 10 years if the best available methods are used, but this can be significantly longer if alternative methods are used.	<u>Change proposed.</u> Additional text to provide further guidance on long term monitoring framework.

Changes proposed in respect of responses to Question 14.

Additional text proposed to provide further guidance on long term monitoring framework, Viz;

‘Depending on the nature of the proposal, long term monitoring of the water environment beyond the restoration stage may be required. The aftercare period should ensure that where groundwater levels have been lowered, their recovery is assessed, and that any identified water environment matters are addressed.

‘The duration of the ongoing monitoring will depend on the nature of the site and the features that are being restored, so the monitoring periods indicated below may be adjusted in particular circumstances.

‘Trees, planting and landscaping, fences, walls, boundaries, and other features identified in restoration plans shall be maintained for a period of 5 years from the time of completion (including replacement of any trees or plants which die or are damaged within that period).

Water features, including ditches and watercourses should also be maintained for 5 years. Longer term monitoring of the water environment may be required. Scotland’s environmental agencies already carry out monitoring of the water environment, and the nature of this is to be determined in conjunction with them to avoid regulatory duplication.’

Additional text proposed with regard to peat, viz ‘The LDP policy framework means that other than ‘Review of Old Mineral Application (ROMP) cases, no new development where peat itself is the target of the extraction is likely to be acceptable. Extraction of another mineral in an area where peat is present may be permissible if the restoration creates a long term environment conducive to the preservation and formation of additional peat reserves. Such restoration is likely to require a particular long term monitoring and aftercare solution.’

Additional text proposed with regard to disclaiming land by non-Scottish companies, may require a test case involving such a company or further legislation to resolve. In view of the ambiguity, and as the reference does not relate to an active provision of the SG, this reference (viz. ‘was

useful in clarifying that a liquidator could not disclaim ownership and thus liabilities associated with land' shall be deleted, and replaced by 'provided some additional clarity in cases of liquidation.'

In paragraph referring to long term objectives post restoration, replace 'post-restoration' with 'ultimately', to better reflect ongoing nature of aftercare duties beyond immediate restoration phase.

To focus landscape works on required goals, Remove reference to 'functionally useful' in respect of the landscape solution.

Question 15. *Please provide any comments you wish to make about any part of the Supplementary Guidance on Resource Extraction not addressed by the other questions.*

Moorfoot Community Council	<p>Q15. Expresses concern that the policy context is out of date and dysfunctional in light of evidence on climate change.</p> <p>Although understanding that the role of SG is limited, considers that the introduction and policy context sections should make reference to the changing scientific and policy context on fossil fuels.</p> <p>Considers that SG should make reference to the Strategic Aim set out in section 1.3 of the MLDP: viz "To respond robustly to the challenges of mitigating climate change and adapting to its impacts".</p> <p>Considers that giving "sufficient weight to the avoidance of long term environmental impacts and greenhouse gas emissions" from coal extraction means stopping the use of coal all together, and that this should be reflected in the guidance.</p> <p>Considers that the SG has already noted that the national policy on unconventional gas overrides Policy MIN3 of the MLDP, suggests that finalisation of SG should be delayed until the Scottish Government's position on other fossil fuel extraction, notably coal, is clarified in the context of responses to the IPCC Report.</p>	<p><u>No change proposed</u> in respect of these representations. Scottish Government has not imposed moratorium on opencast coal, and SPP provisions remain in place.</p>
Roslin and Bilston Community Council	<p>Strongly wishes to stress that opposed to any future unconventional oil and gas extraction.</p>	<p><u>No change proposed.</u> Opposition to oil and gas extraction noted, but no requirement to change text of SG further, as it reflects the Scottish Government moratorium:</p>

	Other matters: opposes any quarrying in the Roslin and Bilston CC area. Opposes unconventional oil and gas extraction in Roslin and Bilston Community.	<u>No change proposed.</u> Note opposition to quarrying in Roslin and Bilston area. There are no areas of search identified there, so the policy does not support quarrying there:
Scottish Environment Protection Agency (SEPA)	<p>Wishes to point out in relation to surface coal mining, the useful SEPA guidance on mineralogical assessment, water environment monitoring, contingency planning and post closure monitoring.</p> <p>Considers the proposed approach to onshore oil and gas appropriate, but considers that timetable for government coming to decision may need updating.</p>	<p><u>Change proposed.</u> Note the guidance, do not consider it necessary to replicate in this Guidance, but propose to insert link to introduce it.</p> <p><u>Change proposed</u> to reflect progress with SEA process on government's policy review: consultation launched in October 2018, Ministers will inform Parliament of Finalised Policy on the development of unconventional oil and gas in first quarter of 2019.</p>
Scottish Water	Scottish Water wishes to highlight need for early contact with SW to ensure that assets are protected viz. multiple strategic assets at Cauldhall Moor, 3" cast iron water distribution main at Outerston, 5" cast iron water distribution main at Halkerston North and strategic assets following the B6372.	<u>Change proposed</u> to reflect need to liaise with SW and protect assets.
<p>Changes proposed in respect of responses to Question 15.</p> <p>Insert additional paragraph into section 4, viz. 'Midlothian Council will require to be satisfied that public water and sewerage infrastructure and Drinking Water Protection Areas are adequately protected. Applicants are advised to liaise with Scottish Water at an early stage of project design.'</p> <p>In respect of text on onshore oil and gas, reflect current understanding of timetable by deleting word 'formalised' and replace with 'set out to the Scottish Parliament' and delete reference to 'summer 2018' and replace with 'the first quarter of 2019.' Amend introduction to insert addition to 2nd sentence in last paragraph of introduction, viz: 'subject to Strategic Environmental Assessment and further consideration by the Scottish Parliament in 2019'. Amend last sentence of introduction so that reference to revisiting approach if national policy changed is taken out of brackets and put in sentence of its own.</p> <p>Insert additional text, 'Where surface coal mining is proposed, applicants are advised to consider SEPA's assessment framework for evaluating the potential impact of opencast coal mining on water quality.'</p>		
Additional changes that Midlothian Council (Planning) consider requisite.		
Midlothian Council	Alter reference to processing agreement to use words 'may wish to enter' rather than will enter'	<u>Change proposed</u>

	to reflect that these agreements are voluntary for both parties.	
Midlothian Council	<p>Ensure reference made to Management of Extractive Waste (Scotland) Regulations 2010 and potential need for Waste Management Plan, through following additional text:</p> <p>‘The Management of Extractive Waste (Scotland) Regulations 2010 places consenting requirements for applications involving extractive waste upon the planning system. Applications are required to submit a Waste Management Plan to demonstrate compliance with the regulations. The Council is required to ensure that the management of extractive waste complies with the Regulations.</p> <p>‘The nature of aggregates development in Midlothian to date, has been such that the sites have generated low risk inert waste - unpolluted soils covering the mineral. The backfilling of such waste into voids created on site, following extraction of the target mineral, will usually be the least intrusive and lowest risk approach to handling the waste. The Council will require to be satisfied that all mineral waste is stored safely and appropriately, pending backfilling. In any cases involving non-hazardous non-inert waste or hazardous waste the Council will liaise with the appropriate agencies (including SEPA and the Health and Safety Executive) to determine whether or not the proposal is acceptable, and to consider the appropriateness of the waste handling arrangements.’</p>	<u>Change proposed</u>
Midlothian Council	To make the guidance more user friendly, seek to remove abbreviations not in common use: references to MQPP to be spelled out in full each time and written in lower case.	<u>Change proposed</u>
Midlothian Council	<p>Insert additional sentence in introduction to provide additional context, and relationship with other guidance, viz:</p> <p>‘The Scottish Government guidance PAN50 and its annexes provide detail on good practice in mineral extraction: it is not the purpose of the SG to replicate these, but this guidance reflects further development since these were published, particularly in the fields of community involvement, site restoration, handling mineral waste and air quality; as well as approaches which seem to be most appropriate in the context of Midlothian.’</p>	<u>Change proposed</u>

Midlothian Council	<p>Insert additional text to provide for higher standards based on evolving air quality strategy, viz:</p> <p>‘The Scottish Government is reviewing Cleaner Air for Scotland (CAFS) and if more stringent national standards are adopted, then it must be demonstrated to the satisfaction of the Council, that these can be met in the minerals application.’</p>	<u>Change proposed</u>
Midlothian Council	In Section 7 Transport, replace reference to ‘the site’ with ‘operational sites’. Reason: for clarity.	<u>Change proposed</u>

Resource Extraction Supplementary Guidance

Contents

1 Introduction 2

2 Policy Context 2

3 Detailed Criteria for Mineral Extraction 14

4 Onshore Oil and Gas 30

5 Glossary 31

6 Appendix 1 - list of questions 33

7 Appendix 2 - Letter from Scottish Government 34

TRACK CHANGE November Committee RE SG

1. Introduction

Introduction.

This proposed Supplementary Guidance (SG) seeks to secure best practice in resource extraction, and to strike the right balance between protecting our environment and extracting these materials.

The Midlothian Local Development Plan 2017 commits to producing Supplementary Guidance (SG) on Resource Extraction in respect of Policies MIN2 and MIN3. Policy MIN1 is also relevant in terms of establishing areas of search for minerals extraction.

The purpose of the SG is to provide criteria for assessing applications for surface mineral working, setting out further detail on the matters raised in Policy MIN2 Surface Mineral Extraction. **The Scottish Government guidance PAN50 and its annexes provide detail on good practice in mineral extraction: it is not the purpose of the SG to replicate these, but this guidance reflects further understanding since these were published, particularly in the fields of community involvement, site restoration, handling mineral waste and air quality; as well as approaches which seem to be most appropriate in the context of Midlothian.**

The MLDP requires the Supplementary Guidance to provide further detail on policy MIN3 (Onshore Oil and Gas). The Scottish Government has subsequently reached a settled policy position of not supporting the extraction of unconventional oil and gas. In Midlothian Council's view, this national statement overtakes Policy MIN3, so there is no need to provide further guidance at this time (this position could be revisited if the national policy was revised in future).

2. Policy Context

Policy Context

Construction Minerals. Scottish Planning Policy requires that planning authorities ensure that a landbank of permitted reserves for construction aggregates equivalent to a minimum of 10 years past extraction rates are available at all times in all market areas. Work has been undertaken under the auspices of the Strategic Development Planning Authority for Edinburgh and South East Scotland (SESplan) to establish whether such a landbank is in place. The MLDP was prepared in the context of the first SDP for south east Scotland (SDP1) which pointed to a possible emerging shortage in sand and gravel reserves. Midlothian Council considers that Midlothian on its own does not constitute a market area and that it is reasonable to consider South East Scotland as the relevant market area for hard rock, sand and gravel.

TRACK CHANGE November Committee RE SG

Subsequent SESplan findings in respect of the 2nd Strategic Development Plan (SDP2) are set out in the Proposed Strategic Development Plan Minerals Technical Note [SDP2 Technical Note](#)

This technical note pointed to adequate reserves, but suggested that there might be emerging longer term supply constraints for sand and gravel. The Scottish Government's 2012 Scottish Aggregates Survey (published in 2015) indicates that there are consented reserves of between 15 and 32 years for hard rock and between 32 to 34 years for sand and gravel.

SESplan will establish a Minerals Working Group (SDP Proposed Plan paragraph 4.18) to monitor the aggregate situation over the SDP2 plan period, and this will be useful in providing further evidence to support implementation of the MLDP. There are limits to the degree to which the supply of minerals can be planned for in a quantitative way. Even where the presence of a construction mineral is indicated on resource maps, the volume, quality and consequent scale of the marketable resource that can be derived from a given land area cannot be precisely calculated by the planning authority. There is no procedure to apportion aggregate requirements to individual authorities.

In Midlothian, the existing Outerston site has seen a slower extraction rate than expected at the time of consent, and an application has been granted to continue until the end of 2025. Given the impact of the 2008/09 financial crisis, which will have reduced recent extraction rates and the likely future demand from increased house-building and major projects in South East Scotland over the life of the Midlothian Local Development Plan (MLDP), it appeared prudent to seek to identify additional reserves. The MLDP proposes an extended area of search for sand and gravel at Dalhousie and confirms the existing area at Outerston.

Policy MIN1 identifies areas of search for Mineral Extraction (for aggregate minerals as well as for coal working), and establishes a presumption against working outwith areas of search.

The MLDP strategy for Mineral Working with respect to aggregate minerals, comprises:

- Temple Quarry (Outerston) on its existing boundaries
- Expansion of sand extraction at Upper Dalhousie, in addition to Temple Quarry.

Policy MIN2 provides criteria against which minerals applications are to be assessed, and establishes the need for Supplementary Guidance to provide further detail.

Energy minerals. Scottish Planning Policy makes clear that the planning system should recognise the national benefit of indigenous coal, oil and gas production in maintaining a diversity and security of supply (paragraph 235). In examining the MLDP, the Reporters concluded that it is reasonable and appropriate for the local plan to identify resources.

TRACK CHANGE November Committee RE SG

Coal. Combustion of fossil fuels releases greenhouse gases. Policies at European Union (EU) and nation level are designed to meet international commitments to reduce the release of these gases. These policies have had the effect of making coal less attractive over time. A long term future for coal may be secured if carbon capture and storage (CCS) can be developed successfully.

The Electricity Generation Policy Statement (EGPS) 2013 examines the way in which Scotland generates electricity and considers the changes necessary to meet SG targets. The Scottish Government's policy is that renewable generation should operate alongside upgraded and more efficient thermal stations, and that there should be a particularly strong role for CCS.

The National Planning Framework for Scotland 3 (NPF3) identifies proposals for new and replacement generation facilities at sites including Grangemouth, Cockerzie and Longannet using Carbon Capture and Storage (paragraph 3.19). Some of these may be coal fired, and this may provide the basis for a continuing role for the coal industry in Scotland.

The approved Strategic Development Plan (SDP1) for Edinburgh and South East Scotland required LDPs to identify areas of search (or where appropriate individual sites for minerals extraction, including coal. This has been reflected in the MLDP, to which this Supplementary Guidance relates. The Report of the examination into SDP2 recommends that Local Development Plans identify areas of search where coal extraction is most likely to be acceptable over the plan period, to support a diverse energy mix, giving sufficient weight to the avoidance of long term environmental impacts and greenhouse gas emissions from their use.

The MLDP strategy for coal comprises areas of search at

- Cauldhall Moor (a new area of search established in the MLDP)
- Halkerston North (an established area of search carried over from previous adopted plans).

These areas of search for coal are set out in Policy MIN1, which establishes the presumption against working outwith areas of search. Policy MIN2, provides criteria for the assessment of applications and sets the need for and context for this Supplementary Guidance.

The recent decline of the surface coal extraction industry (including liquidation of several large operators) has raised concerns regarding the robustness of restoration arrangements. This matter has been considered by the Scottish Government's opencast coal mines taskforce, and this Supplementary Guidance seeks to reflect best practice in securing site restoration.

TRACK CHANGE November Committee RE SG

The EU Mining Waste Directive (2006/21/EC) is relevant in relation to site and waste management (for all types of mineral development). The Directive affects extractive waste (that is waste produced by the extraction and processing of mineral resources). The regulations that give effect to the Directive seek to introduce a proportionate and risk based approach to dealing with mining waste, which is to be applied primarily through the planning system. Through supporting an approach of progressive extraction and restoration and dealing with mineral waste locally by re-filling voids on site; the Supplementary Guidance seeks to support implementation of the Directive.

Oil and Gas. The description 'unconventional gas' is applied to cover the range of activities which in Scotland's geology include extraction of coal bed methane and shale gas production. The MLDP policy which relates to this sector is titled 'Onshore Oil and Gas' (the term unconventional gas had not gained the same degree of public usage when the plan was written but the supporting text makes it clear that hydraulic fracturing and coal bed methane extraction are the focus of the policy).

The Scottish Government commissioned an Independent Expert Scientific Panel on Unconventional Oil and Gas Extraction, which reported in 2013. In 2015 the Government introduced a moratorium pending work on planning and environmental regulation, a health impact assessment and a public consultation on unconventional oil and gas. In October 2017 a statement to the effect that the Scottish Government does not support the development of unconventional oil and gas was issued. The Government requires to conclude Strategic Environmental Assessment (SEA) processes before the policy position can be finalised. The letter from the Chief Planner to the Heads of Planning Scotland is included as an Appendix 2. The indefinite moratorium was the subject of a legal challenge, however this was dismissed in June 2018.

Policy MIN3 outlines the principles by which an oil and gas application would have been assessed. The further detail which was to have been provided in this Guidance is now no longer required due to the national policy position.

TRACK CHANGE November Committee RE SG

Policy MIN1**Areas of Search for Surface Mineral Extraction**

The following locations are identified on the Proposals Map as areas of search where future surface mineral extraction may be acceptable in principle:

Sand and Gravel

- Outerston (Temple Quarry)
- Upper Dalhousie

Opencast Coal

- Cauldhall Moor
- Halkerston North

Identification as an area of search does not indicate the Council's acceptance of any particular proposal for the winning and working of a surface mineral resource within any or all of that area of search.

Outwith the areas of search, there is a presumption against surface mineral extraction.

Hard rock quarrying will not be permitted unless it is for an extension to an existing dormant hard rock quarry and it is environmentally acceptable in terms of policy MIN2 and the other policies of the Plan.

Safeguarding of mineral resources

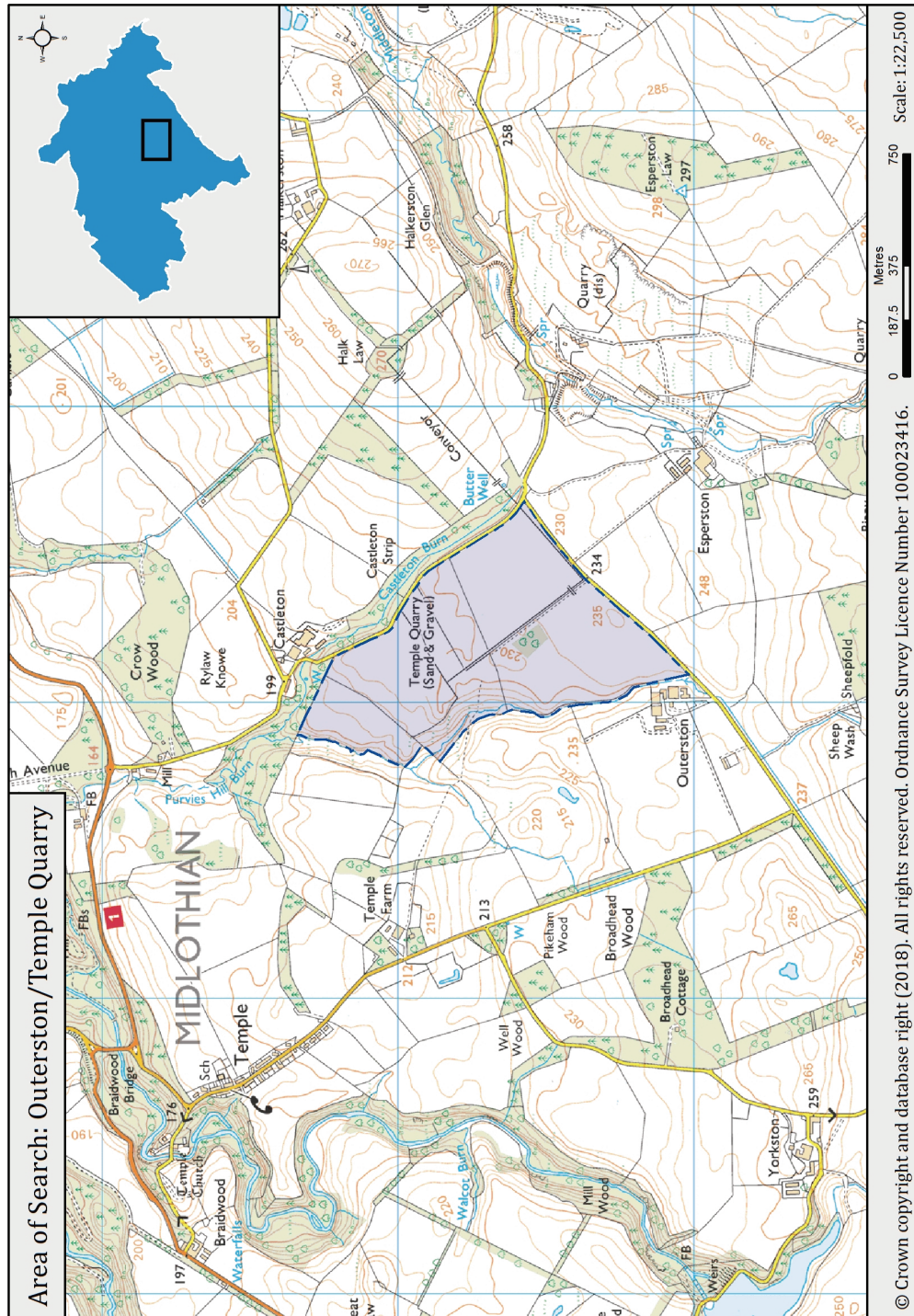
Mineral resources will be safeguarded from sterilisation by other types of development, where the deposits are of sufficient scale or quality to be of commercial interest and their extraction would be environmentally acceptable and would not conflict with the development strategy for the area.

In respect of the safeguarding aspect of this policy, the Areas of Search reflect areas where there has been active interest in developing mineral resources. The reserves in these areas will be the main focus of protection from sterilisation. In the case of coal reserves, the Council will take into account the recommended 500m buffer in Scottish Planning Policy between

TRACK CHANGE November Committee RE SG

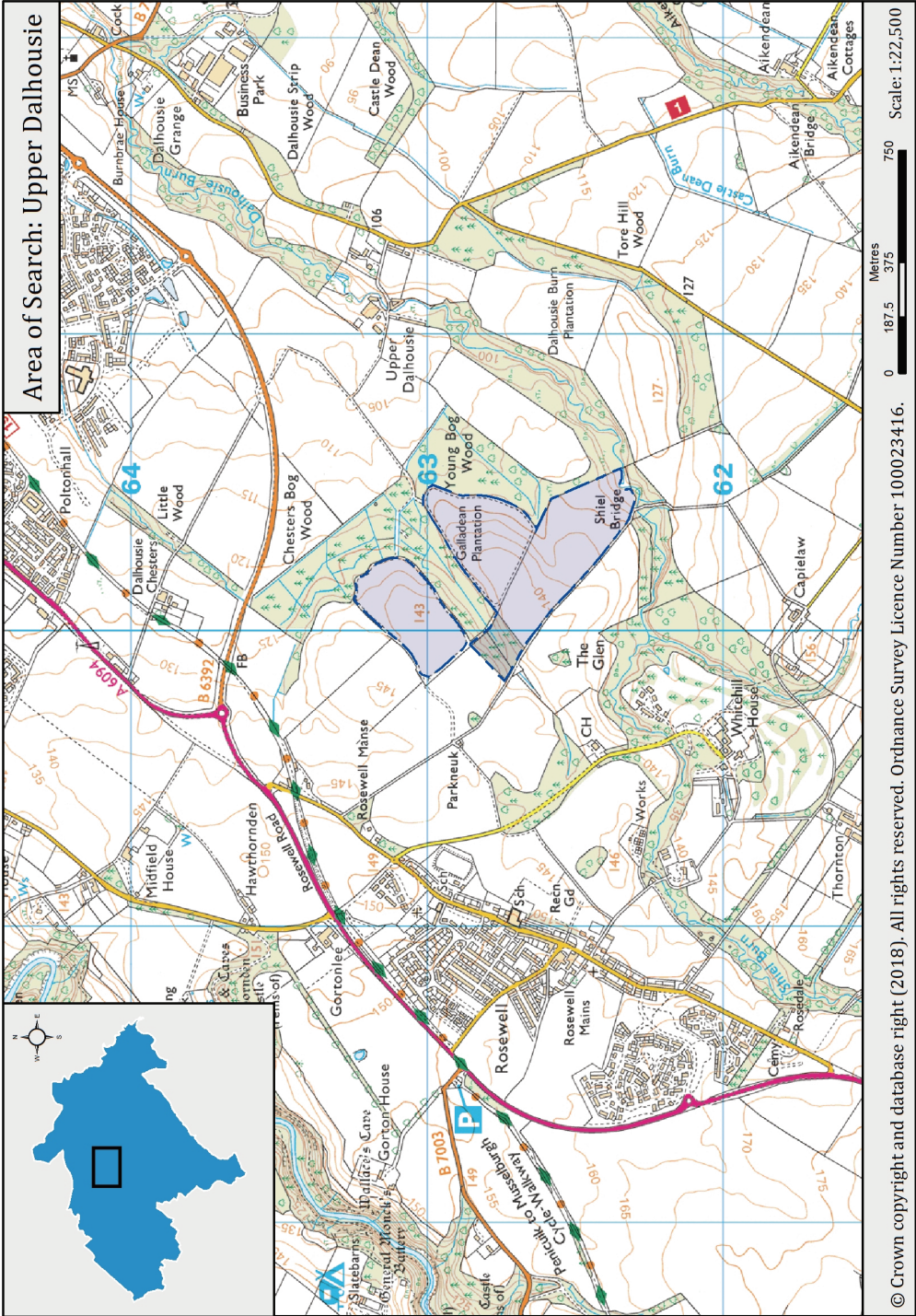
site boundaries and settlements (recognising that it is unlikely that coal would be worked at the very edge of an area of search) in determining the potential of development proposals to sterilise the resource. The Council will come to a judgement in other cases outwith the area of search, where a valuable resource is brought to its attention.

TRACK CHANGE November Committee RE SG



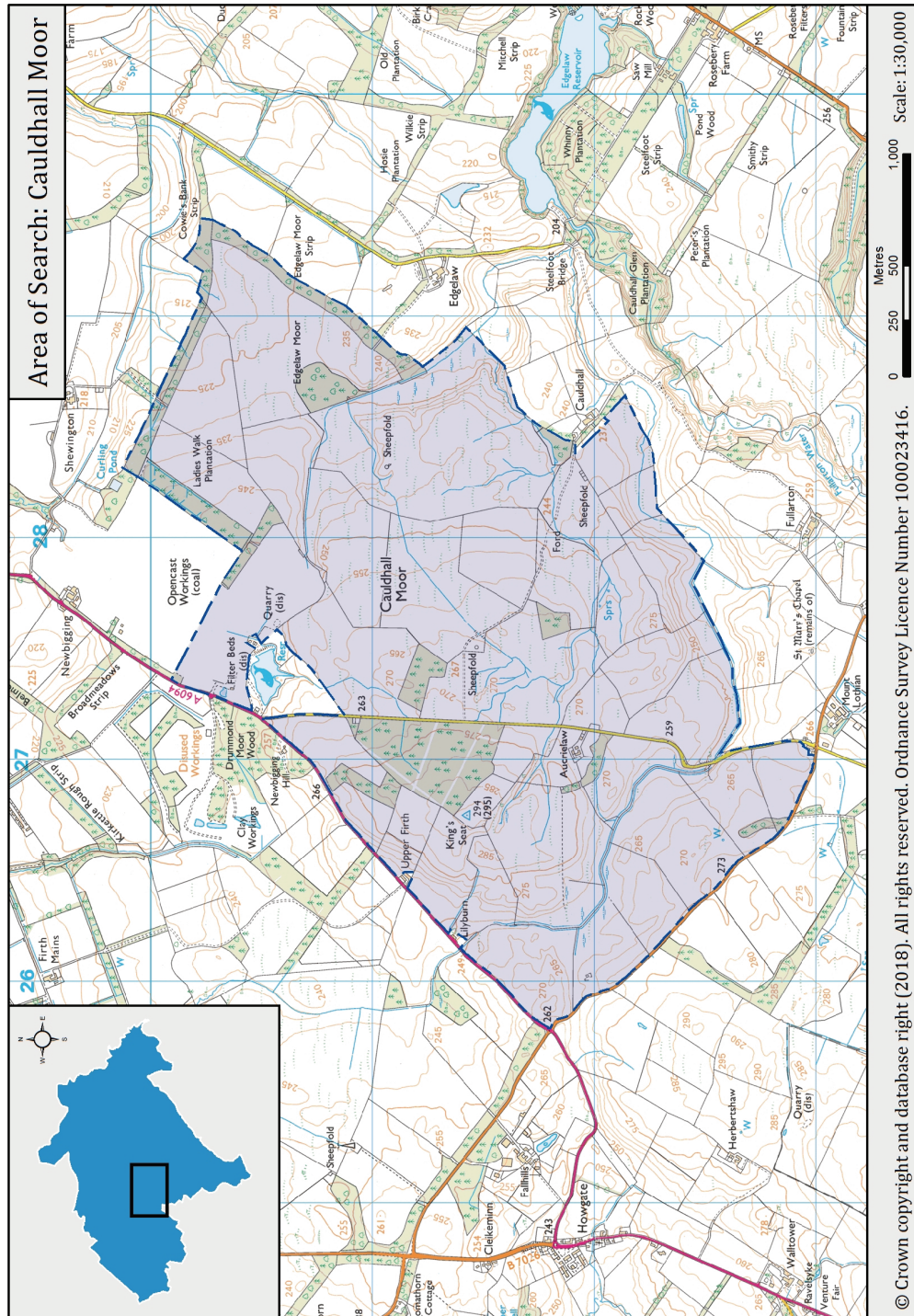
Policy MIN1 Area of Search - Outerston

TRACK CHANGE November Committee RE SG

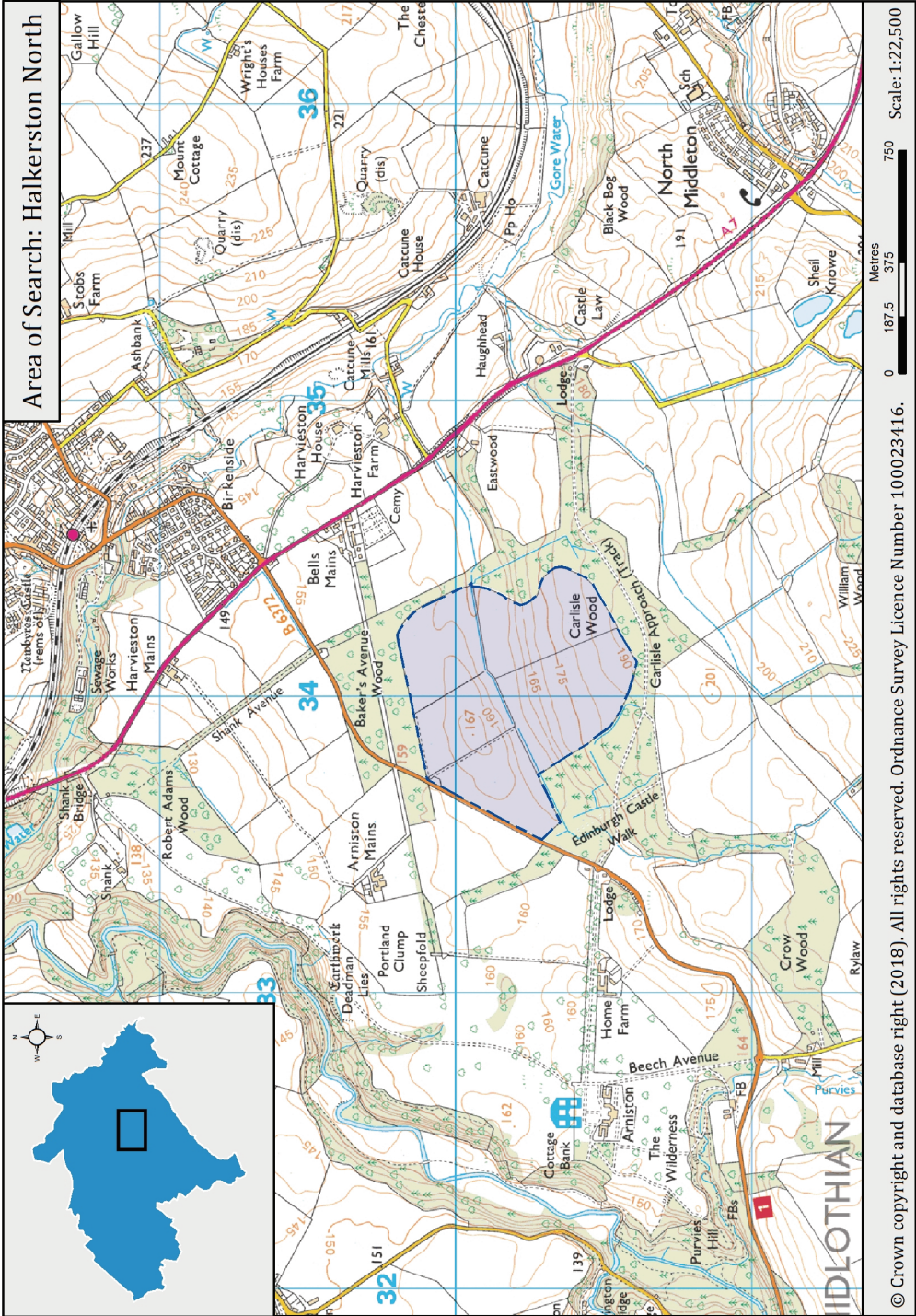


Policy MIN1 Area of Search - Upper Dalhousie

TRACK CHANGE November Committee RE SG



Policy MIN1 Areas of Search - Cauldhall Moor



Policy MIN1 Area of Search - Halkerston North

TRACK CHANGE November Committee RE SG

Policy MIN2**Surface Mineral Extraction**

Proposals for mineral extraction are required to meet the criteria set out in the Supplementary Guidance on *Resource Extraction*. They will not be permitted where they would have a significant adverse effect on communities, sensitive uses or the environment and will only be supported if the Council is satisfied that they are acceptable in relation to the following matters, as detailed in the Supplementary Guidance:

- effect on the health and amenity of settlements, communities and housing groups or other sensitive uses;
- effect on the landscape, in particular that of the Green Belt, Pentland Hills Regional Park, and Special Landscape Areas;
- effect on soils, in particular prime agricultural land, and peatland;
- effect on the water environment;
- effect on nature conservation and biodiversity, in particular sites of international, national or local nature conservation value;
- effect on the historic environment, in particular: Conservation areas, scheduled monuments, listed buildings, historic gardens and designed landscapes, historic battlefields, significant archaeological sites (and, where relevant, the settings of the aforementioned designated areas or buildings);
- effect on the road network, particularly local roads;
- cumulative effects of the proposal when combined with other consented or operational mineral extraction or landfill activities;
- effect on the local economy in terms of tourism, leisure or recreation; and
- robustness and suitability of proposals for restoration and aftercare.

In determining applications for surface coal extraction, the Council will also consider any beneficial impacts from extraction in terms of site remediation and stabilisation, or other permanent physical benefits to the community.

TRACK CHANGE November Committee RE SG

The extraction of a secondary material (for example, fireclay from a coal extraction site) is supported provided that its removal does not detract from high quality restoration, or have unacceptable environmental effects (including from cumulative vehicle movements).

In order that the supply and demand for aggregates can be monitored, operators of new aggregates sites will be required to supply annual statements of production and remaining reserves.

Policy MIN 3**Onshore Oil and Gas**

Proposals for oil and gas extraction will not be permitted where they would have a significant adverse effect on communities, sensitive uses or the environment. Proposals will be assessed with reference to the Supplementary Guidance on Resource Extraction. All proposals for appraisal, exploration or production must demonstrate proposals for suitable restoration and aftercare should development cease at any phase of extraction.

TRACK CHANGE November Committee RE SG

3. Detailed Criteria for Mineral Extraction

This proposed Supplementary Guidance is for consultation. There are questions throughout on particular matters where we would like to hear your view. You may answer as many of these questions as you wish. The last question is 'open', allowing you to make further comments about the SG.

Planning Process matters

Under The Town and Country Planning (Environmental Assessment) (Scotland) Regulations 2017, proposed quarries and open cast mining (where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares) shall require Environmental Impact Assessment (EIA), as part of the planning application process. Smaller quarrying or mining operations require to be screened for EIA based on the characteristics of the development, its location and impacts.

The EIA process includes scoping, whereby the required scope of the assessment is established, through a dialogue between the planning authority, the applicant and other stakeholders.

Midlothian Council recommends that promoters of mineral applications engage in pre-application discussions in order to shape proposals ahead of statutory pre-application consultation, environmental assessment and application phases. In some complex cases the Council and applicant ~~will~~ **may wish to** enter into a processing agreement, as a means of managing a complicated application. Such an agreement may recognise that some applications will take longer than the statutory period to determine. The need for such an agreement and its scope should be determined at pre-application stage.

There are statutory requirements for Pre-Application Consultation (PAC) between a prospective applicant and communities. Minerals developments of more than 2 hectares surface area are classed as 'major' development within the meaning of the regulations and are required to carry out a PAC: Scottish Government Circular 3/2013 Development Management Procedures (revision 1.0) provides further information) <http://www.gov.scot/Publications/2013/12/9882/0>

For larger minerals developments (those **where site area is greater than 25ha requiring EIA**), Midlothian Council recommends the establishment of Community Liaison Committees to involve communities and ensure their voice is heard as a minerals site is worked and restored. **The Council will come to a judgement on the need for CLCs at other minerals developments based on the nature of the proposal and the proximity of human population and communities.**

TRACK CHANGE November Committee RE SG

These should include representatives of the community, developer and planning authority, and meet at appropriate intervals (to be determined in the circumstances of the development) over the duration of the project.

Question 1

Should a stronger requirement for the establishment of Community Liaison committees be included?

Question 2

Should the guidance be more prescriptive on how Community Liaison committees operate?

Policy MIN2 - detailed criteria.

Policy MIN1 of the MLDP presumes against surface mineral extraction outwith Areas of Search. Policy MIN2 does not permit proposals for mineral extraction where they would have a significant adverse effect on communities, sensitive uses or the environment, and will only be supported if the Council is satisfied that they are acceptable in relation to a number of matters outlined in the policy, to be detailed in supplementary guidance.

The bullet points established in the policy are numbered below, with further detail as appropriate.

1. Effect on the health and amenity of settlements, communities and housing groups or other sensitive uses

Extraction involving surface coal extraction or other extraction involving blasting is very unlikely to be acceptable if the site is within 500 metres of an existing settlement or a proposed expansion allocated through the MLDP. In some cases the Council may accept a case for the separation distance to be adjusted, depending on the local circumstances of the proposal (for example the location of engineering operations or working faces): this will have to be fully justified and ensure protection of any sensitive nearby uses.

TRACK CHANGE November Committee RE SG

Extraction is very unlikely to be acceptable where environmental impact assessment indicates that significant adverse impacts would be experienced at an individual dwellinghouse or sensitive establishment (including residential institutions) which cannot be mitigated satisfactorily.

Where environmental impact assessment indicates that unacceptable impacts would be experienced at an individual property, and the applicant proposes to address this by relocating affected residents for the duration of the works, the Council must be satisfied that this is achievable and that there is no resident left at unacceptable environmental exposure.

Proposals must meet acceptable standards for levels of ground or airborne vibration and levels of dust and noise emissions set out in PAN50 and its annexes, or at more demanding levels where specified in this SG (whichever provides the highest environmental standard), or at a more demanding level if future revised national guidance indicates that this is appropriate. At scoping stage the Council and applicant will agree the locations to be assessed and the target values which must be achieved.

The Council will seek adherence to the following environmental standards.

Air Quality and Dust. The Council will require air quality and dust matters to be addressed in minerals planning applications. The proposed activities over the life of the development, wind speeds and direction, sensitive receptors, topography and other factors likely to exacerbate or screen dust, should be considered.

The primary health concern is from fine dust particulates. In the case of fine dust particles (PM₁₀ or less) consideration of sensitive receptors may extend up to 1km from the site. At the scoping stage the Council may require a dust assessment study (as part of EIA, or separately if the scheme does not trigger EIA) which may generate minimum stand off distances to sensitive receptors.

The Council will require applicants to demonstrate good environmental practice with respect to dust. This should include appropriate mitigation and control measures, including but not limited to: location of dust generating activities so that as far as possible they are located away from or screened from sensitive neighbours; provision of screening (whether in the form of bunding or planting) **at an appropriate stage of the development** to reduce connectivity between source and receptor, mitigation through water sprays, establishment of working methods that take account of weather conditions, planting/seeding on earth mounds to bind soils, and sheeting/ wheel washing of haulage vehicles leaving the site.

The Council will require a detailed scheme of monitoring to be carried out by site operators, with results to be reported to the planning authority (and also to Community Liaison Committees, where established) to ensure compliance with planning conditions.

TRACK CHANGE November Committee RE SG

The release of fine particulate material is a matter which affects public health and is covered by limits set by EU directives and Scottish Government guidelines. For particulate matter (PM₁₀) exposure at any sensitive receptor must not exceed 50 microgrammes per cubic metre over any 24 hour period or 18 microgrammes per cubic metre averaged across a year. Very fine particulate matter (PM_{2.5}) should not exceed 10 microgrammes per cubic metre averaged across a year. These target values shall apply at all locations where members of the public might be regularly exposed.

PM₁₀ and PM_{2.5} emissions are also associated with road traffic emissions (and are more likely to be problematic in heavily congested areas). This is a matter to be addressed by the Transport Assessment element of any EIA, which will consider the effect of haulage traffic on congestion. The Council may require further evidence how this interacts with any Air Quality Management Areas (AQMA) extant at the time of the application. The Council will wish to be satisfied that minerals applications in all cases do not give rise to conditions that would necessitate the establishment of further AQMAs.

In assessing air quality the Council will require to be satisfied that the standards set out above are not breached by the combination of the process contribution of the minerals operation and background particulate levels.

Dust deposition should not exceed more than 200 milligrams per square metre per day, at any sensitive location—, including schools, dwellinghouses, residential institutions, sites protected by international, national or local heritage designations, water courses and adjacent bankside habitats, and peatlands (as identified on the carbon and peatland 2016 map or successor documents).

Question 3

The Council has chosen the most demanding of the range of acceptable deposition rates quoted in Scottish Government guidance to reflect rising environmental expectations. Do you agree with this approach?

Noise. The Council will require noise matters to be addressed in minerals planning applications. Irrespective of the maximum noise values set out below, the Council shall seek and require best practice so that noise is reduced and contained as much as possible. The Council will consider the range of operations on the site, their potential to cause noise, and the need to restrict operating hours (see provisions elsewhere in this SG on blasting and HGV access).

TRACK CHANGE November Committee RE SG

Noise assessment (which may form part of an EIA) should establish the baseline conditions, and estimate likely noise arising from each aspect of the development at source and at sensitive receptors identified through scoping of the application. The Council will require noise standards that reflect the existing noise regime in a locality. In a quiet rural area, where the background noise level is 35dB (A) or less, noise limits will be set at 45dB $L_{Aeq} (1 \text{ hour})$ (free field) at an identified sensitive location such as a residential property. In areas of higher background noise, limits of up to a maximum 55dB $L_{Aeq} (1 \text{ hour})$ (free field) may be acceptable at sensitive locations, but in each case the Council will come to a judgement based on background conditions and the advice of Environmental Health professionals (see the glossary for explanation of noise terminology).

The Council will require a detailed scheme of monitoring to be implemented by site operators, with results to be reported to the planning authority, to ensure compliance with planning conditions and remedy of any problems that may occur. Where Community liaison committees have been established, results of monitoring will also be shared with them.

Temporary noisy uses: Higher noise levels for temporary operations (no more than 8 weeks in a year) of up to 70dB $L_{Aeq} (1 \text{ hour})$ (free field) may be acceptable. The Council would need to be satisfied that these temporary operations were necessary, were for as short a period of time as possible, and could be accomplished within 8 weeks in a given year. At very sensitive locations the Council may require the provision of temporary noise screening in advance of commencement of temporary noisy operations.

Question 4

Is the approach to noise, including suggested noise limit values appropriate?

Vibration. In assessing applications the Council will wish to be satisfied that the proposals represent the best current practice in respect of any blasting proposals. In cases where blasting is used (likely only to arise in the case of hard rock quarrying, or where a rock overburden covering the mineral is to be removed) times of blasting should be agreed with the planning authority in advance. The Council will require blasting to be restricted to set days of the week and times that minimise the impact on the locality. Efforts should be made to inform the community prior to any blasting (including through a community liaison committee, where established).

Ground vibration as a result of blasting experienced at any sensitive receptor must not exceed a peak particle velocity (PPV) of 12 millimetres per second (mm/s), average levels should not exceed 10mm/s, and 95% of all blasts shall not exceed a PPV value of 6mm/s. The Council will also wish to be satisfied that transfer values (or magnification levels) have

TRACK CHANGE November Committee RE SG

been taken into account, reflecting that vibration may be higher at upper levels in a building than at ground level. The Council may impose lower PPV levels in cases where there is particular sensitivity such as vibration sensitive industry, a Category A listed building or Scheduled Ancient Monument, or an area prone to subsidence through historic mining activities (the Council will require to be satisfied that an applicant has explored this thoroughly, particularly so that the presence of traditional 'stoop and room' mining areas, which have been prone to collapse, is identified).

It should be demonstrated to the Council's satisfaction, that activities other than blasting cause no significant vibration effects at a dwellinghouse, residential institution, school or at another sensitive building. Depending on the nature of the site and the proposals, the Council may require appropriate wildlife surveys to be carried out. These will be necessary prior to the commencement of any blasting programme and will inform the Council about any measures required to avoid impacts on wildlife.

Question 5

Is the approach to vibration, including the values for PPV appropriate?

Operating hours (including heavy goods vehicles arriving or leaving the site) should be restricted to daytime Monday to Friday (0800 to 1900) and half day Saturday (0800 to 1300) and excluding main public holidays (Easter, Christmas and New Year), unless justified in relation to the specific circumstances of the application: **starting hours of 0700 may be permissible where it is demonstrated to the Council's satisfaction that the noise and amenity impact on communities and dwelling places is minimal.** Some essential and low impact activities, to be agreed in conditions, may be permitted outwith these hours. There are particular controls on when blasting may occur (see matters on vibration, above).

Question 6

Do you agree with the proposed controls on operating hours?

2. Effect on the landscape

Operations should avoid permanent adverse effects on the landscape and seek to avoid significant short term effects. For developments requiring EIA, the Council will establish viewpoints for the assessment of the proposal at scoping stage. For non-EIA development the Council will seek early discussion on landscape matters. Proposals must minimise the

TRACK CHANGE November Committee RE SG

visual impact of the operations on the surrounding landscape through the careful design and phasing of the workings and overburden mounds, together with the provision of screening bunds where appropriate. Where mineral workings are likely to be of prolonged duration, the proposal should commence reinstatement as part of a phased restoration (reference should be made to the section on Restoration and Aftercare for guidance on long term reinstatement of sites).

The Green Belt and Pentland Hills Regional Park are particularly sensitive landscapes and have specific support in other policies of the MLDP. The Council is unlikely to support extraction in these areas (in addition to the presumption against extraction outside Areas of Search). The Council is unlikely to support extraction in Special Landscape Areas other than at the established Area of Search at Halkerston North - development here will be required to demonstrate a particularly careful plan of working and high restoration quality, to reflect the sensitivity of the locality.

The Council wishes to see the long term enhancement of landscape quality at minerals sites. The restoration should reflect the local landscape character.

3. Effect on soils, in particular prime agricultural land, and peatland

Development involving loss of prime agricultural land and peatland will only be acceptable subject to the Council being satisfied that adequate provision for restoration has been made (see restoration matters below). This will require applicants to set out arrangements for soil removal, storage and reinstatement. In most cases reinstatement should be on site, although in very limited circumstances set out in 'Restoration Matters' high quality agricultural soils may be removed from a site and used in restoration elsewhere.

For peat deposits left in situ, the Council will require to be satisfied that developers can maintain a site hydrology that preserves the peat formation, as the site is developed around the deposit. Where extraction of peat itself is the object of the extraction, related Policy ENV5 Peat and Carbon Rich Soils gives significant protection to Peatland, and extraction of peat is only acceptable in very specific circumstances outlined in Policy ENV5.

The Council will require any Regionally Important Geological and Geomorphological Sites (RIGS) to be protected. **So that agricultural efficiency is preserved the Council will require site operators to control weeds and vermin.**

4. Effect on the water environment

The River Basin Management Plan (RBMP) for Scotland considers the current status and pressures on the water environment, and sets objectives to be achieved. The aim of the RBMP is to (i) ensure no worsening in water body status and (ii) to bring about the progressive improvement of all water bodies to good status over time. The Scottish Environment

TRACK CHANGE November Committee RE SG

P r o t e c t i o n A g e n c y (S E P A) w a t e r
environment hub <https://www.sepa.org.uk/data-visualisation/water-environment-hub/> provides
details on the status and objectives of each water body.

The Council will require to be satisfied that negative effects, which would cause the status of a water body to be lowered, or which would have a deleterious effect on the attainment of the environmental objectives for a water body as set out in the River Basin Management Plan, are avoided. Water quality, the physical condition of a water body and maintenance of flow and recharge rates to surface and ground waters will be key matters for consideration.

Where there are private water supplies likely to be impacted by the proposal, the Council shall require to be satisfied that a safe and wholesome supply is maintained or require an alternative mains supply to be provided at the developer's expense.

SEPA regulate a number of activities in relation to the water environment under the Controlled Activities Regulations (CAR). [SEPA CAR regulations guide](#)

Midlothian Council will work closely with SEPA in considering water environment effects of resource extraction proposals, to ensure that planning conditions support the standards required by CAR, but also to reduce any duplication of effort in monitoring.

Midlothian Council will require to be satisfied that public water and sewerage infrastructure and Drinking Water Protection Areas are adequately protected. Applicants are advised to liaise with Scottish Water at an early stage of project design.

5. Effect on nature conservation and biodiversity

Development proposals will be expected to be compatible with the aims and objectives of the Midlothian Local Biodiversity Plan. This means compensating for any losses, ensuring maintenance of green networks and connectivity and seeking to leave a legacy of improved networks as part of the restoration. Reference should be made to the Supplementary Guidance on Green Networks and the planning guidance on Nature Conservation in the formulation of any proposals.

Nature conservation sites are classified by importance, with varying levels of protection afforded to them. The Council will require to be satisfied that the provisions of MLDP policies in respect of Internationally Important Nature Conservation Sites (ENV12), Nationally Important Nature Conservation Sites, Regionally and Locally Important Nature Conservation Sites (ENV14) and Species Protection and Enhancement (ENV15) are met.

Depending on the nature of the site and the proposals, the Council may require appropriate wildlife surveys to be carried out. These will be necessary prior to the commencement of any blasting programme and will inform the Council about any measures required to avoid impacts on wildlife.

TRACK CHANGE November Committee RE SG

6. Effect on the historic environment

The Council will require to be satisfied that the provisions of MLDP policies in respect of Conservation Areas (ENV19), Nationally Important Gardens and Designed Landscapes (ENV20), Nationally Important Historic Battlefields (ENV21), Listed Buildings (ENV22), Scheduled Monuments (ENV23), Other Important Archaeological or Historic Sites (ENV24) are met.

In the case of a site affecting an identified site of archaeological importance the provisions of Policy ENV25 (Site Assessment, Evaluation and Recording will apply).

The Council may also require archaeological evaluation where its archaeological advisors or scoping for an Environmental Impact Assessment of a site indicate that this is requisite.

7. Effect on the road network; particularly local roads

The Council will require to be satisfied that the proposal can be accessed acceptably with regard to safety, amenity and congestion. Where development requires EIA, **scoping may determine a need for this should include** an appropriate Transport Assessment ~~(although depending on circumstances)~~ **Transport Assessment** (The Council may require stand alone **Transport Assessment** for smaller developments). The cumulative impact of the proposal together when taken together with committed projects will be considered. Network improvements may be sought prior to commencement of operations. The Council may require use of a specified haul route.

The Council may require a roads condition assessment prior to use of the haul route, with a follow up assessment following cessation of operations and recharge to remedy any damage.

Lorries should be sheeted and their wheels cleaned before leaving the site.

8. Cumulative effects of the proposal when combined with other consented or operational development, including other mineral extraction or landfill activities

The Council will require to be satisfied that there are no unacceptable adverse impacts at a sensitive receptor as a result of cumulative effects. In cases where EIA is required these will be identified at scoping stage.

Proposals must minimise environmental disturbance through the removal of all minerals in a single operation from any site where this is economically feasible. Proposals must include, as far as is practicable, supporting information indicating the operator's understanding of the availability of mineral reserves in adjoining land and their interest in any likely future extensions to their proposed workings. ~~The Council will seek to ensure that no community or individual sensitive receptor is subject to more than 10 years of continuous extraction.~~

TRACK CHANGE November Committee RE SG

The SG seeks to avoid environmental effects on sensitive receptors. The Council is mindful of the potential effects of moderate impacts on a long term basis. Where such impacts are predicted on a community or individual dwellinghouse, the Council will require to be satisfied that the operators have minimised the duration of these, and that the overall impact in terms of intensity and duration of exposure is acceptable.

9. Effect on the local economy in terms of tourism, leisure or recreation

The Council will not support minerals proposals where it considers negative effects on the economy outweigh the benefits of the proposal. The Council may require this matter to be considered further through assessment of socio-economic affects (this may be part of an Environmental Impact Assessment).

Through site restoration the Council may support improvements to the local path network (depending on the circumstances of the site), in particular links that support the objectives of the Green Network Supplementary Guidance.

Question 7

Do you have any views on the other detailed criteria with respect to site implementation?

10. Robustness and Suitability of proposals for restoration and aftercare

The Council will seek high quality restoration which should at least restore the previous usefulness of the site. ~~This aspect of minerals operations is particularly important, to avoid a repetition of past problems in the coal sector, and potentially in other mineral operations as well. There has been much recent In respect of coal mining, the work in this area by the Scottish Opencast Coal Task Force, resulting in the report ('Surface Coal Mine Restoration: Towards Better Regulation.'~~ The Council will seek to secure restoration proposals which enhance the sites biodiversity and landscape value, as a long term benefit of the development.

TRACK CHANGE November Committee RE SG

Statement 1**Objectives of site restoration and aftercare.**

To promote safety. Dangerous voids, potential falls and drowning hazards must be avoided.

To ensure that the environment and any other important features of the site are restored to the previous or better condition.

Monitoring. At the planning application stage the Council will determine monitoring points and the frequency of monitoring, and the reporting arrangements. For very large applications the Council will support use of a Compliance Assessor or 'Environmental Clerk of Works' approach - a monitoring service funded by but independent of the applicant to ensure that environmental standards are complied with. **At smaller sites the Council will come to a judgement on the appropriate level of monitoring and oversight.** The Council encourages the setting up of Community Liaison Committees as a way to increase community oversight of an operation and increase mutual understanding between the community, operators and regulators. **This will not replace the regulatory activity carried out by the Council in respect of planning and other statutory functions, and the work of other environmental agencies.**

Question 8

Do you support the approach to monitoring?

Question 9

Should the supplementary guidance with respect to restoration matters be split to recognise opencast coal extraction as an activity distinct from other types of minerals extraction, requiring a different approach?

Proposals must include schemes for both restoration and any required aftercare of the site.

At large sites operators should adopt progressive restoration to limit the impact of the development, minimise waste and reduce their exposure to restoration costs.

TRACK CHANGE November Committee RE SG

The Council supports the drawing up of a Mine or Quarry Progress Plan (MQPP) as part of a planning application. **These, or another approved mechanism to document the phasing of the work and the planned progress towards environmental and site restoration, are necessary in large developments involving multiple phases.** The purpose of the plan is to provide transparency and oversight to ensure projects are developed and restored as intended. The **mine or quarry progress plan MQPP** would form the basis of the agreed working and restoration programme, and be secured by condition. The planning authority (and where appropriate the community liaison committee as well) would monitor implementation of the Progress Plan.

Question 10

Should the support for mine and quarry progress plans be strengthened to a requirement?

Question 11

Is it appropriate to require progress plans for aggregates quarries as well as coal mines?

Following a consultation in 2017, the Scottish Government introduced a new fees regime for monitoring surface coal mines (Circular 2/2017 fees for monitoring surface coal Mining Sites (Scotland) regulations 2017). For mineral operations other than coal, Midlothian Council may seek a legal agreement to support monitoring arrangements (the scale of the monitoring to be determined as proportionate on the basis of the sensitivity and scale of the proposals).

Restoration and Aftercare. The Council will require to be satisfied that there are adequate funds in place to restore the site at all phases of operations, including a margin for risks and uncertainty. The Council may seek independent advice to determine these sums.

The Council **supports the use of** ~~considers that a~~ ring-fenced funds secured through legal agreement ~~is the best form of~~ to **provide a robust** financial instrument to effect restoration and aftercare. This would be a fund expressly set aside for this purpose. Depending on the site characteristics, the amount of money in the fund might be linked to the sequence of activities in the MQPP and 'profiled' so that the amount in the fund steps up as each stage of extraction proceeds, then steps down again as liabilities are reduced by sequential restoration. The fund would have to be topped up to exceed inflation, and to include allowance

TRACK CHANGE November Committee RE SG

for risk. The fund would be set aside from other creditors in the event of a company liquidation, and be available in the event of such a failure to the Council and other agencies carrying out restoration work.

This approach builds on the accepted practice in Midlothian of using Section 75 agreements to fund essential infrastructure; where the requirements for funds are agreed in advance by the parties in a legally binding agreement, release of funds is triggered at different stages of development, and funds are clearly ring fenced for a specific purpose.

Depending on the circumstances, the Council will consider other simpler approaches to securing site restoration, but it must at all times be demonstrated to the Council's satisfaction that there is no risk of a site being left in un-remediated condition.

Question 12

Do you support the approach set out in the SG with respect to securing site restoration?

In determining ring fenced funds for restoration, the Council ~~is concerned~~ **must be assured** that adequate provision is made for restoration that may happen several years after the proposal is granted. Aside from general inflation costs factors such as (for example) labour or plant hire may increase at a greater rate, or a site specific factor may emerge which could increase costs beyond what was envisaged.

Question 13

Do you have any views on the best way to account for uncertainties and risk in restoration?

Where coal measures are extracted, the landscape should be restored to one closely resembling the original landform by the retention and reinstatement of overburden material, following removal of the coal seams. The scheme of planting should seek to restore or if possible enhance what was there before. Where mineral aggregates are extracted the Council accepts that restoration of the former landscape may not be possible, but will seek the creation of ~~an functionally useful and~~ attractive landscape solution which reflects the local landscape character.

TRACK CHANGE November Committee RE SG

The establishment of a new landscape may take many years after the cessation of extraction. The role of aftercare and restoration is to carry out an agreed 'active' phase, after which the land can be handed on new stewardship, and the active monitoring of the planning service can cease. In respect of coal sites only, the regulations in Circular 2/2017 allow for site visits of dormant and inactive sites, with provision for monitoring fees to be recovered from the operator. Midlothian Council generally seeks the restoration of mineral sites to closely follow the extraction phase as part of one operation and does not wish to see the creation of new dormant or inactive sites.

It should be remembered that there are underlying responsibilities and liabilities which fall to owners of land: the December 2013 Court of Session case (SEPA and others vs liquidators of the Scottish Coal Company) **provided some additional clarity in cases of liquidation.** ~~was useful in clarifying that a liquidator could not disclaim ownership and thus liabilities associated with land.~~ In such 'worst case' scenarios however, Midlothian Council wishes to ensure that restoration funds are held apart from any liquidation process, through the establishment of ring-fenced funds. The Scottish Mines Restoration Trust can provide support for restoration of coal sites, but the objective of this guidance is to avoid adding to the stock of such legacy sites.

Question 14

Is it necessary for the supplementary guidance to provide a framework for long term monitoring beyond the active restoration stage?

The duration of the ongoing monitoring will depend on the nature of the site and the features that are being restored, so the monitoring periods indicated below may be adjusted in particular circumstances.

Trees, planting and landscaping, fences, walls, boundaries, and other features identified in restoration plans shall be maintained for a period of 5 years from the time of completion (including replacement of any trees or plants which die or are damaged within that period).

Water features, including ditches and watercourses, should also be maintained for 5 years. Longer term monitoring of the water environment may be required. Scotland's environmental agencies already carry out monitoring of the water environment and the nature of this is to be determined in conjunction with them to avoid regulatory duplication.

Where prime agricultural land (particularly classes 1 or 2) is found on site, the Council expects valuable soils to be stored and reinstated on site. In exceptional circumstances the soils might be removed from the site and employed at another location where they may be of

TRACK CHANGE November Committee RE SG

continuing value (for example in a bing restoration scheme). This would have to be justified to the satisfaction of the Council (for example where the site was to be developed for another use following extraction).

In the case of extraction under or alongside peatland, the Council expects peat to be stored and reinstated. This will require careful attention to the hydrology of the restored site; the aim should be to propagate the formation of new peat as time goes on, which might be a long term benefit in a location where the hydrology and the peat resource has been damaged by previous human intervention. The Council may require some peat deposits to be left in situ, and will be guided by advice received in the development management process from SNH and SEPA. Cases where the extraction of peat itself is the objective are addressed below in related policy MLDP Policy ENV5 (Peat and Carbon Rich Soils). **The LDP policy framework means that other than 'Review of Old Mineral Application (ROMP) cases, no new development where peat itself is the target of the extraction is likely to be acceptable. Extraction of another mineral in an area where peat is present may be permissible if the restoration creates a long term environment conducive to the preservation and formation of additional peat reserves. Such restoration is likely to require a particular long term monitoring and aftercare solution.**

In respect of water environment monitoring and restoration matters, the Council will wish to be satisfied that proposals demonstrate that they have identified best practice at design, extraction and restoration phase. The Council may require monitoring of water quality and flow volumes sufficient to determine that the water environment has not been adversely affected. The interaction between mining operations and the water environment is also likely to be subject of the Controlled Activities Regulations (CAR) managed by SEPA. The Council will establish provision through conditions and use of ring fenced restoration funds, such that where monitoring results suggest that a change in the operating method or additional measures are necessary, the requisite amelioration can be made. SEPA CAR enforcement procedures may also provide regulation in this respect. The objective is that post restoration, the level of monitoring required at a water body potentially affected by mineral development, should be no more than was necessary in its pre-development condition.

The Management of Extractive Waste (Scotland) Regulations 2010 places consenting requirements for applications involving extractive waste upon the planning system. Applications are required to submit a Waste Management Plan to demonstrate compliance with the regulations (in some cases the nature of the waste may be such that it is possible to waive the requirement). The Council is required to ensure that the management of extractive waste complies with the Regulations.

The nature of aggregates extraction in Midlothian to date has been such that the sites have generated low risk inert waste - unpolluted soils covering the mineral. The backfilling of such waste into voids created on site, following extraction of the target mineral, will usually be the least intrusive and lowest risk approach to handling the waste. The Council will require

TRACK CHANGE November Committee RE SG

to be satisfied that all mineral waste is stored safely and appropriately, pending backfilling. In any cases involving non-hazardous non-inert waste or hazardous waste the Council will liaise with the appropriate agencies (including SEPA and the Health and Safety Executive) to determine whether or not the proposal is acceptable, and to consider the appropriateness of the waste handling arrangements.

Other Matters

Secondary minerals: The extraction of a secondary material (for example fireclay from a coal extraction site) is supported provided that its removal does not detract from high quality restoration, or have unacceptable environmental effects (including from cumulative vehicle movements).

Information for aggregates supply monitoring. So that the supply and demand for aggregates can be monitored, and to measure compliance with the required 10 years landbank in SPP, operators of new aggregates sites will be required to supply annual statements of production and remaining reserves.

TRACK CHANGE November Committee RE SG

4. Onshore Oil and Gas

Onshore Oil and Gas.

The activities of coal bed methane extraction and oil and gas extraction through hydraulic fracturing (also known as unconventional gas extraction) were subject to a moratorium in Scotland at the time of the preparation of the Midlothian Local Development Plan, as the Scottish Government conducted further assessment and consultation. The Scottish Government has subsequently settled on a policy position of not supporting the development of unconventional oil and gas (the letter of October 3rd 2017 from the Chief Planner to the Heads of Planning Scotland refers, see Appendix 2). The final Scottish Government position is subject to Strategic Environmental Assessment, and is likely to be formalised in Summer 2018. A legal challenge to this position was heard in the Court of Session and dismissed in June 2018.

This new national policy position overtakes Policy MIN3, and the Council does not propose to set out further guidance on the assessment of oil and gas applications. Should the national policy position be changed (in which case the Scottish Government may wish to issue additional environmental and regulatory guidance), this aspect of the SG may be revisited.

Question 15

Please provide any comments you wish to make about any part of the Supplementary Guidance on Resource Extraction not addressed by the other questions.

TRACK CHANGE November Committee RE SG

5. Glossary

Aggregates landbank - a measure of the consented reserves that could come forward, usually expressed as a years equivalent supply based on recent extraction rates.

Coal Bed Methane (CBM) extraction. Process of de-watering old coal workings to allow trapped gas to be collected.

dB (A) - Measure of sound level weighted to reflect those frequencies audible by the human ear.

Environmental Impact Assessment (EIA) - Process of assessment required for certain applications. This may be required either without screening (known as Schedule 1 of EIA, in the case of mining sites with area 25ha or greater); or found to be required for other applications after screening and consideration of the characteristics of the development and its location (known as Schedule 2 development). EIA requires environmental factors to be considered and outlined, including consideration of the methodologies to be adopted (process known as scoping). Environmental Assessment can then take place, considering the significance of the environmental effects, and potential to mitigate negative/ accenuate any postive factors.

Free Field - a sound measuring location, typically a few metres from the facade of the sensitive location being assessed, away from reflective sound surfaces.

Hydraulic Fracturing - use of high pressure water and sand proppant to break open and collect oil and gas from shale deposits.

$L_{Aeq, T}$ - Equivalent Continuous Sound Level, this measure takes all of the sound events experienced over a specified time period (T), and expresses these as an average or as if experienced as a continuous sound level.

L_{A90T} - Measure of background noise levels. Noise level (adjusted for amplitudes heard by the human ear - the A rating), exceeded for 90% of the time over a time period (T).

Peak Particle Velocity - measure of ground vibration, the maximum velocity experienced by a particle as the wave propagated by (for example) blasting or traffic passes through. Usually expressed in millimetre per second (mm/s), representing the highest value measured in one of three mutually perpendicular planes.

PM_{10} and $PM_{2.5}$ - These are measures of small dust particulates (PM_{10} refers to average diameter between 2.5 and 10 micrometres, $PM_{2.5}$ refers to average diameter of less than 2.5 micrometres. These small particles are a particular focus of Scottish air quality policy due their health effects (larger dust particles and grit are more of a nuisance and amenity factor as they are too large to enter the respiratory system).

TRACK CHANGE November Committee RE SG

River Basin Management Plan (RBMP) - a system of plans actuated by the EU Water Framework Directive, involving assessment of water body quality (water bodies including groundwaters, and 'quality' also considering water body morphology and quantity), with the requirement not to let a water body fall in quality status, with all water bodies expected to achieve good status over time.

Sensitive Receptor - terminology used in Environmental Impact Assessment referring to an entity that is sensitive (for example a dwellinghouse, or a natural habitat) and which may receive environmental impact from a development. A goal of EIA is to identify these in relation to each of the environmental factors and then test to see whether resulting impacts on them are or can be made acceptable.

Unconventional Gas - collective term for extraction of hydraulic fracturing for shale oil and gas and coal bed methane extraction.

TRACK CHANGE November Committee RE SG

6. Appendix 1 - list of questions

Question 1. Should a stronger requirement for the establishment of Community Liaison committees be included?

Question 2. Should the guidance be more prescriptive on how Community Liaison committees operate?

Question 3. The Council has chosen the most demanding of the range of acceptable deposition rates quoted in Scottish Government guidance to reflect rising environmental expectations. Do you agree with this approach?

Question 4. Is the approach to noise, including suggested noise limit values appropriate?

Question 5. Is the approach to vibration, including the values for PPV appropriate?

Question 6. Do you agree with the proposed controls on operating hours?

Question 7. Do you have any views on the other detailed criteria with respect to site implementation?

Question 8. Do you support the approach to monitoring?

Question 9. Should the supplementary guidance with respect to restoration matters be split to recognise opencast coal extraction as an activity distinct from other types of minerals extraction, requiring a different approach?

Question 10. Should the support for mine and quarry progress plans be strengthened to a requirement?

Question 11. Is it appropriate to require progress plans for aggregates quarries as well as coal mines?

Question 12. Do you support the approach set out in the SG with respect to securing site restoration?

Question 13. Do you have any views on the best way to account for uncertainties and risk in restoration?

Question 14. Is it necessary for the supplementary guidance to provide a framework for long term monitoring beyond the active restoration stage?

Question 15. Please provide any comments you wish to make about any part of the Supplementary Guidance on Resource Extraction not addressed by the other questions.

TRACK CHANGE November Committee RE SG

7. Appendix 2 - Letter from Scottish Government

Local Government and Communities Directorate
Planning and Architecture Division



Scottish Government
Riaghaltas na h-Alba
gov.scot

T: 0131-244 7528
E: chief.planner@gov.scot

Heads of Planning

03 October 2017

Dear Sir/Madam,

CONTROL OF UNCONVENTIONAL OIL AND GAS DEVELOPMENTS

The Scottish Government has today announced that, on the basis of available evidence, the Scottish Government does not support the development of unconventional oil and gas in Scotland.

The Scottish Government will continue to use planning powers to give effect to this policy. THE TOWN AND COUNTRY PLANNING (NOTIFICATION OF APPLICATIONS) (UNCONVENTIONAL OIL OR GAS) (SCOTLAND) (NUMBER 2) DIRECTION 2015, which gave effect to the moratorium on unconventional oil and gas, will continue to remain in force.

The notification arrangements are on the same basis as the Direction issued on 28 January 2015.

As required under the Environmental Assessment (Scotland) Act 2005, the Scottish Government will shortly commission a Strategic Environmental Assessment of our preferred position on unconventional oil and gas.

Regards

John McNairney
Chief Planner

Victoria Quay, Edinburgh EH6 6QQ
www.gov.scot



COMMUNICATING CLEARLY

We are happy to translate on request and provide information and publications in other formats, including Braille, tape or large print.

如有需要我們樂意提供翻譯本，和其他版本的資訊與刊物，包括盲人點字、錄音帶或大字體。

Zapewnimy tłumaczenie na żądanie oraz dostarczymy informacje i publikacje w innych formatach, w tym Braillem, na kasecie magnetofonowej lub dużym drukiem.

ਅਸੀਂ ਮੰਗ ਕਰਨ ਤੇ ਖੁਸ਼ੀ ਨਾਲ ਅਨੁਵਾਦ ਅਤੇ ਜਾਣਕਾਰੀ ਤੇ ਹੋਰ ਰੂਪਾਂ ਵਿੱਚ ਪ੍ਰਕਾਸ਼ਨ ਪ੍ਰਦਾਨ ਕਰਾਂਗੇ, ਜਿਨ੍ਹਾਂ ਵਿੱਚ ਬਰੇਲ, ਟੇਪ ਜਾਂ ਵੱਡੀ ਛਪਾਈ ਸ਼ਾਮਲ ਹਨ।

Körler için kabartma yazılar, kaset ve büyük nüshalar da dahil olmak üzere, istenilen bilgileri sağlamak ve tercüme etmekten memnuniyet duyuyoruz.

اگر آپ چاہیں تو ہم خوشی سے آپ کو ترجمہ فراہم کر سکتے ہیں اور معلومات اور دستاویزات دیگر شکلوں میں مثلاً بریل (تایپا افراد کے لیے) بھرے ہوئے حروف کی لکھائی میں، ٹیپ پر یا بڑے حروف کی لکھائی میں فراہم کر سکتے ہیں۔



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

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

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

2 BACKGROUND

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

3 DEVELOPMENT PLAN UPDATE

- 3.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan June 2013 (SDP1) and the Midlothian Local Development Plan 2017 (MLDP). The MLDP was adopted by the Council at its meeting of 7 November 2017. The proposed Strategic Development Plan (SDP2) has been subject to examination by Scottish Government Reporters and is with the Scottish Ministers for final consideration.

4 RECOMMENDATION

- 4.1 The Committee is recommended to note the major planning application proposals which are likely to be considered by the Committee in 2019 and the updates for each of the applications.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 15 January 2019
Contact Person: Peter Arnsdorf, Planning Manager
peter.arnsdorf@midlothian.gov.uk
Tel No: 0131 271 3310

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

APPENDIX A

MAJOR APPLICATIONS CURRENTLY BEING ASSESSED

Ref	Location	Proposal	Expected date of reporting to Committee	Comment
17/00408/DPP	Land at Old Craighall Road, Millerhill	Erection of 506 residential units; formation of access roads, SUDs features and associated works	January 2019	Pre-Application Consultation (14/00415/PAC) carried out by the applicants in June - September 2014. This application is reported to this meeting of the Committee.
17/00409/DPP	Land at Wellington Farm, Old Craighall Road, Millerhill	Erection of 116 residential units; formation of access roads, SUDs features and associated works	January 2019	Pre-Application Consultation (14/00415/PAC) carried out by the applicants in June - September 2014. This application is reported to this meeting of the Committee.
17/00435/DPP	Land at Newbyres, River Gore Road, Gorebridge	Erection of 125 residential units; formation of access roads, SUDs features and associated works	Being held in abeyance at the request of the applicant	Pre-Application Consultation (13/00609/PAC) carried out by the applicants in August - November 2013. The applicant is currently reviewing their layout following advice from officers that the layout and form of the development is unacceptable and contrary to the development plan.
17/00980/PPP	Land adjacent former Rosslynlee Hospital, Roslin (Site AHs1)	Residential development and associated works and ancillary commercial use	January 2019	Pre-Application Consultation (16/00266/PAC) carried out by the applicants in April - June 2016. The site is identified as an additional housing opportunity in the adopted MLDP with an indicative 120 – 300 units. This application was reported to the Committee at its meeting of November 2018 and was deferred for further consideration.
17/01001/DPP	Land at the former Rosslynlee Hospital, Roslin (Site AHs1)	Alterations and conversion of former hospital and buildings to form 71 dwellings, erection of 30 dwellinghouses and associated works	January 2019	Pre-Application Consultation (16/00267/PAC) carried out by the applicants in April - June 2016. The site is identified as an additional housing opportunity in the adopted MLDP with an indicative 120 – 300 units. This application was reported to the Committee at its meeting of November 2018 and was deferred for further consideration.

18/00099/DPP	Land at Gore Avenue and Newbyres Crescent, Gorebridge	Erection of 46 flatted dwellings; 17 dwellinghouses and 12 extra care units; formation of access roads and car parking; SUDS features and associated works	Being held in abeyance pending additional information from the applicant	Pre-Application Consultation (17/00913/PAC) carried out by the applicants in November 2017 – February 2018. This application is being held in abeyance subject to the applicant submitting additional information regarding mine gas mitigation measures.
18/00403/DPP	Land between Rosewell Road and Carnethie Street, Rosewell	Erection of 100 dwellinghouses and associated works	February 2019	Pre-Application Consultation (15/00774/PAC) carried out by the applicants in September 2015 – December 2015.
18/00495/DPP	Land west of Burnbrae Terrace Bonnyrigg	Erection of resource facility including offices; practical skills training suites, stores, workshop, motor transport workshop, ambulance depot and enterprise units; formation of car parking, access roads and external storage areas; and associated facilitating groundworks	Being held in abeyance pending additional information from the applicant	Pre-Application Consultation (17/00721/PAC) carried out by the applicants in September 2017 – December 2017. Awaiting additional information from the applicant in relation to noise mitigation, the operation of the facility and other environmental matters.
18/00528/S42	Land at Calderstone, Biggar Road, Lothianburn	Section 42 Application to amend conditions 3, 4, 5, 6 and 10 of planning permission 15/00113/PPP, for the erection of hotel (to amend the phasing of the development)	Being held in abeyance pending additional information from the applicant	Section 42 applications do not require to go through the Pre-Application Consultation process. The conditions relate to the phasing of development, landscaping, building design and layout and transportation matters. Awaiting the submission of an Environmental Statement.
18/00628/S42	Land at Calderstone, Biggar Road, Lothianburn	Section 42 Application to amend conditions 4 and 5 of planning permission 15/00113/PPP, for the erection of hotel (to amend the phasing of the development)	Being held in abeyance pending additional information from the applicant	Section 42 applications do not require to go through the Pre-Application Consultation process. The conditions relate to the landscaping and building design and layout. Awaiting the submission of an Environmental Statement.

18/00535/PPP	Land north west of Moat View, Roslin	Residential development and associated works	February 2019	Pre-Application Consultation (18/00139/PAC) carried out by the applicants in February 2018 – May 2018.
18/00703/DPP	Land 65m west of Rosslyn Bowling Club, Main Street, Roslin	Erection of 54 dwellings and associated works	February 2019	Pre-Application Consultation (17/00693/PAC) carried out by the applicants in September 2017 – November 2017.
18/00735/DPP	Land at Danderhall Primary School and Danderhall Recreation Ground, Edmonstone Road. Danderhall	Erection of a community facility incorporating primary school; early years provision; library and leisure facilities.	February 2019	Pre-Application Consultation (18/00350/PAC) carried out by the applicants in May 2018 – August 2017. The applicant is considering making significantly amendments to the layout and access arrangements which will potentially trigger a requirement for a new planning application.
18/00740/DPP	Part of Site Hs11, Dalhousie South, Bonnyrigg	Erection of 248 dwellinghouses and associated works	February 2019	Pre-Application Consultation (17/00402/PAC) carried out by the applicants in May 2018 – August 2017. A separate planning permission in principle application (18/00743/PPP) has been submitted for the provision of affordable housing on the wider Hs11 site.
18/00771/DPP	Land east of Conifer Road, Mayfield, Dalkeith	Erection of 28 dwellinghouses and 44 flatted dwellings and associated works	April 2019	Pre-Application Consultation (18/00476/PAC) carried out by the applicants in July 2018 – September 2018. The applicant is considering making significantly amendments to the layout and access arrangements which will potentially trigger a requirement for a new planning application.

APPENDIX B

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

Ref	Location	Proposal	Date of PAC submission	Earliest date for receipt of planning application and current position
16/00830/PAC	Land east of junction with Greenhall Road Barleyknowe Road Gorebridge	Residential development This site is not allocated for housing	24 November 2016	10/02/17 - no application yet received. A pre-application report was reported to the January 2017 meeting of the Committee.
17/00296/PAC	Land to the east of Lawfield Road and to the north of Ash Grove, Mayfield	Residential development This site is not allocated for housing	19 April 2017	06/07/17 - no application yet received. A pre-application report was reported to the June 2017 meeting of the Committee.
17/00367/PAC	Site Hs12 Hopefield Farm 2 Bonnyrigg	Residential development The site is identified for an indicative 375 residential units in the MLDP.	9 May 2017	02/08/17 - no application yet received. A pre-application report was reported to the August 2017 meeting of the Committee.
17/00606/PAC	Land south east of Auchendinny, The Brae, Auchendinny (Site Hs20)	Residential development The site is identified for an indicative 350 residential units in the MLDP.	27 July 2017	20/10/17 - no application yet received. A pre-application report was reported to the November 2017 meeting of the Committee.
17/00663/PAC	Land bounded by A7, Stobhill Road and Pentland Avenue, Gorebridge	Mixed use development comprising residential and commercial land uses	16 August 2017	09/11/17 - no application yet received. A pre-application report was reported to the October 2017 meeting of the Committee.
17/00670/PAC	Land to the north of Hardengreen House, Dalkeith	Mixed use development including Class 1 (Shops); Class 2 (Financial, Professional and Other Services); Class 3 (Food and Drink); Class 4 (Business); Class 9 (Houses); and Class 10 (Non-Residential Institutions).	22 August 2017	15/11/17 - no application yet received. A pre-application report was reported to the October 2017 meeting of the Committee.
18/00558/PAC	Land at the former Monktonhall Colliery Site, Monktonhall Colliery Road, Newton, Danderhall	Erection of a community facility incorporating secondary and primary school; early years provision; family learning provision; library, leisure and healthcare facilities, sports pitches and associated works.	1 August 2018	25/10/18 - no application yet received. A pre-application report was reported to the October 2018 meeting of the Committee.

18/00894/PAC <i>New addition to the table</i>	Land at Wull Muir, Gorebridge	Erection of up to 9 wind turbines (wind farm)	9 November 2018	02/02/19 This pre application consultation is reported to this meeting of the Committee.
18/00962/PAC <i>New addition to the table</i>	Land east and west of Easthouses Road, Easthouses	Residential development and erection of school, with associated engineering works, open space and landscaping	14 December 2018	09/03/19 This pre application consultation will be reported to the February meeting of the Committee.
18/00970/PAC <i>New addition to the table</i>	Midlothian Snow Sports Centre	Redevelopment of existing snowsports centre to include leisure facilities; tourist accommodation; hotel; function suite and ancillary retail and restaurant; formation of access and car parking	21 December 2018	16/03/19 This pre application consultation will be reported to the February meeting of the Committee.
19/00012/PAC <i>New addition to the table</i>	Land east of Salters Road, Dalkeith	Mixed use development comprising film and TV studios including workshops/offices; reception/commissary; gatehouse; backlot; trailer park; film academy and associated student accommodation; and associated access, parking and infrastructure	9 January 2019	04/04/19 This pre application consultation is reported to this meeting of the Committee.



APPEALS AND LOCAL REVIEW BODY DECISIONS

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 This report informs the Committee of notices of reviews determined by the Local Review Body (LRB) at its meetings in November 2018 and January 2019. There are no Scottish Government appeal decisions to report to the Committee.

2 BACKGROUND

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

3 PREVIOUS REVIEWS DETERMINED BY THE LRB

- 3.1 At its meeting on 27 November 2018 the LRB made the following decisions:

	Application Reference	Site Address	Proposed Development	LRB Decision
1	18/00218/DPP	Land adjoining Mayerling, Penicuik	Erection of four dwellinghouses	Permission refused at LRB meeting of 27.11.2018
2	18/00566/DPP	20 Pendreich Terrace, Bonnyrigg	Erection of single storey extension and front and rear dormer extensions	Permission granted at LRB meeting of 27.11.2018

3.2 At its meeting on 14 January 2019 the LRB made the following decisions:

	Application Reference	Site Address	Proposed Development	LRB Decision
1	18/00643/DPP	28-30 Buccleuch Street, Dalkeith	Change of use of flatted dwelling to house of multiple occupation (HMO) and installation of windows	Permission granted at LRB meeting of 14.01.2019

4 RECOMMENDATION

4.1 The Committee is recommended to note the decisions made by the Local Review Body at its meetings in November 2018 and January 2019.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 15 January 2019
Contact Person: Peter Arnsdorf, Planning Manager
peter.arnsdorf@midlothian.gov.uk
Tel No: 0131 271 3310

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



PRE - APPLICATION REPORT REGARDING THE ERECTION OF UP TO 9 WIND TURBINES AT WULL MUIR, GOREBRIDGE (18/00894/PAC)

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre-application consultation submitted regarding a wind farm of up to 9 wind turbines (tip heights up to 150m) at Wull Muir, Gorebridge. The site is on the boundary of Midlothian's Council area, adjoining the Scottish Borders' Council area.
- 1.2 The site forms part of a wider application site for a wind farm development which extends across a relatively small area of Midlothian and a much larger area in the Scottish Borders. There is currently no development proposed within Midlothian, with all the wind farm works taking place within the Scottish Borders to the south.
- 1.3 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre-application consultation for a wind farm of up to 9 turbines at Wull Muir, Gorebridge was submitted on 9 November 2018.
- 2.3 As part of the pre application consultation process the applicant held a drop in event in Temple on 10 December 2018 from 3pm to 6pm. On the conclusion of the consultation the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the

Commissioner's guidance reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

- 2.4 A copy of the pre application notice has been sent by the prospective applicant to the Moorfoot Community Council. The applicant has confirmed that Tynewater Community Council were also informed of the above event.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP).
- 3.3 The site sits on a steep hill in an area of open countryside located at the edge of Midlothian's Council area. The site is bound by the B7007 on the north-west and west and by countryside on the remaining boundaries. There are three wind turbines on the land to the south, within the Scottish Borders Council area.
- 3.4 The MLDP identifies the site as being within the countryside and any subsequent application will be subject to assessment against MLDP policies RD1: Development in the Countryside, ENV6: Special Landscape Areas, ENV7: Landscape Character and NRG2: Wind Energy.
- 3.5 Midlothian Council has been invited to comment on the applicant's EIA Scoping Opinion which has been submitted to the Scottish Borders Council. These documents show the Midlothian site forms part of a wider application site for a wind farm development which extends across a small area of Midlothian and a larger area in the Scottish Borders. There is no development/works proposed within Midlothian, with all the wind farm works taking place wholly within the Scottish Borders Council administrative area to the south. However, the applicant has confirmed that the area of land within Midlothian Council has been included in the site boundary to allow them the option to look at potential access routes to the turbines and their infrastructure if required. If the applicant decides to propose an access through Midlothian it would be subject to a planning application, considered by Midlothian Council.
- 3.5 If an application is submitted, it is anticipated that the only works within Midlothian will be access routes to the wind farm in the Scottish Borders. Such a development will be considered in line with the abovementioned development plan policies and in consultation with the Council's Policy and Road Safety Manager. Any proposed access

routes could be considered acceptable if the applicant demonstrates that the works are not detrimental to the landscape and that they do not result in highway safety concerns during the construction of the wind farm or during its operation.

4 PROCEDURES

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

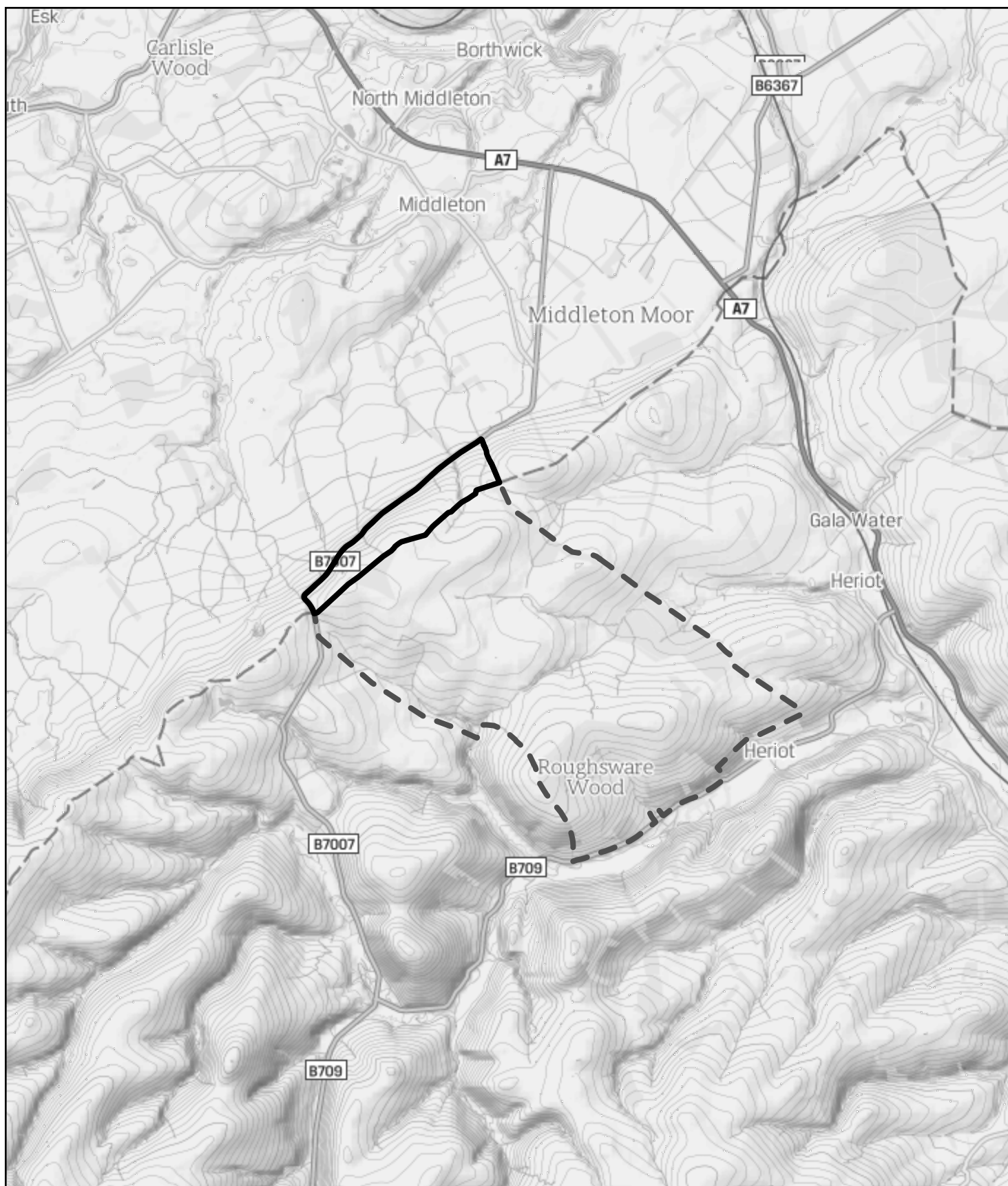
5 RECOMMENDATION

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

Dr Mary Smith
Director of Education, Communities and Economy

Date: 15 January 2019

Application No: 18/00894/PAC (Available online)
Applicant: EnergieKontor UK Ltd, 11 Somerset Place,
Glasgow, G3 7JT
Validation Date: 9 November 2018
Contact Person: Mhairi-Anne Cowie
Tel No: 0131 271 3308
Background Papers:



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

Proposal of application notice for wind farm of up to 9 wind turbines at Wull Muir, Gorebridge

 Area of Site Within Midlothian

 Area of Site Within Scottish Borders

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

File No. 18/00894/PAC

Scale: 1:50,000
Page 90 of 188

Midlothian Council Licence No. 100023416 (2018)





PRE - APPLICATION REPORT REGARDING MIXED USE DEVELOPMENT COMPRISING FILM AND TV STUDIOS INCLUDING WORKSHOPS/OFFICES; RECEPTION/COMMISSARY; GATEHOUSE; BACKLOT; TRAILER PARK; FILM ACADEMY AND ASSOCIATED STUDENT ACCOMMODATION; AND ASSOCIATED ACCESS, PARKING AND INFRASTRUCTURE AT LAND EAST OF SALTERS ROAD, DALKEITH (19/00012/PAC)

Report by Director of Education, Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre-application consultation submitted regarding mixed use development comprising film and TV studios including workshops/offices; reception/commissary; gatehouse; backlot; trailer park; film academy and associated student accommodation; and associated access, parking and infrastructure at land east of Salters Road, Dalkeith. The land comprises, in the main, sites e14 and Ec2 in the Midlothian Local Development Plan 2017 (MLDP).
- 1.2 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre-application consultation for a mixed use development comprising film and TV studios including workshops/offices; reception/commissary; gatehouse; backlot; trailer park; film academy and associated student accommodation; and associated access, parking and infrastructure at land east of Salters Road, Dalkeith was submitted on 9 January 2019.

- 2.3 As part of the pre-application consultation process the applicant is planning to hold a 'drop-in' public event at Woodburn Primary School on 31 January 2019, from 4pm until 8pm. On the conclusion of the 12 week consultation process the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.
- 2.4 Copies of the pre application notices have been sent by the prospective applicant to the local elected members and Dalkeith Community Council.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP).
- 3.3 The site is located to the north of Dalkeith. It is bounded to the west by Salters Road and Dalkeith Country Park, to the north by the A68 and to the south by the Dalkeith School Campus. Woodburn Primary school is further to the south.
- 3.4 The proposed development includes the erection of studio buildings, called stages, workshop/office buildings, a trailer park for the delivery and storage of sets/scenery and associated equipment, an external filming area (backlot), a gatehouse and reception/commissary and a film school and associated student accommodation. Associated access and parking and infrastructure are also proposed. The vehicular access will be off Salters Road.
- 3.5 The majority of the site is allocated for economic land uses and comprises sites e14 and Ec2 in the MLDP. The western extent of the site is identified as e14 and was allocated in the 2003 development plan and the eastern part is mainly included within site Ec2 allocated in the MLDP. The site however does extend beyond the boundary of allocated site Ec2 to the east and includes a strip of land, approximately 19m wide, which is identified as Green Belt (policy ENV2) and Prime Agricultural Land (policy ENV4). A gas pipeline crosses the site - the applicant proposes to re-locate this pipeline.
- 3.6 The use classes relevant to the two parts of the application site are Class 4 Business and Class 5 General Industry. Furthermore, the MLDP supports ancillary development on the site (policy ECON3). The

proposed film and TV studio and associated uses accord in general terms with this policy position. The development proposed in the green belt strip is anticipated to be landscaping and low impact works such as the provision of a car park.

- 3.7 The potential environmental impacts arising as a result of the proposed development will require to be considered. The submission of an Environmental Impact Assessment (EIA) may be required in relation to the application. This process systematically sets out the relevant environmental impacts in order that they can be assessed, designed out of the proposal, minimised or mitigated.
- 3.8 If an application is submitted the planning assessment will consider the proposal positively against the relevant planning policies. In addition the socio economic benefits from the proposal are potential significant in terms of job creation, business opportunities, learning and skills development, education opportunities and the 'spin off' economic uplift; as such they would be a material consideration of significant weight in the assessment of any application. The proposals may also be subject to a planning obligation to mitigate any potential impact of the development.

4 PROCEDURES

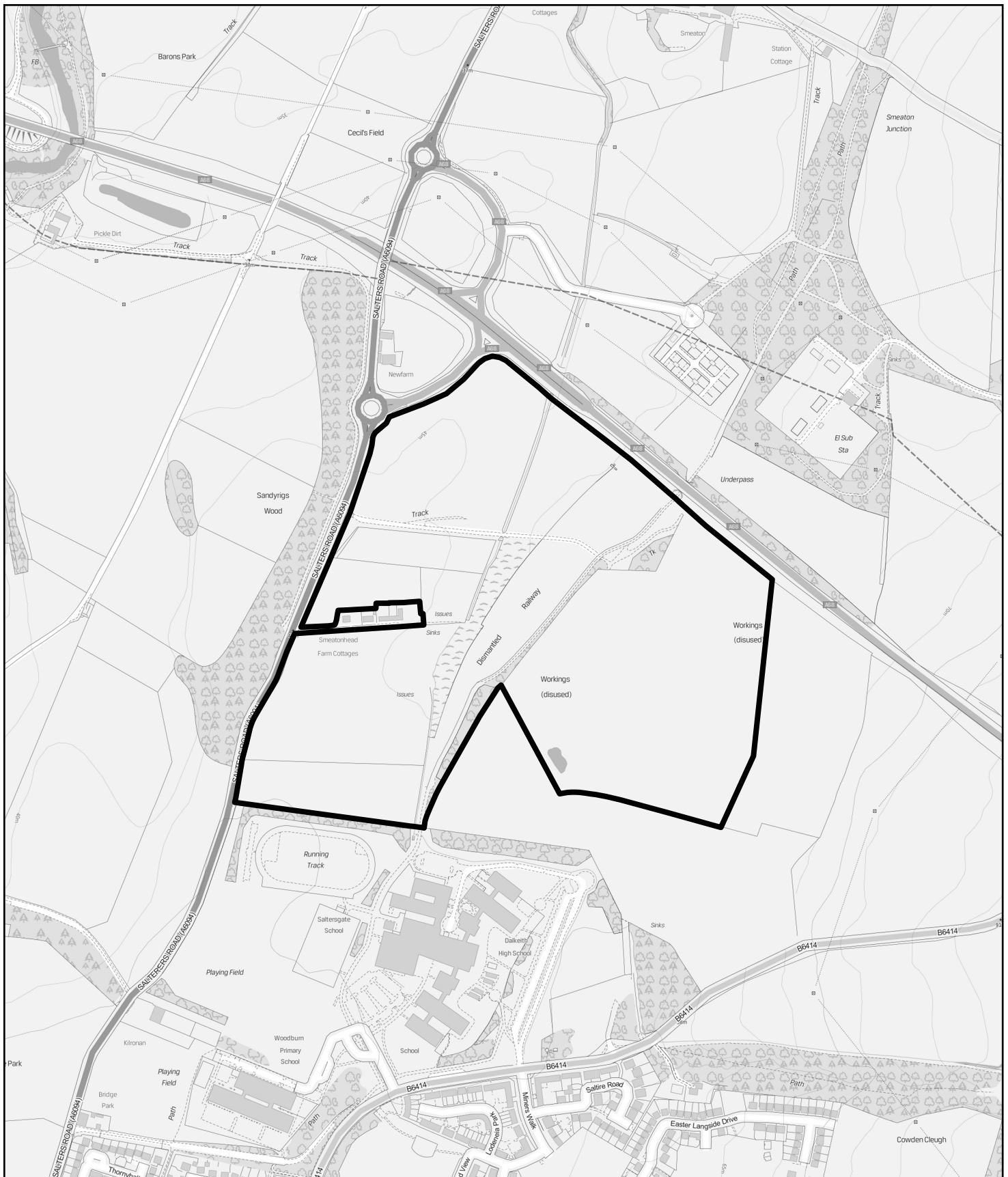
- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice'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

5 RECOMMENDATION

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

Dr Mary Smith
Director of Education, Communities and Economy

Date: 15 January 2019
Application No: 19/00012/PAC (Available online)
Applicant: Keppie Design Ltd, 160 West Regent Street,
Glasgow
Validation Date: 9 January 2019
Contact Person: Joyce Learmonth
Tel No: 0131 271 3311
Background Papers:



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

Proposal of application notice for a mixed use development comprising film and TV studios including workshops/offices, reception/commissary, gatehouse, backlot, trailer park, film academy and associated student accommodation, and associated access, parking and infrastructure at Land East of Salters Road, Dalkeith

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

Midlothian Council Licence No. 100023416 (2018)

File No. 19/00012/PAC

Scale: 1:7,500
Page 95 of 188





Midlothian

~~PLANNING COMMITTEE~~
~~TUESDAY 20 NOVEMBER 2018~~
~~ITEM NO 5.5~~

Application A

APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE (17/00980/PPP) FOR RESIDENTIAL DEVELOPMENT UP TO 280 DWELLINGS; COMMERCIAL DEVELOPMENT FOR USE CLASSES 1, 2, 3 AND/OR 4 WITH A FLOORSACE OF UP TO 250SQM AND ASSOCIATED WORKS AT LAND AT ROSSLYNLEE, ROSLIN.

Application B

APPLICATION FOR DETAILED PLANNING PERMISSION (17/01001/DPP) FOR THE 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.

Application C

APPLICATION FOR LISTED BUILDING CONSENT (18/00061/LBC) INTERNAL AND EXTERNAL ALTERATIONS TO THE FORMER ROSSLYNLEE HOSPITAL AND ASSOCIATED LISTED BUDILINGS TO FORM 69 DWELLINGS AND AN OFFICE INCLUDING; DEMOLITION OF THE FORMER BOILERHOUSE, OUTBUILDINGS AND ALTERATIONS TO EXISTING WINDOW AND DOOR OPENINGS AND ASSOCIATED WORKS AT THE FORMER ROSSLYNLEE HOSPITAL, ROSLIN.

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATIONS AND RECOMMENDED DECISION

- 1.1 The applications are for the conversion of the former Rosslynlee Hospital into residential accommodation and for planning permission in principle for residential and commercial development on land adjacent to the grounds of the former hospital.
- 1.2 Application A is for planning permission in principle for residential development of up to 280 dwellings; commercial development for use classes 1, 2, 3 and/or 4 with a floorspace of up to 250sqm and associated works at land at Rosslynlee, Roslin.

- 1.3 Application B is for detailed planning permission 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.**
- 1.4 Application C is for Listed Building Consent for Internal and external alterations to the former Rosslynlee Hospital and associated listed buildings to form 68 dwellings and an office including; demolition of the boiler house, outbuildings and elements of the main building, alterations to existing window and door openings and associated works at the former Rosslynlee Hospital, Roslin.**
- 1.5 There have been 18 representations and consultation responses from the Coal Authority, Scottish Water, the Scottish Environment Protection Agency (SEPA), The Wildlife Information Centre, the Council's Head of Education, the Council's Policy and Roads Safety Manager, the Council's Environmental Health Manager, Rosewell and District Community Council and Roslin and Bilston Community Council**
- 1.6 The relevant development plan policies are policies 5, 7, 8 and 11 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan), and policies STRAT4, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN5, IT1, TCR2, ENV2, ENV7, ENV9, ENV10, ENV11, ENV22, ENV23, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.**
- 1.7 The recommendation is to refuse planning permission and listed building consent for the three stated applications on the basis that; the proposed development will have a detrimental impact on highway safety, the applicant will not make the required developer contribution to mitigate the impact the development will have on the local infrastructure and the applications do not deliver the required level of affordable housing as set out in the development plan.**

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 are the subject of Application A. The application sites are 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 three applications together propose a predominantly residential led redevelopment of the former Rosslynlee Hospital and its surrounding land. Application A seeks planning permission in principle for up to 280 new dwellings in the two fields adjoining the hospital grounds (the North Field and the South field). Application B proposes the conversion of the listed hospital buildings to form 72 residential dwellings together with detailed permission for 24 dwellings in the grounds of the hospital. Application C seeks listed building consent for alterations to the listed hospital buildings and the demolition of the former boiler house and works to individual listed buildings within the hospital site.
- 3.2 In total the applications propose up to 376 dwellings. Up to 280 units in principle (the details relating to the size and form of the units does not form part of the applications) and 96 units in detail comprising:
- 1 x 1 bed house;
 - 8 x 2 bed houses;
 - 32 x 3 bed houses;
 - 21 x 4 bed houses;
 - 8 x 5 bed houses;
 - 1 x 1 bed apartment;

- 11 x 2 bed apartments; and
- 14 x 3 bed apartments

3.3 In October 2018 amended plans and additional supporting information was submitted in respect of Applications B and C and resulted in the following changes to the original submission:

1. The omission of the previously proposed new build parcels 4 and 5 (six dwellings);
2. The retention of the previously proposed to be demolished former morgue and its conversion into two dwellings;
3. Amendments to the main hospital building arising from the retention of the morgue, resulting in the omission of one dwelling in the main building and changes to the proposed external treatment of the building;
4. The omission of the proposed removal and replacement of all windows that were not otherwise the subject of alteration;
5. Revised details of the proposed approach to the replacement of roof treatments;
6. Additional justification for the demolition of the boiler house;
7. Additional justification for the removal of the glazed link corridors; and
8. The retention of a greater number of chimneys than previously proposed.

3.4 The applicant has submitted the following documents in support of their application:

- A Design and Access Statement;
- A Flood Risk Assessment;
- A Drainage Impact Assessment (including SUDS proposals);
- Planning Statement;
- A Transport Assessment;
- Contaminated Land Assessment;
- Habitat Survey;
- Landscape and Visual Appraisal;
- Building Condition Survey;
- Archaeological Report;
- Energy Sustainability Statement; and
- Bat Survey.

4 BACKGROUND

4.1 The applicant carried out a pre application consultation (16/00267/PAC) for residential development and complementary uses in April – June 2016. The pre application consultation was reported to the Committee at its meeting of May 2016.

4.2 Planning application 16/00716/DPP and listed building consent 16/00720/LBC for the conversion of outbuildings into eight dwellings and the erection of five new build dwellinghouses was granted

permission in 2018. The proposed units granted permission are also incorporated into the current applications.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application subject to securing, by way of a condition on any grant of permission, a site investigation and appropriate remediation measures to mitigate the sites coal mining legacy.
- 5.2 **Scottish Water** does not object to the application. However, Scottish Water are unable to confirm if there is capacity to accommodate the development until the applicant makes an application to Scottish Water.
- 5.3 **The Scottish Environment Protection Agency (SEPA)** does not object to the applications subject to securing, by way of a condition on a grant of permission, drainage details and flood mitigation measures. The application site is adjacent to a small watercourse and as a result could be at risk of flooding. The applicant has provided drawings showing the existing and proposed culvert and in response SEPA advise that the route shown is acceptable subject to the realignment details being secured by condition. The new culvert shall be outwith any individual property boundary and not built on. SEPA note the Coal Authorities response to the application and therefore state it is unlikely that stabilisation of mine workings with pulverised fuel ash (PFA) grouting will be necessary. SEPA has confirmed they are satisfied with the drainage on site. The proposed SUDS and connection to Roslin Waste Water Treatment Works are acceptable. The proposed development is within 600m of an existing waste landfill site regulated by SEPA and as such consideration of the neighbouring land uses shall be considered.
- 5.4 **The Wildlife Information Centre** does not object to the applications.
- 5.5 The Council's **Head of Education** has stated that the development will result in additional pressure on primary and secondary school provision and as such a developer contribution would be required. The development lies within the following school catchment areas:
- | | |
|------------------------------|----------------------------------|
| Non-denominational primary | - Rosewell Primary School |
| Denominational primary | - St Matthew's RC Primary School |
| Non-denominational secondary | - Lasswade Community High School |
| Denominational secondary | - St David's RC High School |
- 5.6 In respect of Application A, the Council's **Policy and Road Safety Manager** objects to the application and has expressed concerns over the suitability of the site to accommodate a residential development of the scale proposed. The site is remote from any existing facilities, with no dedicated pedestrian or cycling routes linking the site to Rosewell (the nearest settlement to the development). The site also does not

have any public transport services with the nearest scheduled bus services terminating in Rosewell (over 2 miles away). The local access roads are narrow and not designed to accommodate large volumes of traffic. The main access roads leading to the site would be the narrow rural road from the Gourlaw Crossroads, which passes Gourlaw Farm, and the Kirkettle Road which joins the B7003 Roslin Glen Road. The developers Transport Assessment identified Gourlaw Crossroad as an accident problem area and has identified some alterations which would improve driver visibility at this junction. The rest of this road is narrow with no pedestrian footways and limited road verges with a section in cutting enclosed by retaining walls on both sides. This road would not be suitable to safely accommodate a major increase in traffic levels. The Kirkettle Road also has no pedestrian facilities with sections of narrow road verge and some very sharp bends. This road starts from the B7003 Roslin Glen Road which is also a rural route with difficult horizontal geometry, steep gradients and sections of reduced width. The Roslin Glen Road is signed as being unsuitable for use by long vehicles. None of the above roads have street lighting.

- 5.7 There have been a number of road injury accidents reported on the local road network during the current 3-year accident period and the introduction of a large scale housing development in the area would add to the relatively low level of traffic using these routes resulting in an increase in the potential for vehicle conflict. Also given the remoteness of the site and the lack of any scheduled public transport services or convenient walking/cycling routes it is likely that the majority of trips to and from the development would require to be made by private car.
- 5.8 This proposal does not appear to be in keeping with the Council's aims of reducing reliance on the use of the private car, increasing the use of public transport and increasing opportunities for 'active' travel.
- 5.9 In respect of Application B the scale of development would result in an increase in the current volume of traffic using the substandard local road network which does not have adequate pedestrian/cycling access and poor public transport provision. However, it could be viewed that the change of use of the former hospital building to residential use would produce a broadly similar level of traffic generation to the former hospital use, although residential use/traffic tends to be tidal with traffic during morning and evening peaks periods. Residential development also results in school and recreational trips which would not have occurred with the hospital use.
- 5.10 The Council's **Environmental Health Manager** does not object to the application subject to conditions being attached to any grant of planning permission ensuring ground contamination remediation works are undertaken.
- 5.11 The **Rosewell and District Community Council (RDCC)** has made the following comments:

- Current infrastructure will not be able to support the development;
- RDCC are against the principle of planning permission being granted for development on green fields and does not agree with the premise that planning permission is granted to financially assist developers;
- The development does not comply with the principals of sustainable living and the vision set out in the Midlothian Local Development Plan;
- The existing access to the site is not considered adequate in its current condition and improvements and/or alterations will be required to serve the development;
- There is no connection to any existing footway network;
- Developer contributions should be sought towards Midlothian's Green Network and Core Path Network;
- RDCC disagree with the applicants transport assessment;
- Concerns over high traffic levels on the local roads due to increased house building in the area;
- Concerns for the safety of cyclists on the narrow roads between Rosewell and Roslin;
- Concern over the impact of increased levels of traffic on the Roslin Glen Road, which is again showing signs of subsidence;
- Concern over increased traffic at the Gourlaw Junction (an accident blackspot);
- There are concerns that although the site is out with the Rosewell settlement boundary, it is within RDCC's boundary map, and as a result the residents will use Rosewell community facilities. RDCC therefore feel that developer contributions should be sought to support community facilities and infrastructure;
- The proposed community facilities within St Margret's (Rosslynlee Hospital) are sparse for this isolated community;
- The proposed bus service offers no benefits to Roswell community if it coincides with the times of the 49 bus service; and
- The proposed bus service could be of benefit to the elderly and less mobile residents if it continues on to the rail station as the transport plan states.

5.12 The **Roslin and Bilston Community Council (RBCC)** objects to planning application 17/00980/PPP and have made the following comments:

- The B7026 is unsuitable for use by the Rosslynlee residents;
- RBCC are concerned a through road will be maintained using the road past Firth Mains and Auchendinny Mains to the B7026;
- The schools are outwith the 2 mile walk distance, therefore a school bus would be essential, however none of the access routes to the site are suitable for a school bus;

- The cycle route from Rosslynlee to the Bush, referenced in the transport assessment, is unsafe;
- Increased use of Straiton Park and Ride would increase traffic through the Roslin Glen, Roslin village and the A701, which are already badly congested;
- Concerns regarding the lack of public transport to and from the site. RBCC question if there is capacity at Eskbank railway station, particularly during peak times;
- There is inadequate footways along the access road;
- No consideration has been given to the junctions and road beyond those immediately surrounding the site;
- There are concerns surrounding visibility at the Gourlaw/A6094 junction;
- There are no suitable roads for construction vehicles to access the site;
- Concerns surrounding the viability report and its credibility;
- RBCC are not satisfied that the proposal will reach the standards of sustainability required by planning policy - the sustainability statement provided by the applicant is inadequate; and
- Concerns about the handling of sewage from this site.

6 REPRESENTATIONS

6.1 There have been 18 objections, all of which can be viewed in full on the online planning application case file. A summary of the objections are as follows:

- The current road infrastructure will not accommodate the proposed number of dwellinghouses and associated traffic;
- There are limited plans to upgrade the roads and junctions that will serve the development - the roads and junctions are unsuitable. The roads most effected will be, the Gourlaw Junction on the A6094, the Roslin Glen B7003 and the road to the west leading to Auchendinny, the B7026;
- The development will have a detrimental impact on the condition of the already badly damaged Roslin Glen road;
- The roads surrounding the site are unsuitable for the large vehicles that will need to access the site during the construction process and thereafter;
- Due to the isolated nature of the development the future residents will be car dependent generating far higher levels of traffic;
- The proposed development represents an overdevelopment, given the site was allocated for 120-300 dwellings and the applicant is proposing 381 dwellings;
- There are equestrian properties in the local community that use the roads surrounding the application site and any increase in traffic could be potentially dangerous as the roads are not wide enough

for a car to pass a horse. This could have a detrimental effect on local livery businesses;

- The proposed development makes no provision for continued equestrian access;
- Concerns that the increased number of dogs in the area will effect sheep farmers;
- The proposed development does not make provision for extra facilities or amenities in the area;
- The proposed development would have an unacceptable impact on local services, facilities, infrastructure, GP services, schools and sewage infrastructure;
- The applicant did not adequately notify the surrounding residents;
- The applications are overwhelming, making it hard for local residents to understand the full impact the development will have;
- The proposed development goes against current environmental policy;
- The proposed development will have an adverse effect on the existing countryside and rural environment;
- The development of the green field sites (North Park and South Park) is not an appropriate way to fund the renovation of the former hospital;
- The proposed development goes against Midlothian's policies to promote the use of brownfield sites over green field sites; and
- The proposed development of green field sites will have an adverse effect on wildlife species and biodiversity.

7 PLANNING POLICY

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

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPPlan)

- 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.

- 7.4 **Policy 8 (TRANSPORTATION)** seeks to promote the development of a sustainable transport network and ensure that new development minimises the generation of additional car traffic.
- 7.5 **Policy 11 (DELIVERING THE GREEN NETWORK)** seeks to ensure that major developments in the SESplan area have a positive contribution to the creation, maintenance and enhancement of the green network.

Midlothian Local Development Plan 2017 (MLDP)

- 7.6 Policy **STRAT4: Additional Housing Development Opportunities** supports residential development on those sites identified as additional housing development opportunities in the MLDP settlement statements, provided that they comply with all other relevant MLDP policies.
- 7.7 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.
- 7.8 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.
- 7.9 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.10 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 listed criteria.
- 7.11 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.
- 7.12 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council

assess applications for new development against the open space standards as set out in Appendix 4 of that Plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan.

- 7.13 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.14 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.
- 7.15 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.16 Policy **TCR2: Location of New Retail and Commercial Leisure Facilities** states that the Council will apply a sequential town centre first approach to the assessment of such applications. The policy does not refer to or apply to food and drink uses or hot food takeaways.
- 7.17 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*.
- 7.18 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.
- 7.19 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.
- 7.20 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.

- 7.21 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.
- 7.22 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.23 Policy **ENV22: Listed buildings** does not permit development which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.
- 7.24 Policy **ENV23: Scheduled Monuments** states that development which could have an adverse effect on a scheduled monument, or the integrity of its setting, will not be permitted.
- 7.25 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.
- 7.26 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.
- 7.27 Policy **NRG6: Community Heating** requires that, wherever reasonable, community heating should be supported in connection with buildings and operations requiring heat.
- 7.28 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.

- 7.29 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.
- 7.30 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

National Policy

- 7.31 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.
- 7.32 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.
- 7.33 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*.
- 7.34 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.
- 7.35 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”.

- 7.36 The Scottish Government policy statement **Creating Places** emphasises the importance of quality design in delivering quality places. These are communities which are safe, socially stable and resilient.
- 7.37 **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.
- 7.38 **The Scottish Government’s Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.
- 7.39 The Scottish Government policy statement **Designing Streets** emphasises that street design must consider place before movement, that street design guidance (as set out on the document) can be a material consideration in determining planning applications and that street design should be based on balanced decision-making. Of relevance in this case are the statements that:
- “On-plot parking should be designed so that the front garden is not overly dominated by the parking space.”
- “Parking within the front curtilage should generally be avoided as it breaks up the frontage, can be unsightly and restricts informal surveillance. On-plot parking may be suitable in restricted situations when integrated with other parking solutions and when considered in terms of the overall street profile.”
- 7.40 **Historic Environment Scotland Policy Statement 2016** replaces Scottish Historic Environment Policy (SHEP) for operational matters. The policy statement should be used by local authorities when considering planning applications which have an historical or cultural dimension. The policy statement was prepared in response to changes introduced by the Historic Environment Scotland Act 2014. Chapter 3: Consents and Advice; provides guidance for local authorities on the consideration of listed building consent applications. It sets out the legal and administrative requirements of the listed building consent process.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining these applications is whether the proposals comply with development plan policies unless material planning considerations indicate otherwise.

The representations and consultation responses received are material considerations.

Principle of Development

- 8.2 The Rosslynlee site is identified in the MLDP as an Additional Housing Development Opportunity, site AHs1 and as such there is a presumption in favour of residential development, if the proposal complies with development plan policies and the details of the scheme mitigate any infrastructure requirements arising from the development. Additional Housing Development Opportunity sites are seen as potential housing sites, but because of identified challenges to delivery they are not relied upon to meet the Council's housing targets in the same way that an 'allocated housing site' is.
- 8.3 The MLDP settlement statement for Rosslynlee states "The site includes the C Listed Rosslynlee Hospital which is now redundant. As a means to protect and bring the listed building back into use there is support for its conversion to residential use. There is likely to be potential for 70-80 units within the main building and associated structures. However it is recognised that there may be a requirement for complementary development to assist the funding of the conversion and there is support for some additional new build residential development. This will be in the range c.40-200 units, depending on the detailed proposals and the choice of access solution. The existing access is not considered adequate in its current condition and improvement or an alternative access will be required to serve this development. The site is not considered to meet the sustainability criteria as it is not well related to Rosewell, being some distance south of the village. As a result it is not allocated in the MLDP but identified as an additional housing development opportunity. Despite the distance from Rosewell village, the development will be expected to use Rosewell Primary school and Lasswade High School for education and leisure facilities and developer contributions to these facilities will be sought. The development will be expected to be in sympathy with the listed building and its rural location".
- 8.4 The settlement statement goes on to identify inter alia that the development of this site is specifically required to contribute towards Borders Rail, additional capacity at Rosewell Primary School, additional secondary school capacity at Lasswade High School and St David's RC High School, provide 25% affordable housing as required by policy DEV3 and community facilities in Rosewell.
- 8.5 The general principle of housing is accepted at the site subject to any proposals achieving compliance with all other development plan policies in particular; making suitable infrastructure provision including affordable housing, the development proposals being sympathetic to the host listed building and an appropriate access solution being identified. The MLDP acknowledges the potential benefits of the

suitable conversion and restoration of the listed building (Rosslynlee hospital) but this is qualified by the above requirements being met in order for the development to be acceptable in principle, i.e. the ostensible planning benefit of securing the future of the listed building does not in itself outweigh other planning considerations as outlined above.

Housing Land supply

- 8.6 The SPP (paragraph 123) states planning authorities should actively manage the housing land supply to ensure a generous supply of land for house building is maintained and there is always enough effective land for at least five years. Policy 5 of SESplan requires local development plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing required. Midlothian has an up to date adopted local plan which sets a development strategy which includes sufficient housing allocations (12,997 residential units) to meet its housing requirements (12,490 houses) for the period 2009–2024 and in doing so having an established housing land supply. The MLDP was adopted on 7 November 2017 following a local plan examination where the Reporter concluded that there is a 5-year effective housing land supply in Midlothian. The housing allocation figure (12,997 units) does not include the ‘safeguarded sites’ or ‘additional housing opportunities’ identified in the MLDP or windfall developments which provide Midlothian with sufficient generosity to meet its housing targets if an allocated housing site does not come forward. Approximately 5,000 of the required units have been constructed.
- 8.7 The Council must maintain a five year effective supply of housing land at all times which means that the sites must have a reasonable prospect of being built within the five-year period. The Council’s 2017 Housing Audit, which was agreed with Homes for Scotland (HfS) – the umbrella group which represents the house building industry, identified that there is a realistic prospect of 5,583 homes being built in the next five years in Midlothian, exceeding the 4,336 units required. This position, in terms of meeting its housing requirements, is reflected in Midlothian’s draft 2018 Housing Audit (not yet agreed with HfS).
- 8.8 Therefore whilst the principle of housing is supported at this site in order to support the suitable conversion of the listed buildings, subject to meeting the requirements of other local development plan policies, the housing proposed through the applications is not necessary in order for the Council to meet its housing targets.

Transportation and Access Issues

- 8.9 Paragraph 87 of SPP states “Planning permission should not be granted for significant travel generating uses at locations which would increase reliance on the car and where:

- Direct links to local facilities via walking and cycling networks are not available or cannot be made available;
 - Access to local facilities via public transport networks would involve walking more than 400m or the transport assessment does not identify a satisfactory way of meeting sustainable transport requirements;
 - Development plans and development management decisions should take account of the implications of development proposals on traffic, patterns of travel and road safety.”
- 8.10 The two planning applications together propose a total of up to 376 dwellings together with a modest amount of commercial floor space (up to 250 sq m). This is a significant travel generating use and therefore it is incumbent on the applicant to address the transportation and access challenges which arise from the development.
- 8.11 The Policy and Road Safety Manager objects to Application A and has expressed concerns over the suitability of the site to accommodate a residential development of the scale proposed. The site is remote from any existing facilities, with no dedicated pedestrian or cycling routes linking the site to Rosewell (the nearest settlement to the development). The site also does not have any public transport services with the nearest scheduled bus services terminating in Rosewell. The local access roads are narrow and not designed to accommodate large volumes of traffic. The main access roads leading to the site would be the narrow rural road from the Gourlaw Crossroads, which passes Gourlaw Farm, and the Kirkettle Road which connects the B7003 Roslin Glen Road. The applicant’s transport assessment identified Gourlaw Crossroad as an accident problem area and has identified some alterations which would improve driver visibility at this junction. The rest of this road is narrow with no pedestrian footways and limited road verges with a section in cutting enclosed by retaining walls on both sides. This road would not be suitable to safely accommodate a major increase in traffic levels. The Kirkettle Road also has no pedestrian facilities with sections of narrow road verge and some very sharp bends. This road starts from the B7003 Roslin Glen Road which is also a rural route with difficult horizontal geometry, steep gradients and sections of reduced width. The Roslin Glen Road is signed as being unsuitable for use by long vehicles. None of the above roads have street lighting.
- 8.12 There have been a number of road injury accidents reported on the local road network during the current 3-year accident period and the introduction of a large scale housing development in this area would add to the relatively low level of traffic using these routes resulting in an increase in the potential for vehicle conflict. In addition, given the remoteness of the site and the lack of any scheduled public transport services or convenient walking/cycling routes it is likely that the majority of trips to and from the development would require to be made by private car. The routes are of a suitable standard to safely

accommodate the increase in traffic levels the proposed development would generate. This proposal does not appear to be in keeping with the Council's aims of reducing reliance on the use of the private car, increasing the use of public transport and increasing opportunities for 'active' travel.

- 8.13 In respect of Application B the scale of development would result in an increase in the current volume of traffic using the substandard local road network which does not have adequate pedestrian/cycling access and poor public transport provision. However, it could be viewed that the change of use of the former hospital building to residential use would produce a broadly similar level of traffic generation to the former hospital use, although residential use/traffic tends to be tidal with traffic during morning and evening peaks periods. Residential development also results in school and recreational trips which would not have occurred with the hospital use.
- 8.14 The applicant's transportation assessment promotes a package of mitigation measures which includes:
- Transportation improvements including; a contribution towards the upgrading of National Cycle Route 176 and the access to it;
 - Upgrading the road junction leading from Kirkettle Farm Road;
 - The upgrading of the current private access road leading to the site to an adoptable standard;
 - The provision of a bus service from the site (for a temporary period of time);
 - The provision of a bus turning area; and
 - Changes to nearby road speed limits.
- 8.15 Whilst the package of measures is welcome, it does not mitigate the highway safety concerns identified by the Council's Policy and Road Safety Manager or by the representors, nor does it meet the conditions set out in the SPP.
- 8.16 In relation to Application B, the proposed development achieves the Council's required car parking standards. In relation to Application A, the detailed design and layout, including provision of car parking would be a matter for a subsequent matters specified by condition application if planning permission was granted.
- 8.17 If the proposed housing scheme is granted planning permission, because of the sites remoteness, it would be necessary for the Council to provide a school bus service (for both primary and secondary) and as a consequence the development layout would need to make provision for a bus turning area. Application B does not make this provision and Application A is in principle. Any grant of permission would need to meet the requirement for a bus turning area.

Alterations to the Listed Buildings and the Impact on their Setting

- 8.18 MLDP policy ENV22 states that development will not be permitted if it would adversely affect the character or appearance of a listed building, its setting or any feature or special architectural or historic interest. Demolition will only be permitted in exceptional circumstances.
- 8.19 SPP paragraph 141 advises; "Change to a listed building should be managed to protect its special interest while enabling it to remain in active use. Where planning permission and listed building consent are sought for development to, or affecting, a listed building, special regard must be given to the importance of preserving and enhancing the building, its setting and any features of special architectural or historic interest. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the character and appearance of the building and setting. Listed buildings should be protected from demolition or other work that would adversely affect it or its setting. SPP defines a listed buildings setting as "... more than the immediate surroundings of a site or a building, and may be related to the function or use of a place, or how it was intended to fit into the landscape of (or) townscape, the view from it or how it can be seen from areas around about, or areas that are important to the protection of the place, site or building".
- 8.20 It is proposed that the boiler house building be demolished as part of the redevelopment proposals. The case for the demolition is:
- Its position to the front of the main building prejudices the setting of the principal hospital building;
 - Its position prejudices the provision of an access road to a number of the proposed dwellings;
 - The building cannot be converted to a residential dwelling;
 - Its retention would adversely impact on the viability of the proposed conversion of the principal hospital buildings; and
 - It is of limited architectural merit.
- 8.21 As the building is Category C listed it is for the Council to assess the listed building implications of the proposal – this position has been confirmed by Historic Environment Scotland who has no comment. The proposed loss of the boiler house should be considered in the context of the overall proposal for the redevelopment of the hospital site. Firstly the boiler house building by reason of its functional purpose is of less significance in terms of its architectural merits when considered against the principal hospital buildings. Furthermore, its architectural significance has been further diminished by various alterations and extensions over a number of years. The form of the building does not enable conversion to residential use. Its position to the front of the hospital diminishes the sense of arrival at the main hospital buildings and also inhibits to the provision of access routes to more important elements of the hospital complex. On this basis, it is

considered that the case has been made for the demolition of the boiler house building if there were to be an acceptable scheme for planning permission for the conversion of the principal hospital buildings.

- 8.22 Further proposed alterations to the exterior and interior of the listed buildings comprise:
- The removal of internal walls;
 - The insertion of new internal walls;
 - The removal of some chimneys and parapets;
 - The removal of the 20th century additions to the principal buildings;
 - The alterations of some ground floor window opening into doorways;
 - The lowering of some ground floor windows cills;
 - The raising of upper floor levels;
 - The creation of new window openings;
 - The infilling of some existing window openings; and
 - The removal of the two glazed connecting corridors.
- 8.23 The listing of a building means that most proposed physical interventions (interior and exterior) in such a building will require listed building consent. In the House of Lords judgement in *Shimizu (UK) Ltd v Westminster City Council (1997)* it was determined that the whole building is to be treated as a listed building and therefore removal of part of a building does not constitute demolition but rather alteration unless the work is so extensive as to amount to the clearing of the whole site. Having regard to the Shimizu judgement it is evident that the proposed works to the listed buildings (other than the boiler house removal) constitute alterations not demolition.
- 8.24 There are a number of proposed works which relate to window openings. These works comprise; lowering the cills of a number of windows, the blocking up of a small number of existing windows, the creation of a small number of new window openings and the alteration of some ground floor windows to doors ways. These works, along with the reconfiguration of some internal walls, are required to facilitate the conversion of the building into dwellings and if the principle of conversion is accepted then these alterations are acceptable and can be undertaken without detriment to the historical character of the buildings.
- 8.25 The proposed works to the roof of the listed buildings includes; the removal of some parapets and some chimney stacks and the installation of roof lights (to facilitate residential accommodation in the roof space). Of the 49 chimney stacks, 40 are proposed to be retained. The need for the removals arises from the removal of internal walls which provide structural support for the chimneys. The balance between retention and removal is acceptable – the character of the buildings will be retained.

- 8.26 The removal of two glazed link corridors between the different wings of the hospital is also proposed. Whilst they form an attractive element of the hospital buildings, given their nature they do not lend themselves to conversion and their continued retention prevents the conversion of those parts of the principal buildings to which they join. Their proposed removal is acceptable in order to facilitate the overall proposals for the conversion of the hospital buildings.
- 8.27 The hospital buildings, at various times in the late 20th century, have had a number of modest functional extensions. Although now part of the listed building these additions have a detrimental impact on the character and appearance of the listed building and therefore their removal is a positive proposal.
- 8.28 The proposals include removing all the roof coverings and then re-slating of the roof reusing the original slates where possible. Any new slates shall match those lost/damaged through the re-roofing process.
- 8.29 In respect to the proposed developments impact on the setting of the listed buildings; the views of the primary elevations are protected and enhanced (by the removal of unsympathetic additions and the demolition of the boiler house), the degree of separation of the proposed new build in the North and South Fields and the retention of existing trees and woodland. The proposed new build dwellings in the Firth Road/Farm Road cluster are of a scale and form that reflect their location and proximity to the listed buildings. Furthermore, they replace buildings which previously provided staff accommodation. It is considered that the development does not impact on the setting of the listed building.

Is the Proposal Enabling Development?

- 8.30 Enabling development is not a statutory term, but was confirmed as a legitimate planning tool in 1988 when the Court of Appeal, in its landmark judgement in *R v. Westminster City Council ex parte Monahan*, upheld the validity of a planning permission authorising office development, even though contrary to the development plan, on the basis that it would provide funds to improve the Royal Opera House, Covent Garden, unobtainable by other means.
- 8.31 The principal guidance on enabling listed building development is Historic England's "Enabling Development and Historic Places". There is not an equivalent guidance note from Historic Environment Scotland. The Historic England's guidance is also seen as best practice in Scotland and identifies that in an enabling development case there are seven key principles. In an enabling case, development that is contrary to planning policy is unacceptable unless:
- a. It will not materially harm the heritage values of the place or its setting;
 - b. It avoids detrimental fragmentation of management of the place;

- c. It will secure the long-term future of the place and, where applicable, its continued use for a sympathetic purpose;
- d. It is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid;
- e. Sufficient subsidy is not available from any other source;
- f. It is demonstrated that the amount of enabling development is the minimum necessary to secure the future of the place, and that its form minimises harm to other public interests; and
- g. The public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies.

8.32 The applicants have promoted the development as an enabling case. However, whilst the objective of the applicants is to promote residential development at Rosslynlee to support the conversion of the listed hospital buildings in order to secure their future, it is not enabling development as identified in the said guidance. This is because residential development is not contrary to planning policy because the site is identified as an Additional Housing Development Opportunity (site Ahs1). In order for development to be an enabling development the guidance specifically identifies that development provided for in a local plan by definition would not be enabling development. The application has the benefit of an allocation and cannot therefore also seek the benefit of being an 'exception to the rule' as an enabling development. The additional 'green fields', the North Field and South Field, were identified in site Ahs1 to provide the scale and opportunity for new development to fund the restoration and conversion of the listed buildings and the developments obligations in terms of infrastructure and development plan policy compliance.

8.33 It is worth noting in this context that were the proposals considered to be enabling development, the applicants would be required to demonstrate that the proposed new build housing was the minimum necessary to support the conversion of the listed buildings.

Layout and Form of Development

8.34 MLDP policy DEV 6 requires good design and a high quality of architecture in both the overall layout of development and their constituent parts. The applications proposed residential scheme is in five distinct areas:

- The conversion of the hospital buildings (Applications B and C);
- Three new build dwellings in the immediate hospital grounds (Application B), referenced in the application as Plot 3;
- Dwellings where the hospital farm and staff accommodation were historically located on Firth Road/Farm Road. This is a mixture of new build dwellings, conversion of unlisted buildings and conversion of listed buildings (Applications B and C) referenced in the applications as the Village Core;

- Residential development in principle in the field (known as North Field) adjoining the hospital (Application A); and
 - Residential development in principle in the field (known as South Field) adjoining the hospital (Application A).
- 8.35 The proposed dwellings within the listed hospital buildings are acceptable and the details of the conversion have previously been discussed elsewhere in Section 8 of the report. In terms of the three new build dwellings at Plot 3 in the hospital grounds these are detached dwellings of a contemporary design. They are two storeys in height with slate pitched roofs, vertical timber cladding and smooth render construction. By means of their distance of separation from the hospital buildings and the intervening landscaping they do not have an adverse impact on the setting of the listed buildings. Their contemporary design is well articulated and detailed though the use of the materials described.
- 8.36 The dwellings at the village core follow the existing liner street pattern of Firth Road/Farm Road and as previously noted are a mixture of conversions of existing buildings and the provision of new buildings including in part, dwellings already consented through the approval of applications 16/00720/LBC and 16/00716/LBC (Parcel A of the Village Core). The village core comprises 29 dwellings, 13 in Parcel A and 16 in Parcel B:
- 1 and 2 Firth Road (Listed) converted into a single dwellinghouse;
 - 3 and 4 Firth Road (Listed) converted into two dwellinghouses;
 - The farm manger's house (Listed) converted into a single dwellinghouse;
 - The cart shed (Listed) converted into a single dwellinghouse;
 - The steading building (unlisted) converted into three dwellings; and
 - 21 new build dwellings (8 semi detached and 13 detached).
- 8.37 The new build dwellings are for the most part 1.5 storeys, albeit three of the plots are two storeys in height. As regards materials, slate pitched roofs, light coloured wet dash render walling and stone cills are proposed.
- 8.38 The renovated listed buildings are proposed to be renovated using appropriate materials such as stone and slate with timber windows. Where there are new build additions such as a single storey extension to the listed cart shed a contemporary approach is taken with the extension being a wet dash render finish.
- 8.39 The proposed new build dwellings achieve a respectful relationship with the adjoining listed buildings by reason of their positioning on Firth Road/Farm Road and their scale. The introduction on some plots of differing heights of buildings introduces an appropriate interest and variety to the street scene. The new build plots use quality materials and are well articulated.

- 8.40 In relation to the proposed development in the North and South Fields the application is in principle with all matters of detail – layout, form, design, means of access and landscaping reserved for future submission and approval in the event that planning permission is granted. Indicative layout plans have been submitted demonstrating 280 dwellings with suitably sized gardens, the retention and enhancement of landscaping, pedestrian routes and the provision of public open space. Given the sites rural location close to a complex of significant listed buildings, if development were approved it would be of particular importance to achieve a high quality of design for the proposed dwellings. This can be achieved through the imposition of conditions if the scheme were to be granted planning permission.

Landscape and Visual Impact

- 8.41 MLDP policy ENV7 states that development will not be permitted where it may have an unacceptable effect on local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New proposals will normally be required to incorporate proposals to maintain the diversity and distinctiveness of local landscapes and to enhance landscape characteristics where they have been weakened.
- 8.42 In this instance the proposed development is located in the countryside with impressive views of the Pentland Hills. By the nature of the development it would bring a degree of urbanization through the introduction of dwellings to a green field site. The applicant's visual assessment nonetheless demonstrates that with suitable landscaping and tree planting; including the retention of existing features and the dwellings in the North and South Fields being limited to two storeys, there would be a limited visual impact upon the wider landscape. The hospital buildings are a case in point; these substantial buildings in a countryside location are largely hidden until the point of actual arrival because of the comprehensive and significant surrounding landscaping.
- 8.43 The MLDP settlement statement in relation to the site advises that there will be a need to protect, retain and enhance existing woodland belts within the site (along the north western, north eastern and south western boundaries) as well as along north eastern, south eastern edges of the hospital grounds. A 10-15 metre wide hedgerow should be incorporated along the south eastern edge.
- 8.44 One of the most notable landscape features of the site is the large rear lawn which enhances the setting of the principal hospital building – this should be retained. Application B proposes enhanced landscaping of the grounds immediately adjoining the hospital buildings and new walkways. The proposed interventions (subject to conditions to secure matters of detail in the event of planning permission being granted) will

provide an appropriate backdrop to the listed hospital buildings and the overall rural setting of the site.

- 8.45 Landscaping and open space would also be provided in the North and South Fields, the details of which would be the subject of a further application if the planning permission in principle application is approved.

Proposed Commercial Uses

- 8.46 Application A proposes up to 250 sqm of floor space for either Class 1 (Shops), 2 (Financial and Professional Services), 3 (Restaurants and cafes) or 4 (Business) uses which would be located in a new build unit within the site. The limited floor space of the commercial unit would not cause harm to the vitality and viability of Midlothian's town centres or local centres and is of a scale which could be seen as supportive of the main residential development and therefore accords with MLDP policy TCR2.

Planning Obligation/Affordable Housing

- 8.47 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); and
 - be reasonable in all other respects.
- 8.48 The MLDP requires (policies IMP2 and IMP2) proposed residential developments to mitigate their impact on local services by funding, by way of developer contributions, the capital cost of education provision, public transport infrastructure (including Borders Rail) and community facilities and in doing so meet the demand arising from a proposed development. If the applicant is not mitigating the need arising from their development the Council in effect subsidises the development – this applies even in cases where a development is to restore a listed building.
- 8.49 MLDP policy DEV 3 sets out a requirement that allocated housing sites (including Additional Housing Development Opportunity sites) shall

provide 25% of the total number of units as affordable. An alternative offsite provision may be an option which the Council will consider. At the time of drafting the report the applicant could not demonstrate that the affordable housing requirement (up to 94 units) could be delivered.

- 8.50 The Rosewell Settlement Statement of the MLDP identifies that the development of site AhS1 is require to make developer contributions towards additional primary school capacity at Rosewell Primary School, Secondary provision at Lasswade High School (of an alternative) and St David's RC High School, the Borders Rail and Community facilities in Rosewell.
- 8.51 In relation to the Borders Rail the site is a 15 minute drive from Eskbank Station and is specifically identified in the MLDP as being located within the A7/A68/Border Rail Strategic Development Area and therefore required to contribute towards the Border Rail project. The applicant's contribution proposals would not fund the required payments towards the Borders Rail or towards any other public transport provision.
- 8.52 The application site is with the Rosewell catchment area. As regards Rosewell Primary School, the school was extended by 3 classrooms in 2012 to accommodate growth from the planned development (now constructed/under construction) set out in the now superseded 2008 Midlothian Local Plan. The school operates at capacity and as such those new sites in the Rosewell catchment area identified in the MLDP, including the application site, must fund an extension to the school to meet the required primary education demands.
- 8.53 In relation to secondary schooling the site currently sits within the catchment of Lasswade Secondary school which is at capacity (as are all of the other non-denominational secondary schools in Midlothian). Therefore a contribution would be required towards additional secondary capacity including St David's RC High School in Dalkeith. Even if there were to be a review of catchments in respect of Lasswade High school, all of the other potential alternative high schools which might serve Rosewell such as Beeslack, Penicuik or Newbattle are all at capacity. Therefore contributions towards additional secondary capacity would be required irrespective of which high school serves Rosewell.
- 8.54 Section 51 of the Education (Scotland) Act 1980, as amended, requires education authorities to make such arrangements as they consider necessary for the provision of transport to and from school. Section 42 (4) of the Education (Scotland) Act 1980 sets a statutory walking distance of 2 miles for any pupil under the age of 8, and three miles for any other pupil. Scottish Executive Education Department Circular 7/2003 states that Education Authorities have a common law duty of care for the safety of pupils under their charge and this duty extends to pupils using transport to and from school. Having regard to the stated

provision, it would be necessary for this development to contribute financially towards the provision of bus services to enable pupils to be transported to school.

- 8.55 The applicant's developer contribution proposals would fund approximately 78% of the required payments towards their education requirements.
- 8.56 The applicant's contribution proposals would not fund the required payments towards community facilities.
- 8.57 The applicant is advising there are very high costs associated with the conversion and restoration of the listed buildings and as such the residential units proposed in the planning application in principle application (on a green field site) are required to cross subsidise this work. Therefore the applicants consider that it would be only viable to contribute a partial amount (circa two thirds of the overall amount sought, additional school capacity being the single largest category of contribution) of what the Council would be seeking towards planning obligations and not meet the required affordable housing requirements.
- 8.58 To give the above some context; in relation to the provision of additional school capacity the applicant is in effect needing the Council to underwrite a seven figure sum. In relation to the Borders Rail, the Council is required to underwrite millions of pounds worth of Border Rail costs irrespective of where it recovers contributions from developers. Therefore to not recover contributions in relation to Border Rail would potentially result in the Council needing to underwrite a substantial six figure sum.
- 8.59 The applicant's case is that the development would be rendered unviable if it were required to make the full gambit of developer contributions. Furthermore the applicant is securing the future of the listed building and this should outweigh the shortfall in contributions and the provision of affordable housing.
- 8.60 Whilst there is planning benefit to securing the future of the listed hospital buildings as recognised in the MLDP this needs to be weighed by the Council against the other pertinent considerations also identified in the MLDP. Firstly, in the context of the MLDP, the proposed housing is not necessary for the Council to meet its housing supply requirements. Secondly the development is considered to lead to conditions prejudicial to highway and pedestrian safety, contrary to national planning guidance and thirdly the development falls significant short of making the necessary infrastructure requirement through developer contributions to mitigate the consequential impact of the development. Taken together any ostensible planning benefits arising from securing the future of the listed building are outweighed by the disbenefits arising from the scheme.

Ecology and Biodiversity

- 8.61 A species protection plan has been submitted; setting out the status of protected species across the site, possible adverse impacts of the development and appropriate and effective mitigation. Both planning applications have been accompanied by habitat assessments which have been assessed by the Council's ecology adviser who has raised no objection to the proposed developments.

Flooding and Drainage

- 8.62 The applicant has submitted drainage and flooding assessments which set out the provision of a sustainable urban drainage system which includes retention basins to mitigate surface water runoff. Scottish Water, SEPA and the Council's Flooding adviser have been consulted on both planning applications and are satisfied with what is proposed subject to the imposition of suitable conditions.

Residential Amenity

- 8.63 MLDP policy DEV2 requires development, within existing and future built up areas and in particular within residential areas, not to detract materially from the existing character or amenity of the area. All the proposed residential units contained within Application B would receive acceptable levels of daylight, sunlight, outlook and privacy whilst not being exposed to unacceptable levels of noise or poor air quality. The levels of amenity in Application A would be subject to a further application if planning permission in principle is granted.
- 8.64 In relation to existing residential properties, the closest are those at Firth Mains Farm, Firthwell and Auchendinny Mains, but given the distance from the proposed development there is no loss of privacy, daylight or sunlight or will they be exposed to unacceptable levels of noise.

Other Matters

- 8.65 In terms of the issue raised by objectors about an increase in the number of dogs affecting sheep farmers. This issue is addressed by other legislation, namely the Dogs (Protection of Livestock) Act 1953. If a dog worries sheep on agricultural land, the person in charge of the dog is guilty of an offence. The Act considers sheep worrying to include attacking sheep, chasing them in a way that may cause injury suffering, abortion or loss of produce or being at large (not on a lead or otherwise under close control) in a field or enclosure in which there are sheep. Furthermore under the Land Reform (Scotland) Act 2003, access rights do not allow members of the public on to land with a dog which is not under proper control.

- 8.66 One of the points of objection made a representor is that the applicant did not adequately notify surrounding residents. However, in relation to planning applications the requirement to carry out neighbour notification rests with the local planning authority, which has followed the requirements set out in the regulations.
The Condition of the Listed Buildings (Rosslynlee Hospital)
- 8.67 It is appropriate to give consideration to the scenario that the applications are refused planning permission and listed building consent. In that circumstance the applicant has the right of appeal to the Scottish Ministers. It is acknowledged that the objective of the applicant has been to secure the future of the listed buildings through bringing forward residential development. The buildings have been unoccupied for some years. The deterioration in the condition of the buildings which might anyway occur has been exacerbated by the stealing of piping and lead flashing and general vandalism such as the breaking of windows. These criminal activities have increased the incursion of wind and rain and there is now the presence of wet and dry rot in parts of the buildings.
- 8.68 The applicant has sought to put in place security measures to reduce the likelihood of vandalism and theft occurring; however on a large remote site it will be difficult to wholly exclude those with determined criminal intent. In essence the applicant's case is that the proposed development is necessary in order to safeguard the future of the listed buildings and that if the applications were to be refused there is not an alternative identified approach. The future of the listed building is a material consideration, but it is one of several important considerations for the Council, not the single overriding issue.
- 8.69 The primary responsibility for the condition and state of a listed building is the owner. Historic Environment Scotland note in their guidance "as with any asset, the owners of listed buildings are responsible for repairing and maintaining their property. However, planning authorities have powers available to them pursuant to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 which they can use to address listed buildings in a poor condition in their area. Planning authorities can carry out any urgent work needed to preserve an unoccupied listed building, or unused parts of a listed building, as long as they give the owner notice first. Planning authorities can claim the cost of urgent work back from the owner.

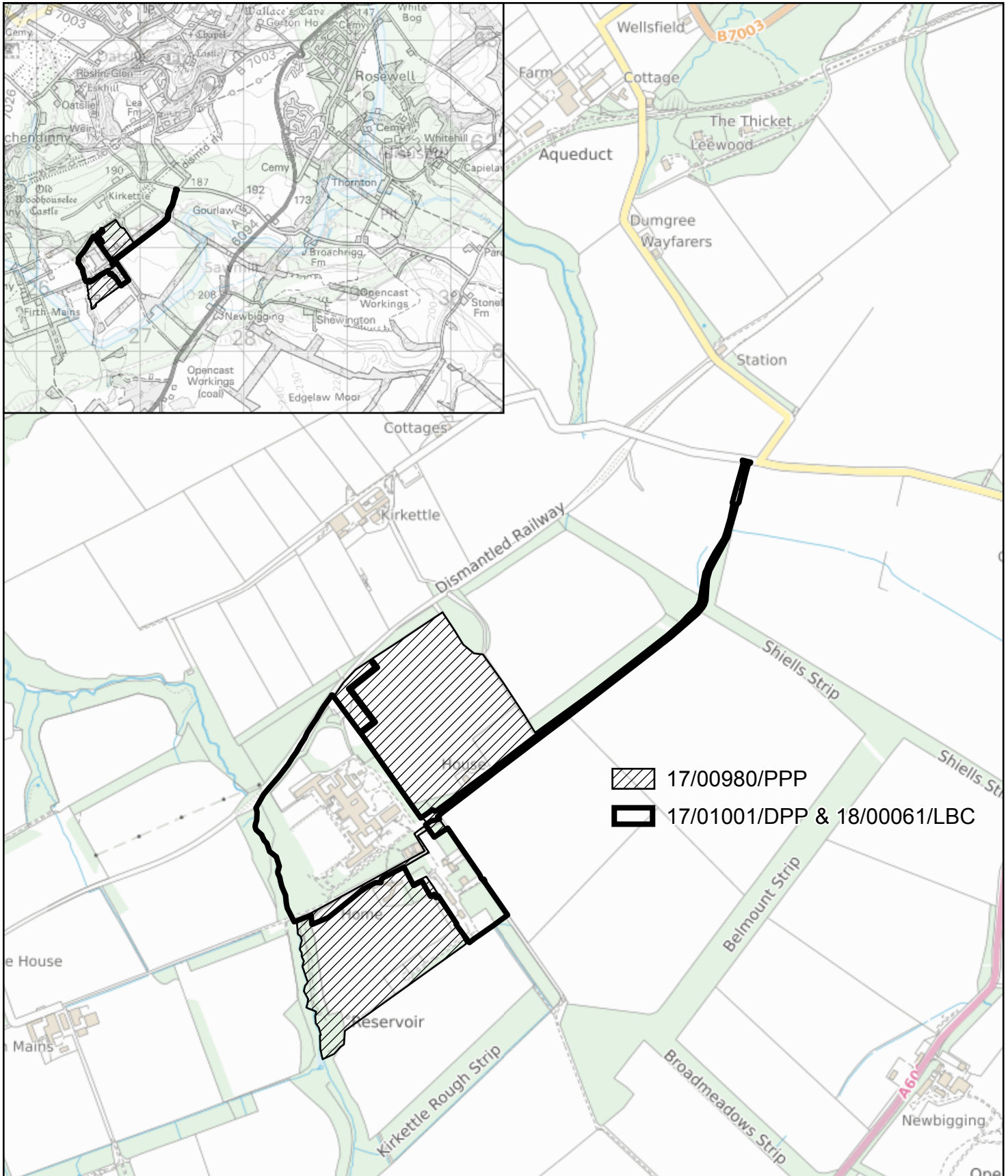
9 RECOMMENDATION

- 9.1 That planning permission 17/00980/PPP (Application A) for residential development, up to 280 dwellinghouses, and commercial development on land adjoining the former hospital at Rosslynlee be refused for the following reasons:

1. The development by reason of; the number of dwellings proposed and the consequent trip generation, the remote location of the site and the narrow roads of the local highway network would lead to conditions prejudicial to highway and pedestrian safety contrary to paragraph 187 of Scottish Planning Policy.
 2. The application does not make the necessary provision towards essential infrastructure (developer contributions) to mitigate the impact of the proposed development and is therefore contrary to policies IMP1 and IMP2 of the Midlothian Local Development Plan 2017.
 3. The applicant has not demonstrated to the satisfaction of the local planning authority that the proposed development includes the required affordable housing provision (25% of units) either by the delivery of onsite provision, a compensatory commuted sum towards off site provision or by an alternative methodology and as such the proposed development is contrary to policy DEV3 of the Midlothian Local Development Plan 2017.
- 9.2 That planning permission 17/01001/DPP (Application B) for the conversion and alteration of the former hospital and associated buildings to 72 dwellings and the erection of 24 new dwellinghouses at the former hospital at Rosslynlee be refused for the following reasons:
1. The application does not make the necessary provision towards essential infrastructure (developer contributions) to mitigate the impact of the proposed development and is therefore contrary to policies IMP1 and IMP2 of the Midlothian Local Development Plan 2017.
 2. The applicant has not demonstrated to the satisfaction of the local planning authority that the proposed development includes the required affordable housing provision (25% of units) either by the delivery of onsite provision, a compensatory commuted sum towards off site provision or by an alternative methodology and as such the proposed development is contrary to policy DEV3 of the Midlothian Local Development Plan 2017
- 9.3 That listed building consent 18/00061/LBC (Application C) for the conversion and alteration of the former hospital and associated buildings to 69 dwellings and the demolition of outbuildings at the former hospital at Rosslynlee be refused for the following reason:
1. As there is not an acceptable scheme for the conversion of the listed building which makes the necessary provision towards infrastructure and affordable housing provision it is not appropriate to grant listed building consent and the scheme is thereby contrary to policy ENV22.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 8 November 2018
Application No: 17/00980/PPP, 17/01001/DPP and 18/00061/LBC
(Available online)
Applicant: Oakridge Group
Agent: Geddes Consulting
Validation Date: 13 December 2017, 10 January 2018 and
1 February 2018
Contact Person: Matthew Atkins
Tel No: 0131 271 3346
Background Papers:



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

Detailed planning application and listed building consent to convert former hospital and associated buildings to 72 dwellings together with 24 new build dwellings.

Planning permission in principle for up to 280 dwellings"

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

Midlothian Council Licence No. 100023416 (2018)

File Nos.17/00980/PPP,17/01001/DPP & 18/00061/LBC

Scale: 1:10,000 (Inset: 1:50,000)

Page 128 of 188





Application A

APPLICATION FOR PLANNING PERMISSION (17/00408/DPP) FOR RESIDENTIAL DEVELOPMENT INCLUDING PARK AND RIDE; ALLOTMENTS; LAND SAFEGUARDED FOR POSSIBLE EDUCATION USE; FORMATION OF ACCESS ROADS AND CAR PARKING AND ASSOCIATED WORKS ON LAND AT NEWTON FARM, OLD CRAIGHALL ROAD, MILLERHILL, DALKEITH

Application B

APPLICATION FOR PLANNING PERMISSION (17/00409/DPP) FOR RESIDENTIAL DEVELOPMENT; FORMATION OF ACCESS ROADS AND CAR PARKING AND ASSOCIATED WORKS AT LAND AT WELLINGTON FARM, OLD CRAIGHALL ROAD, MILLERHILL, DALKEITH

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The applications are for the erection of 620 dwellings on two adjoining and interconnecting sites to the north and south of Old Craighall Road, Millerhill. Application A (17/00408/DPP) is for 504 dwellings and Application B (17/00409/DPP) is for 116 dwellings. There have been no representations received. Consultation responses have been received from the Coal Authority, Scottish Environment Protection Agency (SEPA), Transport Scotland, East Lothian Council, the Council's Archaeology Advisor, the Council's Head of Education, the Council's Policy and Road 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 STRAT3, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV18, ENV22, ENV23, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the adopted Midlothian Local Development Plan 2017.**
- 1.3 The recommendation is to grant planning permission subject to conditions and the applicant entering into a Planning Obligation**

to secure developer contributions towards necessary infrastructure and the provision of affordable housing.

2 LOCATION AND SITE DESCRIPTION

- 2.1 The applications are on two adjoining and interconnecting sites to the north and south of Old Craighall Road, Millerhill and together form site Hs1 in the Midlothian Local Development Plan 2017. Application A (17/00408/DPP) is at Newton Farm and is approximately 32.97 hectares and Application B (17/00409/DPP) is at Wellington Farm and is approximately 4.60 hectares. The two sites are bounded to the north by the rail line that links the Millerhill Marshalling Yards to the East Coast Main Line and to the south by the A720 City Bypass and its associated embankments. The combined site is on the boundary with East Lothian.
- 2.2 The site is currently, in the main, in agricultural use. There are some agricultural sheds and buildings on the Wellington Farm site, some of which are to be demolished whilst others are to be retained. Wellington Farm is currently a Pig Farm. There is also a small business located within the buildings which supplies bottled gas. It is proposed to retain the existing farmhouse and traditional steading buildings on the site.
- 2.3 To the east of the site is a number of listed buildings including Newton House and associated walled garden and gatepiers, Newton Farm House, and Newton Dovecot which are all category B listed buildings and Newton Farm Steading and gatepiers which is a category C listed building. A group of terraced cottages fronting onto Old Craighall Road, situated at the entrance to Newton Farm, are located within the eastern part of the development area and are surrounded by the proposed new development.
- 2.4 The 'Newton pit alignment' Scheduled Monument to the east of the site is described as a boundary feature of pre-historic date, represented by cropmarks which are visible from aerial photographs. The development does not impact this Scheduled Monument. Newton House was previously included in the Inventory of Gardens and Designed Landscapes, however the site was removed from the Inventory in September 2015.
- 2.5 There is a footpath running along the western boundary of the site linking Old Craighall Road to the A68 via a tunnel under the city bypass.
- 2.6 Electricity pylons cross the southern extremity of the site.

3 PROPOSAL

- 3.1 The proposal comprises a residential development with associated works and the provision of land for a park and ride facility and the

safeguarding of land for a school (if required). Access to a large part of the site is proposed via a link road through the site, connecting the A720/A68 junction with the Old Craighall Road. New traffic lights are proposed at the junction of the link road and the Old Craighall Road. Land is reserved towards the south east of the site, adjacent to the A68/City Bypass junction, for a park and ride facility. In addition, land in the centre of the site, to the south of Old Craighall Road, is safeguarded for a two stream primary school if required.

- 3.2 The proposed development, covered by the two applications, comprises a total of 620 units with 504 units on the Newton Farm site (Application A – 17/00408/DPP) and 116 units on the Wellington Farm site (Application B – 17/00409/DPP). A total of 155 affordable units are proposed in clusters along the Old Craighall Road and in the southern part of the site and consist of 65 dwellinghouses and 60 flats on the Newton Farm site and 6 dwellinghouses and 24 flats on the Wellington Farm site.
- 3.3 It is proposed that the development is implemented in six phases. The first phase includes works to Old Craighall Road to form a continuous footway cycleway and traffic lights at the junction of the link road and Old Craighall Road. However, the phasing plan is supplemented by a letter from the applicant advising that the works required to the Old Craighall Road, to make it acceptable in road safety terms, requires land on both of the application sites. It is advised that the applicant cannot guarantee that both developments will be developed at the same time (because the sites are under different land ownership) allowing for the comprehensive development of the works required to Old Craighall Road. Two pedestrian crossing points are identified on Old Craighall Road.
- 3.4 The first phase also includes the erection of 77 dwellings to the north east of the site, on both sides of the access roadway to Newton House and Farmhouse. The second phase of development comprising 212 dwellings to the north of the site, mainly to the north of Old Craighall Road with some limited development to the south of the said road. Phase three includes the erection of 86 dwellings and the completion of the link road through the site (from the A68/A720 junction to the Old Craighall Road). In total, it is proposed that 375 dwellings are built before the link road is completed. Phase three also includes the area to be reserved for the primary school and the provision of the main area of open space for the site, located in a central location. Phase four, five and six would see the erection of 101, 86 and 58 dwellings respectively. The final phase is mainly affordable units and the proposed allotments and community orchard located in the south of the site. Phase five includes the land for the park and ride. The Wellington site includes dwellinghouses in the first and second phases only, 40 in the first phase and 76 in the second.

- 3.5 The proposed development includes a mix of two storey dwellings and three storey flatted blocks. The flatted blocks are at the entrance to the development on Old Craighall Road and off the A68 and at either end of the link road. There are also a number of flatted blocks in the southern part of the site facing south.
- 3.6 The applicant has identified the following six character areas:
- Midlothian Edge – is located to the east and consists of larger detached houses in large plots some of which front onto open space along Old Craighall Road;
 - Old Craighall Road – incorporates higher density housing in the northern part of the site along Old Craighall Road and are of a character compatible to the existing stone buildings which have slate roofs and face onto the road;
 - Lush Links and Courtyards – includes the high density development along the new link road and the main area of open space centrally located within the development;
 - Parkland Edge – this area overlooks the open space and consists of a mix of detached and terraced homes. The open space includes an equipped play area, a kickabout area, a community planting area, tree planting and landscaping and seating areas;
 - Rural Edge – this area incorporates homes around the edge of the development fronting onto a ‘trim track’ (outdoor exercise area/route) set in landscaping. A mix of detached houses, terraces and apartments form a broken edge, all linked by a 3m shared cycle/footway providing easy access between Old Craighall Road and the proposed Park & Ride facility; and
 - North Courts – comprises the area to the north of Old Craighall Road and provides predominantly family housing and apartments.
- 3.7 Areas of Improved quality on the site include the dwellings along the main link road, the houses along Old Craighall Road and houses to the eastern boundary of the site closest to the listed Buildings at Newton Farm.
- 3.8 There is a variety of dwellinghouse on the site including detached, semi-detached, terraced and flatted blocks. The size of the units ranges from 1 to 5 bedroom dwellings. Many of the detached houses are substantial in size with projecting gable features and integral garages. The majority of the houses have gabled roofs rather than hipped roofs. The proposed materials include a range of wall finishes namely red and buff coloured brick, drydash render and reconstituted stone. Roofing materials include slate, a red ‘pantile style’ material and grey concrete roof tiles. Windows and doors are proposed with white and grey uPVC. The areas of improved quality within the site is proposed with enhanced materials including slate roofs and wet dash render.
- 3.9 Open space within the site includes: a main park centrally located adjacent to the school, which has housing overlooking it, and incorporates play parks and kickabout areas; informal open space

associated with sustainable urban drainage system (SUDS) ponds/basins on the eastern boundary with views towards Newton House and in the north east of the site; a linked 'trim track' and cycleway and footpath around the boundary of the site; and allotments and community growing area in the southern part of the site. Avenue planting along the main link road helps to create an attractive green network through the site and softens the impact of necessary infrastructure. Open spaces are generally well overlooked with key buildings terminating long vistas. The school and central open space, which includes play provision and a community growing area, are centrally located and will meet the needs of both planning applications.

- 3.10 The SUDS strategy considers the two applications together, the Wellington Farm SUDS is provided within the Newton Farm development area. Two dry retention basins are located in the north east of the development and a SUDS pond is located at the eastern boundary. Together these features provide adequate attenuation for the development.
- 3.11 Car parking provision is made in line with the Council's parking standards and includes 373 visitor spaces in addition to on plot parking. Cycle parking is provided at the recommended level of one space per apartment plus 1 visitor space per 10 flats, in a secure location close to the block entrances.
- 3.12 The primary school site is identified as 1.34 hectares.
- 3.13 The park and ride site is accesses off the main link road running through the site at its southern end (connected to the A68) and the indicative design includes the provision of parking for 419 vehicles, a bus turning circle and shelter. The facility is set within landscaping.
- 3.14 The application is also accompanied by:
- a design and access statement;
 - a flood risk assessment;
 - a drainage impact assessment (including SUDS proposals);
 - a transport assessment;
 - contaminated land assessment;
 - habitat survey;
 - planning statement;
 - landscape and visual appraisal;
 - design consideration of cultural heritage features statement;
 - grouting risk assessment;
 - archaeological report;
 - noise impact assessment;
 - energy sustainability statement;
 - bat survey for the Wellington application only; and
 - air quality impact assessment.

4 BACKGROUND

- 4.1 The applicant carried out a pre-application consultation (14/00415/PAC) for residential development and associated works in June – September 2014.
- 4.2 In May 2015 the planning authority issued a screening opinion (15/00391/SCR) for the site advising that an Environmental Impact Assessment submission is not required.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application, based on the information submitted by the applicant in December 2018, subject to conditions on any grant of planning permission to ensure the remediation of the shallow coal mine workings and mine entries.
- 5.2 **The Scottish Environment Protection Agency (SEPA)** does not object to the application based on the information submitted by the applicant dated 26 June 2018.
- 5.3 **Transport Scotland (TS)** does not object to the application. The transport assessment (TA) submitted with the application has been carried out on the basis of 600 dwellinghouses on the site and not the 620 proposed, however the variation in numbers is not considered to be material in terms of its impact on the conclusions of the TA report.
- 5.4 The TA has been prepared on the basis of up to 500 residential units being constructed prior to the completion of the link road to the A68 and the balance to 600 dwellings (620 dwellings) and the opening of the park and ride facility being completed thereafter. TS advise that they would anticipate conditions to reflect the phasing strategy, limiting the later phase of development to the delivery of the link road connection. The TA concludes that it is necessary, to accommodate the full development with the link road connection, to introduce part-time partial signal control on the A720 off slip to the southern roundabout in order to manage traffic flows. Whilst this is shown to mitigate the impact TS remain cautious as to how this measure would operate in practice and it is TS preference to retain the priority control at this junction for as long as possible and to secure a developer contribution to cover the cost of implementing these works only if they are required.
- 5.5 TS does not object to the application subject to conditions regarding; the phasing of the link road; lighting, landscaping and barrier details to be agreed; and no drainage connections to the Trunk Road. Furthermore TS require the prior signing of a legal agreement between them and the developers to secure developer contributions. The applicant has confirmed that it is their intention to enter into such an agreement before the planning application is issued. If this were not the case the Council

would have to seek such an agreement in order to secure the necessary funds for the aforementioned works.

- 5.6 **East Lothian Council (ELC)** does not object to the application, but have some concern regarding the consequential impact on the local road network prior to the link road through the site to the A68 being provided. Furthermore ELC request the applicant carry out an Air Quality Assessment (this was subsequently done during the application process) and highlight the opportunities to improve the sustainability of the development because of the sites proximity to the Recycling and Energy Recovery Centre at Millerhill.
- 5.7 The Council's **Archaeology Advisor** indicated that as a result of the initial desk-based appraisal undertaken and submitted with the application, a 'Programme of Archaeological Works' (Trial Trench Evaluation) is necessary. The trial trench evaluation required is to be no less than 10% of the total site area. The requirement for this work can be secured by condition.
- 5.8 The Council's **Head of Education** has stated that the development will result in additional pressure on primary and secondary school provision and as such a developer contribution would be required. The development lies within the following school catchment areas (however these will be subject to change as the Shawfair development progresses and the Shawfair school provision comes on stream):
- | | |
|------------------------------|--------------------------------|
| Non-denominational primary | - Danderhall Primary School |
| Denominational primary | - St David's RC Primary School |
| Non-denominational secondary | - Dalkeith High School |
| Denominational secondary | - St David's RC High School |
- 5.9 The Council's **Policy and Road Safety Manager** objects to the application. The road/footway alterations required to bring Old Craighall Road up to a standard suitable to safely accommodate pedestrian/cycling traffic arising from the development will not be secured by the development. This is because of the interdependence of the two applications to deliver one joined up highway solution, in particular the provision of a safe route to school – the applicant has not demonstrated a commitment to deliver the two schemes simultaneously to implement pedestrian/cycle connections to the wider Shawfair development, in particular the schools. As a consequence there is a risk that one scheme is implemented without the other.
- 5.10 A 3m wide cycleway/footway is proposed along the southern side of Old Craighall Road, however a 70m long section of this route would not be constructed as part of the applications and cyclists and pedestrians would be required to use the existing narrow rural footway. This section of footway is of varying widths ranging from 1.65m to 1.55m. A minimum width of 3m is required for a cycleway/footway with a minimum width of 2m for a standard footway. The narrowness of this section of footway would preclude its legal use as a cycleway and require cyclists

to use the Old Craighall Road. Also narrow sections of public footway will result in congestion with some pedestrians being required to walk on the carriageway. This link would form the main 'Safe Route to School' for new residents of this development accessing the proposed primary school site and also for residents at the eastern end of the development accessing Millerhill Village and Shawfair.

- 5.11 As the Council is encouraging walking and cycling as part of its active travel strategy it is essential that new developments provide adequate infrastructure to enable residents to safely walk or cycle within the development and link to the wider area. This proposal fails to provide adequate walking/cycling links between sections of the new housing and the proposed primary school and between the eastern housing areas and the Millerhill/Shawfair area. The Council's Policy and Road Safety Manager is therefore unable to support this application in its current form and would recommend that the application be **refused**.
- 5.12 Furthermore the **Road Safety and Policy Manager** (as the Council's Flood Officer) has concern that the restricted run off rate from the school site will mean that SUDs will have to be provided on the school site and this may require extra land. The amount of land that will have to be reserved for the potential new school will have to pay cognisance to this potential drainage requirement.
- 5.13 It is noted that the drainage proposals for the Wellington Farm site rely on the drainage for the Newton Farm site. If the Wellington Farm site were to come forward in advance of the Newton Farm site temporary or alternative drainage provision would have to be made for the Wellington Farm development to reach the proposed retention basin which serves the whole site.
- 5.14 Further information has been requested in relation to the overland flow path from the three SUDs features in the event of an overtopping event, this matter can be secured by condition. The two new surface water culverts have been designed with additional capacity which addresses an earlier concern regarding potential blockage issues. No technical design of the SUDS pond and two SUDS basins have been provided therefore it is not possible at this stage to comment in relation to the proximity of them to public roads and footpaths or the need for any pedestrian or vehicle barriers at these locations.
- 5.15 The Council's **Environmental Health Manager** raises concerns regarding the sites proximity to the railway line serving Millerhill (used by freight trains at night), the City Bypass and the industrial processes taking place at the Millerhill Marshalling Yards and Zero Waste plants. As a consequence there is the potential for noise and vibration to impact the development site and in turn the amenity of future residents. There are also concerns regarding air quality as well as the potential for odour nuisance from Wellington Pig Farm.

- 5.16 It is understood that as part of the proposed development the Wellington Pig Farm will cease to operate. The timing of this is not however clear and it is therefore recommended that any consented housing likely to be affected by odours from the farm is not occupied until all farming activity on Wellington Pig Farm has ceased and the farm buildings cleared of any residual manure. It is also unclear whether Newton Farm will remain a working farm. The applicant has confirmed that the farm is to remain and as a consequence it is advised that the noise impact of the operational farm is a consideration in the assessment of the application.
- 5.17 The acoustic report submitted with the application indicates that with high quality insulation internal levels will achieve Midlothian Council's design standards in relation to anonymous noise sources i.e. 35 dB LAeq(16hr) for daytime internal living apartments, 30 dB LAeq(8 hours) for night time internal living apartments, and for the avoidance of sleep disturbance internal noise levels complying with the World Health Organisation Night Noise Guidelines for Europe 2009 level of 42 dB LAmax (fast) (internal). The acoustic report indicates that an internal level for the worst case traffic noise will be 39 dB LAmax. The 'high quality insulation' referred to in Table 7 of the acoustic report should incorporate acoustic vents to allow these internal levels to be achieved with satisfactory ventilation. The Council's design target to avoid sleep disturbance can be achieved and that conditions on any grant of planning permission can secure appropriate mitigation to address concerns regarding vibration levels and that internal noise levels will be 39 dB LAmax.

6 REPRESENTATIONS

- 6.1 No representations have been received.

7 PLANNING POLICY

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

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 **Policy 5 (HOUSING LAND)** requires Local Development Plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing requirements for each period.
- 7.3 **Policy 7 (MAINTAINING A FIVE YEAR HOUSING LAND SUPPLY)** states that sites for Greenfield housing development proposals either within or 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 2017 (MLDP)

- 7.4 Policy **STRAT3: Strategic Housing Land Allocations** states that strategic land allocations identified in the plan will be supported provided they accord with all other policies. The development strategy supports the provision of an indicative 350 housing units on the site (Hs16) to 2024, with a further 200 units safeguarded for the longer term up (beyond 2024).
- 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** sets out design guidance for new developments.
- 7.9 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.10 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that Plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan.

- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **TRAN2: Transport Network Interventions** states that the Council requires the early implementation of the transport interventions arising in connection with the development strategy of the Plan, and the committed development supported by the plan. This includes connection to the A68 from the Newton Farm development.
- 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 **ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.
- 7.22 Policy **ENV22: Listed Buildings** does not permit development which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.
- 7.23 Policy **ENV23: Scheduled Monuments** states that development which could have an adverse effect on a scheduled monument, or the integrity of its setting, will not be permitted.
- 7.24 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.
- 7.25 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.
- 7.26 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.27 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.

- 7.28 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.
- 7.29 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

National Policy

- 7.30 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.
- 7.31 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.
- 7.32 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*.
- 7.33 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.
- 7.34 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".

- 7.35 The Scottish Government policy statement, Creating Places, emphasises the importance of quality design in delivering good places.
- 7.36 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.
- 7.37 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 consultation responses received are material considerations.

The Principle of Development

- 8.2 The site is allocated for housing (site Hs1) in the MLDP and is located within the built up area of Shawfair where there is a presumption in favour of appropriate residential development. The indicative number of residential units allocated for site Hs1 in the MLDP is 480. The applications are for 620 units. Application A (17/00408/DPP) is for 504 dwellings and Application B (17/00409/DPP) is for 116 dwellings. The increase in the number of proposed units compared to the indicative allocated numbers is acceptable subject to the layout, form and design of the proposed development being acceptable and the impact of the development on infrastructure, including education provision, being appropriately mitigated.
- 8.3 In addition to the residential development the applications propose land to be safeguarded for the provision of a primary school, if required, and a separate piece of land for a park and ride facility, which may form part of an orbital bus route in the longer term, accessed off the A68. These land uses are requirements set out in the MLDP and as such the principle of development for the said uses is acceptable if appropriately sited to be compatible with the proposed residential development.

The Layout and Form of Development

- 8.4 The proposed development comprises: 1) six character areas as outlined in paragraph 3.6, consisting of a mix of two and three storey buildings; 2) a large central area of open space adjacent to the land safeguarded for a primary school; 3) a community orchard and allotments in the south of the site; 4) land allocated for a park and ride facility; 5) pedestrian and cycle paths around/through the site; 6) a 'trim track' around the southern part of the site; 7) a main link road connecting Old Craighall Road to the A68; 8) landscaping; 9) access

roads and car parking provision; and 10) SUDS provision. The stated development components meet the requirements set out in the MLDP and are configured so that the layout will provide a good form of development which provides an attractive place to live with good amenity, respects the historical buildings at Newton and mitigates the constraints of the site.

- 8.5 The form of development comprises a mix of two storey dwelling houses of various sizes and designs and three storey flatted blocks. There is a mix of terraced, semi-detached and detached properties. The form of development complies with the fundamental design principles of; dwellings overlooking open space, SUDS features and footpaths/cyclepaths; the taller buildings (three storey flatted blocks) being located at key entrance points and road junctions to provide 'landmark' structures; variations in character and density throughout the site; and attractive streets, some lined with trees, to create a sense of place.
- 8.6 The MLDP requires good levels of amenity for residential development in terms of garden sizes, open space and the separation distances between dwellinghouses to mitigate against overlooking, loss of privacy and a sense of overbearing on neighbours. The required spatial standards were set out in the superseded Midlothian Local Plan 2008 and are likely to be incorporated into the supplementary guidance on 'Quality of Place' which is currently being drafted following the adoption of the MLDP in November 2017. These dimensional standards help those in the planning process quantify what good levels of amenity are and therefore it is reasonable to expect housing developments to meet these requirements unless there is justification not to do so. The requirements with regard usable private garden sizes should be: (i) 100 square metres for terraced houses of 3 or more apartments; (ii) 110 square metres for other houses of 3 apartments; and (iii) 130 square metres for houses of 4 apartments or more. 95 dwellings fall below the minimum size, but not significantly to compromise the residential amenity of the future occupants of the houses. The majority of the houses that have rear gardens that fall below the minimum standard are narrow fronted terraced houses or semi-detached house of a 'terrace style'. In this case, if the minimum garden standard was applied to these houses they would have overly long gardens. The small gardens of these houses are therefore justified in design terms. It is expected that each of the flats is provided with the equivalent of 50 square metres of open space, provided in an area of communal private space. Four of the 11 flatted blocks fall below the expected standard. However the flatted blocks front onto the principal open spaces, which provides some compensation for the reduced size of communal garden ground, are at key junctions in the development providing 'landmark' structures to the benefit of the urban design. The smaller garden ground of some the residential units should be weighed against the fact that a large proportion of the private houses have large rear garden sizes and this

change in density helps to provide interest and variation in the form of development.

Affordable Housing

- 8.7 155 Affordable housing units are proposed, which meets the MLDP requirement for a 25% provision. The applicant has advised that they have had discussions with a Register Social Landlord (RSL) but that there is no formal agreement in place at present.
- 8.8 The proposed mix consists of 41 two bedroom houses and 22 one bed flats, 88 two bed flats and 45 three bed flats (114 flats). This compares to the market housing mix of 38 flats and 427 houses. Ideally, there would be a more balanced affordable housing mix with more dwellinghouses or '4 in a block' flats and fewer large flatted blocks. The three storey flatted blocks are the least popular with potential tenants on the housing waiting list and potentially have the most challenges in terms of management. In addition, the demand is for one and two bed properties, rather than three bed flats. As a consequence, a different mix of units may be required from the applicant if an arrangement cannot be secured with a RSL – this can be secured by the planning obligation associated with any grant of planning permission.
- 8.9 Much of the affordable housing is located along the southern boundary of the site facing the A720. From a noise perspective the flatted blocks and associated linking walls help to mitigate the potential noise impact from the A720 for the development as a whole. Using this physical form of development means that the anticipated noise levels in the garden areas of those units closest to the A720 are acceptable although they are at the upper level of the acceptable noise range. These units will have to be designed to ensure noise levels within the buildings are mitigated with insulation (and mechanical ventilation) such that the noise levels are acceptable within living rooms and bedrooms.

Open Space and Landscaping

- 8.10 The proposed layout includes: 1) a central area of open space next to the land safeguarded for the primary school, which can be used for a variety of activities including a children's play park, kickabout areas, informal play, recreation and community planting/activities; 2) a circuitous footway/cycleway which can be used as a 'trim track' (outdoor exercise equipment along its route); 3) informal open space around the SUDS pond and basins which is overlooked by housing; 4) a small 'village green' fronting onto Old Craighall Road; 5) areas of planting and informal open space located adjacent to the A720 and around the land safeguarded for the park and ride; 6) areas of incidental open space located to the north of Old Craighall Road and 7) allotments located in the southern part of the site.

- 8.11 This represents an appropriate provision of open space in terms of the scale and variation of the offer. The requirement for, and assessment of, open space provision is set by MLDP Policy DEV 9 (and associated Appendix 4). This policy requires that open space is considered in relation to the quantity, quality and accessibility of the open space. In relation to accessibility, this is measured against standards for the proximity to country parks, district and town parks and in relation to local park/play park provision or significant amenity open space (such as a community woodland). In allocating the site for housing the Council has determined that the sites relationship to existing country and town parks and those planned as part of the wider Shawfair development is acceptable. Therefore the priority is for the proposed development to deliver provision to meet the localised need, which it does as set out in paragraph 8.10. It is also recognised that future residents may use those facilities and open spaces within neighbouring districts as the site is located in close proximity to the City of Edinburgh (Hunter's Hall Public Park) and East Lothian (Old Craighall Road pitches).
- 8.12 Provision of pitches and leisure and recreation facilities are to be provided in association with the new settlement at Shawfair (including sports facilities at the proposed secondary school). New facilities are also to be provided at Danderhall adjacent to the new primary school and further investment is to be made at the nearby Millerhill Park. The site is within an accessible distance of four Country Parks. It is considered that the onsite open space provision and relationship to wider facilities is acceptable.
- 8.13 Landscaping along the link road will see trees being planted on one side of the road in some sections and on both sides of the road in other sections. This can be augmented with the planting of trees along the boundary of the safe guarded primary school site and linked to the planting in the central open space. This will provide an attractive route through the development. Other significant areas of landscaping will enhance the SUDS features and provide an attractive area of woodland around the safe guarded park and ride site and in the south of the site. These areas of landscaping along with the SUDS provision should be used to also enhance biodiversity across the site.
- 8.14 The applicant has suggested that some trees could be planted in the front gardens of some dwellinghouses, with conditions on the deed of conditions (now the Development Management Scheme) for each house restricting their removal and allowing access for the factor to manage and maintain the tree. Although this would be helpful in safeguarding some trees to the benefit of the housing scheme as a whole, it is also for the planning authority to secure their retention, by way of a planning condition, for a five year period. Once of sufficient size the planning authority can consider protected any tress of particular value by way of a Tree Preservation Order. A detailed landscaping and SUDS scheme will be required by condition.

Access and Transportation Issues

- 8.15 The main access points to the site will be via Old Craighall Road and off the A68 once the link road is open. The Old Craighall Road currently has a 60mph speed limit. It is proposed to reduce this speed limit to 30mph to facilitate the proposed development – this is acceptable in principle. Alterations to the Old Craighall Road along the frontage of the development will also include the provision of pedestrian crossing points, lane management at the proposed new access into the southern part of the site, a new access into the northern part of the site and traffic calming measures.
- 8.16 A 3m wide footway/cycleway is required along the Old Craighall Road to form part of a safe route to school and will serve to encourage walking and cycling between the site and the facilities and education provision in Shawfair. This route requires to be delivered prior to the occupation of any dwellinghouses and is dependent on the applicant securing land from different land owners. The provision of a safe route to school will be secured by condition. The Council's Policy and Road Safety Manager has objected to the applications because of concern over the delivery of this route.
- 8.17 Transport Scotland advise that the following conditions should be attached to any grant of planning permission:
1. The proposed link road connection between the A720/A68 Junction and the Old Craighall Road, as illustrated on Goodson Associates Drawing P12644/701, shall be delivered in accordance with the development phasing plan agreed with the planning authority, in consultation with Transport Scotland, as the trunk roads authority;
 2. Prior to the commencement of the development, details of the lighting within the site shall be submitted for the approval of the planning authority, after consultation with Transport Scotland, as the trunk roads authority;
 3. Prior to commencement of the development, details of the landscaping along the trunk road boundary shall be submitted for the approval of the planning authority, after consultation with Transport Scotland, as the trunk roads authority;
 4. Prior to the commencement of the development, details of the barrier proposals along the trunk road boundary shall be submitted for the approval of the planning authority, after consultation with Transport Scotland, as the trunk roads authority; and
 5. There shall be no drainage connections to the trunk road drainage system.
- 8.18 In addition, Transport Scotland make reference to the need for a financial contribution to be made by the developers in relation to the need for mitigation works at the junction of the A68/A720 junction, namely the potential need for traffic lights to control the traffic from the southbound slip road from the A720. The applicant and Transport

Scotland have advised that they will ensure such an agreement is in place before any planning permission is issued and they have sent a letter of undertaking to the Council to this effect.

- 8.19 The applicant has made a case that they should not have to make a developer contribution towards Sheriffhall roundabout on the basis that that their development of 620 residential units will not have an impact on this junction. This was the position taken by the applicant during the MLDP examination in 2017 and was considered by the Reporter. After considering the applicant's case the Reporter confirmed that a proportionate contribution in relation to Sheriffhall roundabout is required, this position was supported by Scottish Ministers.

Other Environmental Matters

- 8.20 The Environmental Health Manager has expressed a number of concerns including; noise arising from the rail line to the north of the site, the A720 to the south of the site and the operation of existing farm operations; potential vibration from the rail line, in particular from existing and potential future freight use; and noise arising from the train stabling depot at Millerhill which is used for the cleaning and maintenance of trains.
- 8.21 The application for the stabling facility (15/00884/FUL) was accompanied by a noise survey. This report concluded that noise was unlikely to be an issue and one of the noise sensitive locations that was assessed was just outside the existing cottages on Old Craighall Road. The stabling proposal includes two buildings in which trains are washed and maintained. The stabling buildings are approximately 450m away from the closest proposed house on the site. The East Coast main line between the marshalling yards and the site is on an embankment, which will provide a buffer to some noise. In general terms, in allocating the site for housing, the Council has accepted the future relationship between the proposed residential use and existing transport infrastructure, furthermore it is this close proximity to infrastructure that makes the site an ideal sustainable location for development.
- 8.22 There is a concern that the existing pig farm at Wellington could give rise to odour issues in relation to the proposed new houses. The operation of the pig farm will cease before the Wellington site is developed, however there is nothing to preclude development of the Newton Site in advance of the pig farm use ceasing. There are a number of existing houses close to Wellington Farm, which have not caused complaint in recent years. However, some of the new houses at Newton Farm will be closer to the pig farm. The applicant advises that the farm is used for the breeding of pigs rather than the more intensive 'growing on' of pigs. It is considered necessary to attach conditions precluding the commencement of development on the site until the pig farm has ceased operating unless the applicant can secure

management or mitigation arrangements to ensure odours from the pig farm will not become a nuisance for future residents.

- 8.23 There are a number of mine shafts that remain undiscovered on the site in the vicinity of existing buildings. The Coal Authority are satisfied that appropriate survey work and mitigation can be secured by conditions and if necessary amendments can be made to the layout. It is appropriate that conditions are attached to the consents to ensure the appropriate site investigations and mitigation in relation to contamination and former mine workings.
- 8.24 The applicant has submitted a sustainability report with the planning application which considers the use of a district heating system, as identified in MLDP policy NRG6: District Heating, in particular the potential to connecting to the Recycling and Energy Recovery Centre at Millerhill. There are a number of technical and commercial difficulties in delivering a system; in particular crossing the railway line and more widely in relation to the unregulated nature of district heating contracts and the difficulties in switching supplier if future residents consider they are paying too much for energy or if they feel they are not getting a good service. However despite these challenges the applicant has agreed to identify space within the service area for the future provision of the distribution pipework infrastructure, with no requirement to relocate other services at a later date, which would be costly and more disruptive to residents. This will futureproof the development in the event that district heating technology and regulation develops to make its provision viable. All of the houses on the site are to be provided with air source heat pumps.
- 8.25 There is no evidence of protected species on the site. However, a condition relating to the need for an updated survey will be required to ensure safeguards for any potential protected species are in place. This is because the last survey undertaken by the applicant was carried out in 2015 and is considered to be out of date. Badgers and bats are of specific concern with the demolition of the Wellington Farm buildings having the potential for harming bat roosts or bats.

Developer Contributions

- 8.26 If planning permission were granted it should be subject to the conclusion of a Planning Obligation to secure the provision of affordable housing and developer contributions towards (i) primary and secondary denomination and non-denominational education; (ii) community facilities (which could include the provision/upgrading of sports pitches); (iii) truck road junction interventions (including Sheriffhall roundabout); (iv) Borders Rail; (v) public transport; (vi) maintenance of open space; (vii) the safeguarding and transfer of land to the Council for a primary school; and (viii) the safeguarding and transfer of land to the Council for a park and ride facility.

- 8.27 The applicant is proposing 155 affordable residential units. This equates to 25% affordable housing provision, which is the required affordable housing provision.

Other Matters

- 8.28 There is an existing small business which supplies bottled gas located within the Wellington Farm site. This business will need to be relocate to alternative premises - the Council's Economic Development Officers are try to assist in the relocation process.

9 RECOMMENDATION

- 9.1 It is recommended that planning permission be granted (for both applications 17/00408/DPP and 17/00409/DPP) for the following reasons:

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

Subject to:

- i) the prior signing of a legal agreement to secure:
 - a financial contribution towards education provision;
 - a financial contribution towards community facilities (which could include the provision/upgrading of sports pitches);
 - a financial contribution towards truck road junction interventions (including Sheriffhall roundabout);
 - a financial contribution towards Borders Rail;
 - a financial contribution towards public transport;
 - maintenance of open space;
 - the safeguarding and transfer of land to the Council for a primary school; and
 - the safeguarding and transfer of land to the Council for a park and ride facility.

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

- ii) Transport Scotland having an agreement in place with the applicant regarding financial provision for traffic lights on the westbound off ramp of the A720 at the A68/A720.

- iii) the following conditions:

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

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

2. No proposed dwelling shall be occupied until the speed limit of Old Craighall Road has been reduced to 30mph and the provision of a continuous footway/cycleway (safe route to school) from the eastern extent of the site to the western extent of the site along Old Craighall Road, as shown on plans reference number PSAD 700 REV F 1:250 and PSAD 703 A 1:250, has been constructed and is open for use.

Reason: *In the interests of road safety.*

3. Unless otherwise agreed in writing by the planning authority no dwelling hereby approved shall be occupied until the pig farm at Wellington Farm has ceased to operate and all the pig manure on the site has been cleared from it.

Reason: *To ensure odour nuisance from Wellington Pig Farm does not adversely impact on the occupiers of the new dwellinghouses.*

4. The external finishing material specified on application drawings/documents are not approved. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. An enhanced quality of materials shall be used in the area of improved quality which shall comprise no less than 20% of the number of dwellings on the site and not any of the affordable units. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

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

5. 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 site;
 - 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.*

6. 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.*

7. 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.*

8. The 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.
9. On completion of the decontamination/remediation works referred to in condition 8 above and prior to any dwelling on the site being occupied, a validation report shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No dwelling on the site shall be occupied until the planning authority has approved the validation.

Reason for conditions 8 and 9: 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.

10. 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 building.

11. Development shall not begin until a programme of archaeological works (Trial Trench Evaluation) in accordance with a written scheme of investigation has been submitted and approved in writing by the planning authority. 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.

12. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of bat and bird boxes and the use of green roofs on ancillary buildings. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

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

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

14. A detailed plan and elevation drawings and details of the finishing materials and colours 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.*

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

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

16. District heating ducting as detailed in the revised "Sustainability Report" dated 28 June 2018 shall be installed throughout the development site. A further sustainability feasibility report shall be carried out 5 years from the date of this permission assesses whether the provision for district heating on the site is technically feasible and financially viable. In the event that it is considered to be technically feasible and financially viable, a district heating scheme shall be installed at the site utilising the district heating ducting installed in terms of this condition.

Reason: *In the interests of sustainable development and in order to comply with Policy NRG6 in the MLDP which has a presumption in favour of implementing district heating on this site.*

17. Within 1 year of construction/engineering works or site clearance works commencing on site, a revised ecological assessment of the site shall be carried out and a report on it shall be submitted for the prior inspection and approval of the planning authority. The scope of the assessment shall be agreed in advance in writing by the planning authority. The recommendations made within the new ecological assessment shall be implemented in full.

Reason: *In the interests of safeguarding biodiversity, including European Protected Species and because the initial survey is now considered to be out of date and it requires to be updated.*

19. Prior to the commencement of development on the site a Construction Method Statement shall be submitted for the approval of the planning authority. The Construction Method Statement shall identify; the haulage route of construction traffic; parking for construction vehicles and construction employees; and the siting of the employee's welfare facilities.

Reason: *In the interests of highway safety and the amenity of existing nearby residential properties on the site.*

20. Prior to the commencement of development on the site a remediation scheme to afford public safety and the stability of the proposed dwellings from the risks posed by the recorded mine entries (shafts), shall be submitted to and approved in writing by the planning authority in consultation with The Coal Authority. The remediation scheme shall include; the undertaking of an appropriate scheme of intrusive site investigations for those recorded mine entries not located; the submission of a report of findings arising from the intrusive site investigations for those mine entries not located; the submission of a scheme of remedial works for approval for both mine entries and the shallow workings for approval; and, implementation of those remediation works. The remediation works may entail changes to the layout or avoidance of parts of the site for development and the submission of further planning applications.

Reason: *The applicant has confirmed that there are mine entries on the site which cannot be located. These mine entries appear to be under existing buildings and they cannot be the subject of intrusive site investigation for this reason. The condition seeks to ensure before any work is commenced on the site, the mine entries are located and treated. In the event that the layout needs to be*

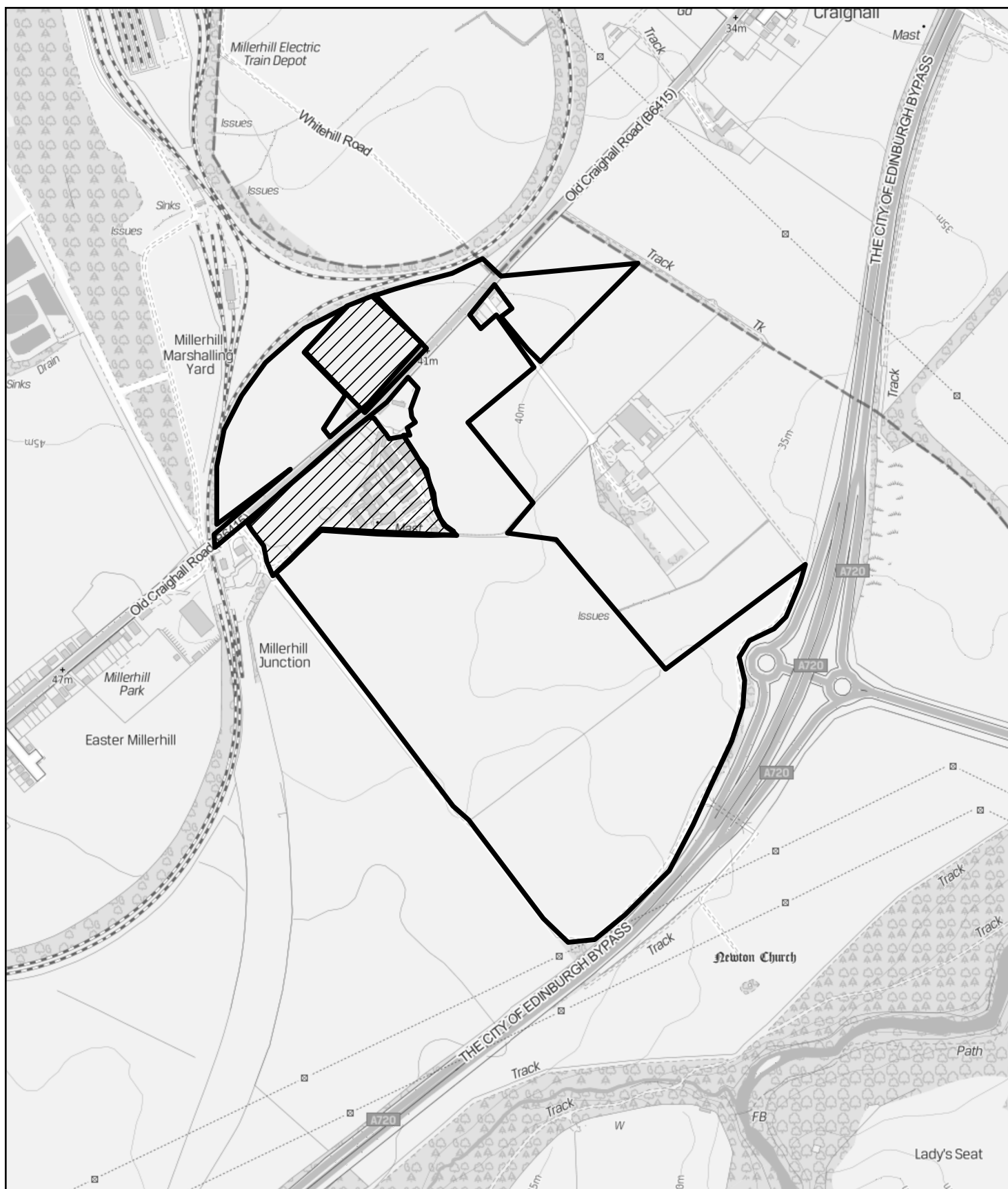
amended to avoid the mine entry a further planning application or applications will be required showing the necessary amendments.

21. The site design and layout shall be such that Midlothian Council's design standards for residential use in relation to anonymous noise sources are met. These are as follows in relation to this site:
 - 55 dB $L_{Aeq}(16hr)$ for daytime external garden amenity;
 - 35 dB $L_{Aeq}(16hr)$ for daytime internal living apartment;
 - 30 dB $L_{Aeq}(8\text{ hours})$ for night time internal living apartment; and
 - for the avoidance of sleep disturbance, the internal noise level shall comply with the World Health Organisation Night Noise Guidelines for Europe 2009 - 42 dB L_{Amax} (fast) (internal).
22. The 'high quality insulation' referred to in Table 7 of the acoustic report shall incorporate acoustic vents to allow these internal levels to be achieved with satisfactory ventilation. Post completion testing shall be carried out to demonstrate that any consented housing meets the internal design criteria identified in condition 21 above.
23. An assessment of vibration from train movements shall be carried out in order to ensure that the vibration dose value in terms of BS 6472-1:2008 'Guide to Evaluation of Human Exposure to Vibration in Buildings' does not exceed the low probability of adverse day and night-time values of 0.2 to 0.4 m.s-1.75 and 0.1 to 0.2 m.s-1.75 respectively. The assessment of vibration required in relation to this consent shall be carried out within 3 months of the first occupation of any dwelling located to the north of Old Craighall Road.

Reason for Conditions 21 to 23: *To ensure the noise and vibration levels at the site do not adversely impact to occupants of the development.*

Dr Mary Smith
Director of Education Communities and Economy

Date:	15 January 2019
Application No:	17/00408/DPP and 17/00409/DPP (Available online)
Applicant:	Cala Management Ltd
Agent:	Holder Planning Ltd
Validation Date:	23 May 2017
Contact Person:	Joyce Learmonth
Tel No:	0131 271 3311
Background Papers:	14/00451/PAC, 15/00391/SCR



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

Residential developments with associated works at Old Craighall Road and Land at Wellington Farm, Millerhill, Dalkeith

17/00408/DPP

17/00409/DPP

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

Midlothian Council Licence No. 100023416 (2018)

File Nos. 17/00408/DPP & 17/00409/DPP

Scale: 1:7,500
Page 157 of 188





APPLICATION FOR PLANNING PERMISSION 18/00777/DPP, FOR SUBDIVISION OF EXISTING DWELLINGHOUSE TO FORM TWO DWELLINGHOUSES AND ASSOCIATED ERECTION OF PORCH AND EXTERNAL ALTERATIONS; ERECTION OF GARAGE; ERECTION OF NEW DWELLINGHOUSE AND ASSOCIATED WORKS AND FORMATION OF ACCESS POINTS AT 1 BRAESIDE ROAD, LOANHEAD

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the subdivision of an existing dwellinghouse to form two dwellinghouses and associated erection of porch and external alterations; erection of garage; erection of new dwellinghouse and associated works and formation of access points at 1 Braeside Road, Loanhead. There have been 28 representations and consultation responses from the Scottish Civic Trust, Scottish Water, Loanhead and District Community Council, the Council's Archaeology Advisor, the Council's Environmental Health Manager and the Council's Policy and Road Safety Manager. The relevant development plan policies are DEV2, ENV1, ENV6, ENV11, ENV19, ENV20, ENV22 and ENV25 of the Midlothian Local Development Plan 2017. The recommendation is to refuse planning permission.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The application site comprises a large detached two-storey dwellinghouse dating from the mid to late 19thC. The principal elevation of the house is situated perpendicular to Braeside Road and faces south benefitting from views over the North Esk Valley. A subsidiary wing is attached to the rear (north) elevation of the building. There is a modern flat roofed rendered garage to the north of the house. The walls of the main house are finished with stone; the walls of the north wing are finished with render; the roofs are finished with slate; the windows are predominantly modern timber sash and case with some uPVC.**
- 2.2 The house sits within a large site consisting of a large garden, of approximately 3360 sqm, on the northern portion of the plot and a field, of approximately 7430 sqm, on the southern portion of the plot. Braeside Road is a private unsurfaced road.**

- 2.3 The site is within the Mavisbank Conservation Area. The southern portion of the site (the field) is within the North Esk Valley Special Landscape Area, the Mavisbank designed landscape and Green Belt.

3 PROPOSAL

- 3.1 It is proposed to sub-divide the existing dwellinghouse to form two dwellinghouses; one in the principal southern wing and the second in the subsidiary northern wing. The principal elevation of the house in the northern wing will face onto Braeside Road; an existing outshot attached to this elevation is proposed to be demolished and replaced with a two storey extension and a new porch will be formed. Full height bi-folding doors are proposed on the rear elevation and new window openings are proposed on the side (north) elevation. The extension is to be finished in a mix of white render and ashlar sandstone. The roof will be slate and the windows will be grey coloured aluminium units.
- 3.2 A semi-derelict timber summerhouse and a brick outbuilding, both of which are at the side of the main house, will be demolished and replaced with a new garage to serve the main house. The garage will abut the existing stone boundary wall that fronts onto Braeside Road. The garage will be flat roofed and will measure 5.9m wide at the front, 4.1m wide at the rear, 9.6m deep and 3.3m high. The walls will be clad with vertical timber (cedar) boards.
- 3.3 The existing garage to the north of the house is to be demolished and replaced with a two storey detached house measuring 8m wide, 11.5m deep, 5.7m high to the eaves and 7.1m high to the ridge of the roof. The walls will be finished in a mix of white render and ashlar sandstone; with zinc detailing panels. The roof will be finished with standing seam zinc. The windows will be grey coloured aluminium units.
- 3.4 The existing garden at the side of the house will be sub-divided with 2m high timber fences to create rear gardens for the 2 new houses. Vehicular access for both of the new houses will be taken from Braeside Road. The existing windows in the main house will be replaced with modern timber sash and case windows.
- 3.5 The design, scale, layout and finish materials for the buildings are the same as an application (reference number 18/00286/DPP) that was refused in 2018. The differences between the current application and the previous submission are as follows:
- A Supporting Planning Statement has been submitted;
 - A Transport Statement on Access has been submitted; and
 - The fence line of the property (18 Lasswade Road) to the east of the junction with Lasswade Road will be moved to provide a revised visibility splay to the east of the junction.

4 BACKGROUND

- 4.1 Planning permission (03/00963/FUL) was granted in 2004 for the installation of replacement windows at Braeside House, Braeside Road, Loanhead.
- 4.2 In 2009 an application for the erection of 2 dwellinghouses at land at Braeside House, 1 Braeside Road, Loanhead was refused. The reasons for refusal were as follows:
1. *The proposed development would result in an intensification of use of the existing junction of Braeside Road and Lasswade Road which has inadequate visibility splays on both sides of it, therefore posing a road safety hazard.*
 2. *In terms of their positioning, number, size, height and combined massing the proposed two houses and detached garages would be a cramped development, out of keeping with the density of development within this part of the Conservation Area. Thereby and also in terms of their height, external wall finish, bargeboards, fascia boards and UPVC rainwater goods and in the case of the house on plot 2 its architectural form, the proposed two houses would be an intrusive and incongruous development, harmful to the setting of Mavisbank designed landscape and out of keeping with the character and visual amenity of Mavisbank Conservation Area.*
 3. *For the reasons set out in 2 above the proposed development is contrary to the provisions of Midlothian Local Plan Policies HOUS3, RP20, RP22 and RP25.*
 4. *The proposal is contrary to Midlothian Local Plan Policy RP5 (Woodland, Trees and Hedges) and Policy RP20 (Conservation Areas) as the development would lead to the direct loss of a mature larch and a beech hedge, to the detriment of the landscape setting of Mavisbank designed landscape and Mavisbank Conservation Area.*
 5. *The proposed development is contrary to adopted Midlothian Local Plan Policy RP7 (Landscape Character) as the development would be detrimental to the landscape character of the area.*
 6. *Windows in the north elevation of the proposed houses and the shared driveway of the proposed houses would have the potential for significant harmful overlooking and loss of privacy to the existing residence of Braeside House.*

7. *For the reasons set out in 6 above the proposed development is contrary to the provisions of the Midlothian Local Plan Policies RP20, HOUS3 and DP2.*
 8. *It has not been established whether development of the site is likely to endanger protected species or wildlife.*
 9. *It has not been demonstrated that the requirements of Policy NRG3 have been complied with.*
- 4.3 Planning application 18/00286/DPP for the subdivision of existing dwellinghouse to form two dwellinghouses and associated erection of porch and external alterations; erection of garage; erection of new dwellinghouse and associated works; and formation of associated vehicular access points at 1 Braeside Road, Loanhead was refused in June 2018. The location, design, scale and finish materials of the buildings were the same as the current application. The reason for refusal was:
- Road safety is a material consideration in the assessment of the proposal. The proposed development would result in an increase in the use of the existing substandard junction where Braeside Road joins Lasswade Road and this will have a significant detrimental impact on road safety.*
- 4.4 The application has been called to Committee by Councillor Parry to allow full discussion and scrutiny of the application.

5 CONSULTATIONS

- 5.1 The **Scottish Civic Trust** has objected to the proposal. The grounds for objection are as follows:
- The proposed plot sizes are too small and the massing of the buildings are too great. The density imbalance of the proposal is therefore detrimental to the character of the Loanhead edge of the Mavisbank Conservation Area;
 - The boundary treatments to Braeside Road will detract from the character and appearance of the conservation area and to the setting of the listed building at Hillwood;
 - Due to the width and length of Braeside Road there are safety issues at both the Lasswade Road junction and at the two proposed new vehicle driveways. Trying to address this concern has negatively influenced the developments proposed boundary treatments to the detriment of the sites sensitive location; and
 - The impact of the development on views across the valley of the North Esk has not been satisfactorily mitigated.
- 5.2 **Scottish Water** does not object to the application. There is currently sufficient capacity at the Glencorse Water Treatment Works to supply

water for the development. There is currently sufficient capacity at the Edinburgh Waste Water Treatment Works to service the foul water requirements for the development.

- 5.3 **Loanhead and District Community Council** object to the application as the development will result in an increase in traffic from a quiet private road coming onto the A768. In addition, the Community Council also supports other objections raised by representors in relation to the proposal's impact on the character of the Mavisbank Conservation Area.
- 5.4 The Council's **Archaeology Advisor** does not object to the application subject to a condition being attached to any grant of planning permission securing a programme of archaeological (Historic Building Recording (Basic) and Monitored Soil Strip) work.
- 5.5 The Council's **Environmental Health Manager** does not object to the application subject to a condition being attached to any grant of planning permission securing a scheme to deal with any possible contaminated land issues.
- 5.6 The Council's **Policy and Road Safety Manager** has road safety concerns over any development which would result in an increase in traffic levels using the junction onto Lasswade Road and recommends that the application be refused. The response notes that:

As a private, un-adopted road, Braeside Road does not form part of the Midlothian adopted road network and repair and maintenance of this road will be the responsibility of the road owner and may be shared by the properties which take access from it. The road, although wide, does not have any separate pedestrian facilities and its junction with Lasswade Road has limited visibility for drivers waiting to join the main road. A minimum 4.5m by 70m visibility splay would normally be required for a new junction onto this class of road and the present junction falls well below this standard. Given the relatively low level of traffic using the junction a reduced visibility splay of 2.4m by 70m has been determined as the most appropriate level of visibility however the present junction layout falls below this level.

A Transport Statement has been produced by the applicants Transportation Consultant (Andrew Carrie Traffic & Transportation Ltd) which reviews the operation of the existing junction. This document indicates that a realignment of the boundary fence at 18 Wadingburn Road would result in the required 2.4m by 70m visibility splay being achieved on the eastern side of the junction however no improvements on the western side appear to be achievable.

While not meeting current design standards, the present junction does appear to be coping with the level of traffic currently using it. This proposal would result in the number of dwellings accessed from

Braeside Road increasing from 3 to 5 with a subsequent increase in the number of daily vehicle movements through the junction. While the proposed alterations to the boundary fence would result in improvements to driver visibility on the eastern side of the junction the substandard sightlines on the western side remain unchanged and as such I would still recommend that this application be refused.

6 REPRESENTATIONS

- 6.1 There has been 28 representations received consisting of; 21 objections on behalf of 16 different households, an objection on behalf of the Lasswade District Civic Society and 6 representations from 4 different households in support of the application.
- 6.2 The grounds of objection are as follows:
- Detrimental impact on the character of the conservation area;
 - The development detracts from the character of Braeside House;
 - The development detracts from the character of Braeside Road;
 - Detrimental impact on the setting of the three listed buildings at Hillwood;
 - The loss of trees and shrubs will have a detrimental impact on the character of the area;
 - The design and finish materials of the house and extension are out of character with the conservation area;
 - The density of the development is out of character with the conservation area;
 - Detrimental impact on the character of the Special Landscape Area;
 - Insufficient provision of private open space;
 - Insufficient space between the houses;
 - The proposal is not compatible with the conservation area appraisal;
 - Braeside Road is a private road jointly owned by the owners of Braeside House, Eskfauld Lodge and Hillwood. The consent of all parties may be necessary to allow access over the road;
 - Construction traffic will have a detrimental impact on the surface and condition of Braeside Road;
 - The sewage pumping station that serves Braeside Road has insufficient capacity to serve the development;
 - The proposal will have a detrimental impact on the privacy of the house and garden at Hillwood;
 - The junction of Braeside Road and Lasswade Road has poor visibility and cannot accommodate an increase in use;
 - If permission is granted it will encourage further development on the remaining ground at the application site;
 - Detrimental impact on the designed landscape at Mavisbank House;
 - Detrimental impact on the regionally important nature conservation site in the valley of the North Esk;

- The original layout of Braeside Road was designed to ensure that the three original houses did not overlook each other, the proposal is contrary to this design;
- The appearance of the garage could be improved by painting it rather than demolishing it; and
- The Leylandii trees could be removed without the need for development.

6.3 The grounds for support are as follows:

- There will be a limited increase in the built footprint on the site when compared to the existing house and garage;
- The proposal does not affect the backdrop to the fields or grounds of Mavisbank;
- The proposal is unlikely to be visible from the southern side of the valley;
- The proposal will not be visible from within the valley;
- The north wing of the house is a self-contained annexe that has in the past been sub-let;
- The design of the house compliments and sensitively reflects elements of the existing buildings;
- The demolition of the existing unsightly double garage is welcomed;
- The trees and shrubs to be removed are overgrown or diseased;
- The junction with Lasswade Road currently functions safely and the proposed development will result in only a slight increase in traffic;
- The alterations to the visibility splay to the east of the junction will improve the safety of the junction;
- Removal of the Leylandii trees will improve the appearance of the area;
- The junction is safer than existing junctions in the centre of Lasswade; and
- The alterations to the north wing of the house will improve its appearance.

7 PLANNING POLICY

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

Midlothian Local Development Plan 2017 (MLDP)

- 7.2 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.
- 7.3 Policy **ENV1: Protection of the Green Belt** advises that development will not be permitted in the Green Belt except for proposals that;

- A. are necessary to agriculture, horticulture or forestry; or
 - B. provide opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield; or
 - C. are related to other uses appropriate to the rural character of the area; or
 - D. provide for essential infrastructure; or
 - E. form development that meets a national requirement or established need of no other site is available.
- 7.4 Any development proposal will be required to show that it does not conflict with the overall objectives of the Green Belt which is to maintain the identity and landscape setting of Edinburgh and Midlothian towns by clearly identifying their physical boundaries and preventing coalescence.
- 7.5 The policy states that housing will normally only be permissible where it is required for the furtherance of an established Green Belt activity. The applicant will be required to show the need for the new dwelling is permanent; cannot be made within an existing settlement; and that the occupier will be employed full-time in the associated countryside activity. A planning condition limiting the occupancy of the house is likely to be attached in the event of approval.
- 7.6 Policy **ENV6: Special Landscape Areas** states that development proposals will only be permitted where they incorporate high standards of siting and design and where they will not have significant adverse effect on the special landscape qualities of the area.
- 7.7 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.
- 7.8 Policy **ENV19: Conservation Areas** states that development will not be permitted within or adjacent to conservation areas where it would have any adverse effect on its character or appearance.
- 7.9 Policy **ENV20: Nationally Important Gardens and Designed Landscapes** states development should protect, and where appropriate enhance, gardens and designed landscapes. Development will not be permitted which would harm the character, appearance and/or setting of a garden or designed landscape as identified in the *Inventory of historic Gardens and Designed Landscapes*.

- 7.10 Policy **ENV22: Listed Buildings** does not permit development which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.
- 7.11 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.

National Policy

- 7.12 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 7.13 Historic Environment Scotland Policy Statement 2016 and Scottish Planning Policy (SPP) provide guidance with regard the protection and management of the historic environment. Conservation Areas are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Their designation provides the basis for the positive management of an area. A proposed development that would have a neutral effect on the character or appearance of a conservation area (i.e. does not harm the conservation area) should be treated as one which preserves that character or appearance. The Policy Statement and SPP also indicate that the planning authority should consider the design, materials, scale and sitting of any development, and its impact on the character of a conservation area and its setting.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining these applications is whether the proposals comply with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

Principle of development

- 8.2 The northern portion of the application site, where the development is proposed, is situated within the built-up area of Loanhead where there is a presumption in favour of appropriate development. The application site is situated within a predominantly residential area where the proposed residential development would be compatible to the neighbouring land uses subject to the details of the proposed development complementing the character of the area and protecting the amenity of existing neighbouring properties.

- 8.3 The southern portion of the site (the field) is within the North Esk Valley Special Landscape Area, the Mavisbank designed landscape and Green Belt where there is a more restrictive approach to development. However, no development is proposed in this area of the site.

Layout, Design and Finish Materials

- 8.4 Development within the garden plot of the application site is at present focussed on an area within the north west corner of the garden. The proposal continues this concentration of development, with minimal changes to the footprint of the north wing, the retention of the existing detached house and new garage replacing an existing building. While the new house and garage would result in an increase in building footprint when compared to existing, the density of development would continue to be in keeping with the character of the existing plot. The open space to the south of the existing house would remain undeveloped, unlike the 2009 proposal (09/00461/DPP) which was refused; and the majority of the open space to the east of the house would remain undeveloped, although new boundaries would be introduced. In the overall context of the conservation area the increase in density would be minimal.
- 8.5 Both new houses would have a noticeably smaller footprint and street frontage when compared to the original main house and they would both have lower eaves and ridge heights. The scale and form of both new houses would ensure that they would appear as visually subservient to the original main house and would not have a detrimental impact on its character and setting. The new houses would be further away from the listed building at Hillwood than the modern houses on the northern side of Lasswade Road and the positioning of the existing buildings within Hillwood's plot would ensure that the proposed development would not have a detrimental impact on the setting of the listed buildings within that plot.
- 8.6 The proposed design of the semi-detached house (the existing annexe) and the new detached house are obviously modern without being overtly contemporary. There is no common style for housing within the surrounding area, new development has generally followed traditional scale and form while including contemporary detailing and finish materials; the proposed development is in keeping with that tradition. The proposed palette of finish materials is in keeping with the character of the designs.
- 8.7 The proposed houses have generous private gardens well in excess of most modern houses. The side elevation of the proposed detached house is 21m from the rear elevation of the house at 18 Lasswade Road; this comfortably exceeds the minimum 16m gable to rear separation distance that Midlothian Council ordinarily seeks to secure in such situations. The front elevation of the proposed detached house would be 40m from the closest point of the house at Hillwood; while the detached house would provide some views of the house and garden at

Hillwood from its upper windows any reduction in privacy could not be considered significant enough to warrant refusal of the application.

Road Safety and Access

- 8.8 Braeside Road is a private road owned jointly by the three large 19thC properties which access onto it. The road is unsurfaced and does not have any pedestrian footway, although there is a grass verge down one side of the road. Including the verge the width of the road varies from 8.7m wide at its narrowest point to 11.3m at its widest. The property to the west of the junction has a 2m high stone boundary wall which runs along Braeside Road and continues round the corner and along Lasswade Road. The property to the east of the junction has a 1.8m high timber fence along its boundary with Braeside Road and then continues along Lasswade Road. The junction has sub-standard levels of visibility which are significantly below the standards that would be expected for a junction of this type.
- 8.9 The most recent application (18/00286/DPP) did not propose any improvements to the visibility splay and was refused for the following reason:
- Road safety is a material consideration in the assessment of the proposal. The proposed development would result in an increase in the use of the existing substandard junction where Braeside Road joins Lasswade Road and this will have a significant detrimental impact on road safety.*
- 8.10 The current application is for the same development as the previous application. With a view to addressing the reason for refusal of the previous application the applicant has appointed a transportation consultant to examine the site and prepare a report on the access. The report considers policy guidance on visibility splays; the visibility splays that can be delivered at the application site; and the road safety context of the proposal.
- 8.11 The Council's Policy and Road Safety Manager has advised that the Council, as Roads Authority, would expect a new junction at this location to provide a visibility splay of 2.4m by 70m. The submitted report queries whether the Council should be seeking such a visibility splay and points out that such a visibility splay comes from a previous version of the Council's Development Standards for Roads. The Council's adoption of the National Roads Development Guide means that the visibility splays set out in the Scottish Government's policy statement Designing Streets represent the current visibility splay standards. Using the guidance set out in Designing Streets would mean that a junction at this location should provide a visibility splay of 2.4m by 43m.

- 8.12 Notwithstanding this fact the report sets out the adjustments (moving the fence approximately 1m Southwards from its existing line) to the line of the fence at 18 Lasswade Road that would be necessary to deliver a 2.4m by 70m visibility splay to the east of the junction, a plan is included showing this visibility splay. The report states that the applicant has agreed terms with the owner of 18 Lasswade Road and would be able to deliver the improvements to the visibility splay in the eastern direction. The householders at 18 Lasswade Road have submitted representations in support of the application and indicated that they have no objection to the fence being moved.
- 8.13 The report acknowledges that the wall to the west of the junction is listed (it surrounds the listed buildings at Hillwood) and that agreement cannot be secured with the owners of the wall to facilitate any alterations. Five objections have been submitted by and on behalf of the owners of Hillwood. The report suggests that a 2m setback from the junction will provide adequate visibility to the west, although it would not deliver the 70m distance required by the Council's Policy and Road Safety Manager.
- 8.14 It should be noted that Designing Streets states that a setback distance of 2.4m should "normally be used in most built-up situations". A 2m setback may be considered acceptable "in some very lightly-trafficked and slow speed situations", however such a setback will mean that the front of some vehicles will protrude slightly into the carriageway of the road that is being joined. Lasswade Road is a busy road that forms the main approach into Loanhead from the east; it cannot be considered to be lightly-trafficked and slow speed. The current junction layout does not provide adequate visibility to the west.
- 8.15 The accident records for Lasswade Road indicate that the junction is functioning safely at present however this reflects the low usage of the junction due to the limited number of properties that have access to Braeside Road. The sub-division of the existing house would result in one additional house, when compared to the existing situation; and the erection of a new house would add a further additional house. While the addition of two houses may seem insignificant it must be considered in the context of existing usage; the proposed development would result in an increase of 66% in the number of houses accessing Braeside Road. In the context of the current low use this represents a significant increase in the use of the junction.
- 8.16 The current junction between Braeside Road and Lasswade Road is of a sub-standard quality and any proposal that results in a significant increase in the use of the junction poses a risk to road safety. Without improvements to visibility to both the west and east Braeside Road cannot support any development that will result in a significant increase in use of the junction.

Loss of trees

- 8.17 The proposed development would result in the felling of two mature Holly trees and a Cypress tree at the side of the house; a line of Leylandii along the boundary with 18 Lasswade Road; and a 10 year old Maple tree within the garden to the east of the north wing. The location of the Maple tree within the garden means that there are limited views of it from public areas out with the garden. The Leylandii are an unattractive non-native species that add little to the character of the area. The trees to the side of the house are visible in views south along Braeside Road from Lasswade Road, however the visual termination of views down Braeside Road is provided by a group of trees (Beech, Rowan and Cherry) at the southern end of the road; these trees are protected by a tree preservation order and would be unaffected by the proposed development. Were the planning authority minded to grant the proposal replacement planting could be secured by condition.

Biodiversity

- 8.18 The Council screens all planning applications against a range of biodiversity constraints such as Nature Conservation Sites, areas of Ancient Woodland and areas with recorded sitings of protected species. If the screening process identifies constraints within an application site the Council may ask an applicant to submit reports demonstrating that the constraints have been considered and, if necessary, mitigation measures prepared. Where appropriate mitigation measures will be secured via condition. The biodiversity screening process did not identify any biodiversity constraints that apply to this application site. The boundary of the Mavisbank Local Biodiversity site is 95 metres south of the existing house.

Conclusion

- 8.19 While the design, layout and finish materials of the proposal are acceptable, the substandard visibility at the junction of Braeside Road and Lasswade Road is an overwhelming material consideration that outweighs any policy support in favour of the development. Without improvements to visibility to both the west and east Braeside Road cannot support any development that will result in a significant increase in use of the junction; and therefore the application is recommended for refusal.

9 RECOMMENDATION

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

Road safety is a material consideration in the assessment of the proposal. The proposed development would result in an increase in the use of the existing substandard junction where Braeside Road joins Lasswade Road and this will have a significant detrimental impact on road safety.

Dr Mary Smith
Director of Education, Communities and Economy

Date: 15 January 2019

Application No: 18/00777/DPP

Applicant: Mr Adam Armit, 1 Braeside Road, Loanhead

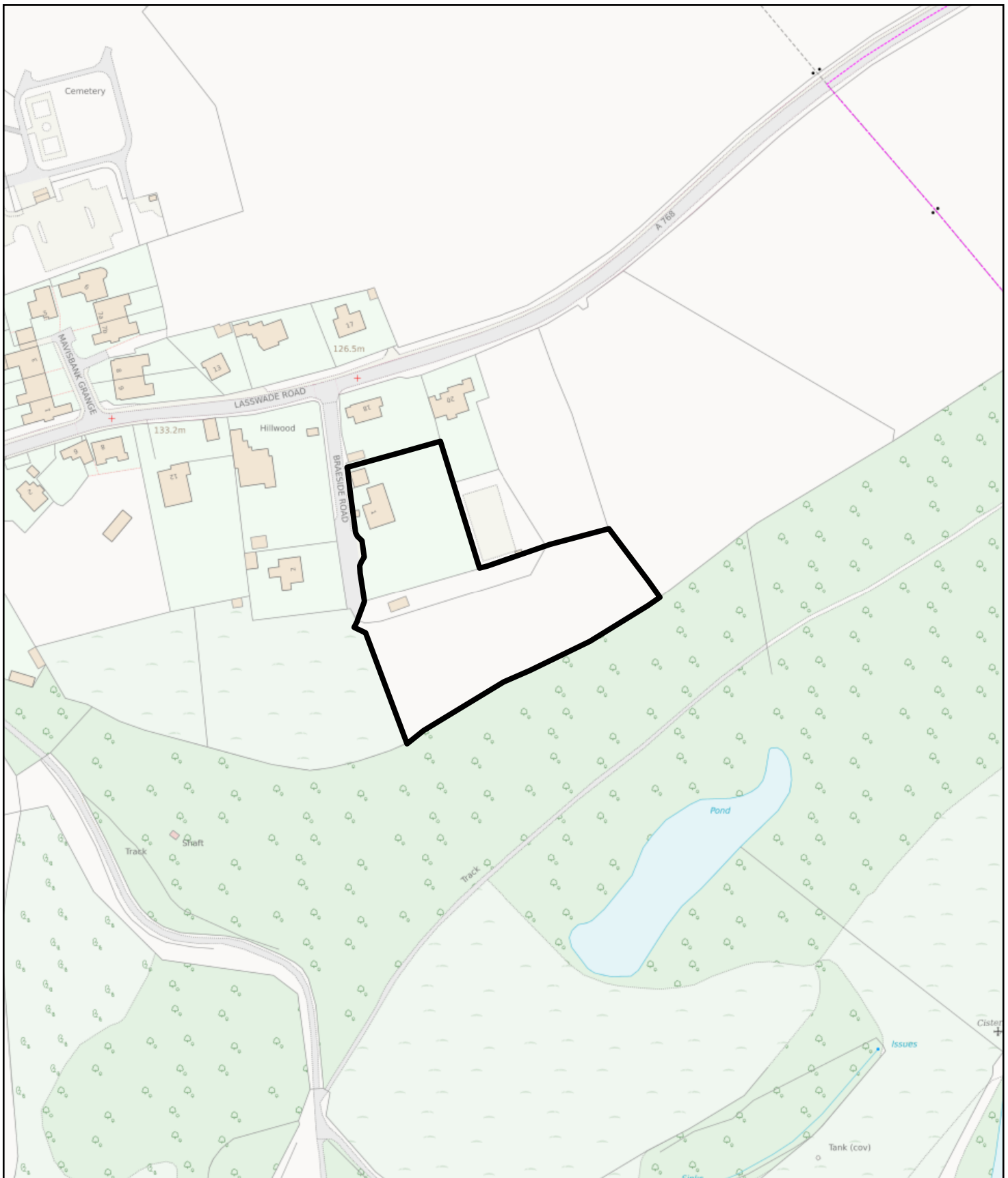
Agent: Suzanne McIntosh, Suzanne McIntosh Planning
Limited, 45C Bath Street, Portobello, Edinburgh

Validation Date: 10 October 2018

Contact Person: Graeme King

Tel No: 0131 271 3332

Background Papers: 18/00286/DPP



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

Subdivision of existing dwellinghouse to form two dwellinghouses and associated erection of porch and external alterations; erection of garage; erection of new dwellinghouse and associated works and formation of access points at 1 Braeside Road, Loanhead

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

Midlothian Council Licence No. 100023416 (2018)

File No. 18/00777/DPP

Scale: 1:2,500
Page 173 of 188





**APPLICATION FOR PLANNING PERMISSION 18/00760/DPP, FOR
ERECTION OF DWELLINGHOUSE; FORMATION OF ACCESS AND CAR
PARKING AND ASSOCIATED WORKS AT LAND AT 3 ESKVIEW VILLAS,
DALKEITH**

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the erection of a dwellinghouse; formation of access and car parking and associated works at land at 3 Eskview Villas, Dalkeith. There have been 66 representations and consultation responses from the Coal Authority, Eskbank and Newbattle Community Council, the Council's Environmental Health Manager and the Council's Policy and Road Safety Manager. The relevant development plan policies are STRAT2, DEV2, DEV6 and ENV19 of the Midlothian Local Development Plan 2017. The recommendation is to grant planning permission subject to conditions.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The application site is an area of open ground, measuring approximately 430sqm, and was formerly used as garden ground associated with the property at 3 Eskview Villas. This property was originally built in the mid 1980's as a dwellinghouse and was then converted into a children's nursery in the late 1990's. The land is not presently being used by the nursery.**
- 2.2 The surrounding area is predominantly residential. To the north, the site is bounded by a line of trees and hedges which separate it from Eskview Villas; a street of 19thC two storey terraced houses with modern infill development. To the west, the site is bounded by a 2.8m high brick boundary wall beyond which is a care home. To the south the site is bounded by the garden ground associated with the nursery; there is no physical boundary demarcating this boundary at present. To the east of the site is car parking spaces and pedestrian circulation space associated with the nursery; at present there is a timber fence and a brick wall that run close to the eastern edge of the site. The site is within Eskbank and Ironmills Conservation Area.**

3 PROPOSAL

- 3.1 It is proposed to erect a two storey pitch roofed house measuring 12.6m wide, 8.65m deep, 5.1m high to the eaves and 8.05m high to the ridge of the roof. The house will have 4 bedrooms and a reception room. The building will be of a modern design with an irregular fenestration pattern; large areas of full height glazing; and a contemporary palette of finish materials including a slate roof, ivory coloured render, untreated larch timber cladding and grey coloured aluminium clad doors and windows.
- 3.2 The house will have a vehicular access from Eskview Villas which will provide access to a hard surface parking area, finished with concrete paving, providing 3 parking spaces. The property will have a rear garden of 130 sqm; the rear garden will be enclosed by a brick wall finished to match the existing brick wall along the western boundary.
- 3.3 The applicant has submitted a Design Statement with their application.

4 BACKGROUND

- 4.1 The building that now houses the nursery was granted planning permission (262/83) as a dwellinghouse in 1983.
- 4.2 Planning permission (22/85) was granted in 1985 for a change to the proposed roofing material from artificial asbestos slate to small grey concrete tiles.
- 4.3 In 1991 planning permission (585/91) was granted for the installation of Velux roof lights.
- 4.4 Planning permission (0215/97) was granted in 1997 for the change of use from dwellinghouse to a children's nursery. Following the change of use application planning permission was granted for the erection of an external stair (0577/97) and the installation of two windows (99/00713/FUL).
- 4.5 Planning application 17/00920/DPP for the erection of a dwellinghouse and two flatted dwellings was refused in March 2018. A subsequent notice of review was considered by the Local Review Body in May 2018 and dismissed. The reasons for refusal were as follows:
1. *The site has insufficient space to accommodate the necessary levels of private outdoor space and the necessary levels of car parking provision. The proposal is therefore contrary to policies STRAT2, DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*
 2. *The external stairs would be an unattractive feature that would have a detrimental impact on the character of the surrounding area. The*

proposal is therefore contrary to policies DEV2 and ENV19 of the adopted Midlothian Local Development Plan 2017.

3. *The external stairs and rear balcony would create an unacceptable loss of privacy for properties in the surrounding area. The proposal is therefore contrary to policy DEV2 and DEV6 of the adopted Midlothian Local Development Plan 2017.*
- 4.5 Planning application 18/00135/DPP for the erection of a dwellinghouse; formation of access, car parking and associated works was submitted in March 2018. The application was withdrawn in June 2018.
- 4.6 A plot of land 22m east of the application site, at the junction of Eskview Villas and Glenesk Crescent, has been the subject of six planning applications since 2004. All of the applications relate to the erection of a garage, workshop and studio; four of the applications were granted, one was refused and one was withdrawn. The site is owned by the occupants of Eskbank House. The most recent consent (18/00606/DPP) was granted in October 2018.
- 4.7 Viewpoint Housing Association owns the site to the west of the application site. The Housing Association operates an enhanced sheltered housing facility within Glenesk House and its grounds (a large modern extension was approved by applications 0411/96 and 01/00052/FUL and a block of 12 flats for elderly residents was approved by applications 0411/96 and 02/00021/FUL). This site also contains three further buildings (references 0411/96 and 0307/98) that were previously used for day-care facilities and are currently unoccupied. There is a current planning application (reference 18/00586/DPP) for the erection of 30 extra care flatted dwellings at the site of two of the unoccupied day-care facilities. The site is 70m to the north west of the Eskview Villas application site.
- 4.8 The application has been called to Committee for consideration by Councillors Baird and Smaill. Councillor Baird has called the application in due to concerns regarding the nature of the plan and its impact on the local area. Councillor Smaill has called the application in due the scale of the development relative to plot size and boundaries; and due to the appearance and materials being inconsistent with the Conservation Area.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application.
- 5.2 The **Eskbank and Newbattle Community Council** object to the application on the follow grounds:
 - The Community Council endorses the objections submitted by local residents;

- The applicant's supporting Design Statement states that the case officer is supportive of the proposal. This suggests that the case officer has pre-judged the application;
- The applicant's supporting Design Statement is presumptuous in seeking to describe the objections of the Community Council;
- Development of the site would be contrary to the character of the Eskbank and Newbattle Conservation Area as set out in the conservation area appraisal;
- The proposal represents the sub-division of the plot and is contrary to the low density character of the conservation area;
- The proposal has no exceptional architectural merit;
- The proposal will dilute the character of the area and will encourage an incremental erosion of standards;
- The building does not relate well to adjacent buildings;
- Previous poor designs within the conservation area should not be used to justify proposals of no architectural merit;
- Development within conservation areas should meet the highest of architectural and design standards. Developments of traditional design should complement and not degrade the existing character and aesthetic of the area. Developments of modern design should represent an enhancement to the area; and
- The Community Council should have been consulted on the application.

5.3 The Council's **Environmental Health Manager** does not object to the application subject to any grant of planning permission being subject to conditions to secure site investigation works and, if necessary, remediation works to address any possible contaminated land issues; and details of a suitable barrier between the garden of the house and the neighbouring children's nursery.

5.4 The Council's **Policy and Road Safety Manager** does not object to the application.

6 REPRESENTATIONS

6.1 There have been 15 representations received from 11 different households objecting to the application. The grounds for objection are as follows:

- The surrounding roads are congested and prone to speeding; the proposal will exacerbate this situation;
- The proposed development has insufficient parking and the surrounding streets do not have sufficient spare capacity to accommodate further demand for parking;
- The width of the proposed access and its location, between two trees, will result in restricted visibility for vehicles using the access;
- The design and finish materials are out of character with the neighbouring houses and the surrounding conservation area;

- Development of the site would be contrary to the character of Eskbank and Newbattle Conservation Area as set out in the conservation area appraisal;
- The development would result in buildings on both sides of Eskview Villas out of character with the surrounding area;
- The development would result in a loss of daylight and sunlight to existing properties on Eskview Villas;
- The development would result in overlooking and loss of privacy of existing properties on Eskview Villas;
- The site would be better used as land associated with the nursery; this would enhance the learning experience of the children;
- Additional neighbour notification to parents of children attending the nursery should have been carried out;
- The development would have a detrimental impact on the setting of the Category A listed building at Eskbank House;
- Development of the site will increase overlooking of the nursery and this will threaten child safety;
- The supporting Design Statement states that the case officer is supportive of the proposal. This suggests that the case officer has pre-judged the application; and
- Previous modern developments in the area should not be used to justify this application.

6.2 There have been 51 representations in support of the application. The grounds for support are as follows:

- The proposal will bring a new, well designed house to an area in which housing is in demand;
- Happy Days will invest the funds generated back into the children's nursery, which is a much needed facility used by over 70 local families;
- The proposal will enhance security by increasing passive surveillance of the nursery. A burglary in April 2018 caused thousands of pounds worth of loss and damage to the nursery; and
- The current design addresses previous objections and is sympathetic with the scale and character of the area.

7 PLANNING POLICY

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

Midlothian Local Development Plan 2017 (MLDP)

7.2 Policy **STRAT2 Windfall Housing Sites** permits housing on non-allocated sites within the built-up area provided: it does not lead to loss or damage of valuable open space; does not conflict with the established land use of the area; has regard to the character of the

area in terms of scale, form, design and materials and accords with relevant policies and proposals.

- 7.3 Policy **DEV2: Development 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.
- 7.4 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 listed criteria.
- 7.5 Policy **ENV19: Conservation Areas** states that development will not be permitted within or adjacent to conservation areas where it would have any adverse effect on its character or appearance.

National Policy

- 7.6 Section 64 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 places a duty on planning authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.
- 7.7 Historic Environment Scotland Policy Statement 2016 and Scottish Planning Policy (SPP) provide guidance with regard the protection and management of the historic environment. Conservation Areas are areas of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Their designation provides the basis for the positive management of an area. A proposed development that would have a neutral effect on the character or appearance of a conservation area (i.e. does not harm the conservation area) should be treated as one which preserves that character or appearance. The Policy Statement and SPP also indicate that the planning authority should consider the design, materials, scale and sitting of any development, and its impact on the character of a conservation area and its setting.

8 PLANNING ISSUES

- 8.1 The main planning issue to be considered in determining these applications is whether the proposals comply with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

Principle of Development

- 8.2 The application site is situated within the built-up area of Dalkeith and Eskbank where there is a presumption in favour of appropriate development. The application site is situated within a predominantly residential area where the proposed residential development would be

compatible to the neighbouring land uses subject to the details of the proposed development complementing the character of the area and protecting the amenity of existing neighbouring properties.

Impact on the Character of the Conservation Area

- 8.3 The character of a conservation area is not a simple matter of style, it is a combination of street layout, building density, building scale and building form. Planning authorities are encouraged to prepare conservation area appraisals as a management tool which helps to identify the special interest of an area and identify enhancement needs and opportunities.
- 8.4 The conservation area appraisal for Eskbank and Ironmills Conservation Area states that the conservation area comprises two character zones: Eskbank and Ironmills. The Eskbank area is described as being a spacious, leafy, low density, late 19th century suburb. The appraisal further divides the Eskbank area into (1) the terraces of Mitchell Street; (2) the flat, open and elevated spaces of the bowling club, Ramsay Croft car park and the cemetery; and (3) the Victorian villas. The appraisal notes that 20th century houses and groups of houses have been developed on left over spaces. The character of Eskbank substantially derives from the very low density, secluded, residential development that has taken place in the past. The streets are spacious and uncluttered.
- 8.5 The Eskview Villas, Glenesk Crescent and Avenue Road locality of Eskbank is not situated within either character areas (1) or (2) referred to above and therefore logically might be considered to fall within character area (3) the Victorian Villas. However the locality has a streetscape and plot density that is more analogous to the Mitchell Street area rather than the wide streets, generous setback and large plot sizes that characterise the Park Road and Waverley Road area which best represents the Victorian villa character area. The Eskview Villas, Glenesk Crescent and Avenue Road locality is characterised by small pockets of development on left over pieces of land. Each phase of development reflects the style preference of the individual developer; while the buildings have similar scale, form and materials the individual terraces all have their own distinct architectural style. The character of this locality within Eskbank derives from its density and diversity.
- 8.6 The locality has successfully accommodated prominent modern extensions at Glenesk House and at houses on Eskbank Road; and smaller more discrete extensions at houses on Eskview Villas and Glenesk Crescent. The existing large detached building that accommodates the nursery is a notable example of an unsuccessful modern intervention in the conservation area. Successful modern development in the locality has respected the scale and form of existing buildings while introducing contemporary details and finish materials.

- 8.7 The proposed house is a detached two storey house with a conventional pitched roof; while it is wider than many of the houses in the area it is not as deep and is not as high as many of the houses in the area. Its form and scale respect the character of the surrounding area; it will not appear as an overly large addition to the area. It is proposed to utilise a simple palette of contemporary finish materials of a type that have been successfully used in historic urban areas throughout Scotland. The choice of a slate roof and brick boundary wall pick up on widely used finish materials within the surrounding locality and will help to relate the building to the character of the surrounding area. Use of stone on the front elevation would create difficulties in matching with the extensively weathered stone in the area and would risk appearing as tokenistic gesture that would detract from the clean simple lines that the design seeks to create.
- 8.8 The proposed design is a well detailed modern design that creates a deferential contrast to the buildings on the opposite side of Eskview Villas, but sits comfortably with the neighbouring modern buildings. The design does not seek to be an exemplar design but instead seeks to provide a modern take on the long history of individual development that characterises Eskbank. The Eskbank area includes a number of attractively proportioned villas and terraces but the area is not characterised by the theatricality and splendour that could be considered to be exemplar architecture. The buildings are well proportioned and attractively detailed buildings that reflect the character of their time. The proposed building is in keeping with this character and will preserve the character of the conservation area.

Parking and Road Safety

- 8.9 A number of representations have made reference to the proposed vehicular access arrangements from Eskview Villas. It is proposed that access to the development will be formed in the space between two existing trees; the access will be 4.5m wide. The arrangement is similar to the existing arrangement that serves the nursery at 3 Eskview Villas, although that access is slightly narrower at 4m wide. The Council's Policy and Road Safety Manager has not raised any objection to the detail of the access arrangements and the Council therefore considers the access arrangements to be acceptable. The proposed parking provision of three spaces complies with the Council's parking standards.

Amenity of neighbouring properties

- 8.10 The proposed building will be due south of the houses at 8 to 16 Eskview Villas; this could potentially result in a loss of sunlight to the existing houses. The widely recognised industry standard for assessing the impact of new development on daylight and sunlight for existing properties is the BRE Trust's publication "Site Layout Planning for Daylight and Sunlight, A Guide to Good Practice". The Guide states

that a simple rule of thumb for determining whether or not a proposed building will result in a significant loss of sunlight or daylight to an existing house facing within 90 degrees of south is to carry out a '25 degree test'. A section drawing of the existing and proposed buildings is used; if a line at 25 degrees to the horizontal is projected from the mid-point of the window being assessed, the window will receive sufficient daylight and sunlight if the line passes above the highest point of the proposed building. A 25 degree test for the proposal clearly indicates that the existing houses at Eskview Villas will not be impacted upon by the proposed building, although the existing trees may have an impact on them.

- 8.11 The erection of a 2.2m high brick boundary wall will ensure safety and privacy for the nursery at ground level. The overlooking potential of the nursery from the upper floor windows is similar to that of other properties in the areas; there will be no significant increase in overlooking of the nursery, when compared to the existing situation. The front elevation of the house will be 23m from the front elevation of the closest house on the opposite side of Eskview Villas ensuring an adequate level of privacy for properties on Eskview Villas. It should be noted that in new developments Midlothian Council generally seeks a minimum front to front separation distance of 22m.

Procedures

- 8.12 Neighbour notification was sent to all notifiable properties within 20 metres of the boundary of the application site. The neighbour notification complies with the standard specified by the Scottish Government in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. There is no requirement for the Council to notify parents of children attending the nursery.
- 8.13 Midlothian Council offers a free pre-application service to applicants and their agents. The Scottish Government actively encourages pre-application engagement in the planning system and includes it as one of the items on which planning authorities are assessed in their annual Planning Performance Framework submissions. Early engagement in the planning process can help to discourage unrealistic and unacceptable schemes provide an opportunity for proposals to be improved to address the planning authority's concerns; and help to provide a level of certainty to home owners, developers and businesses.
- 8.14 For the service to be effective applicants and their agents must be provided with some indication of the likelihood of an application being successful; routinely neutral responses would undermine the effectiveness of the service for applicants, agents and the planning authority. Applicants are not obliged to comply with the recommendations and it is not uncommon for agents to provide

supporting statements that put great emphasis on any positive comments while putting less emphasis, or even ignoring, on any negative comments. Pre-application responses are provided on an informal basis and are not binding on any future decisions by the Council. Applicants are advised of this and of the fact that the views of representors and consultees are material considerations in the assessment of any application.

9 RECOMMENDATION

9.1 That planning permission be granted for the following reason:

The scale, form, design and finish materials of the dwellinghouse will preserve the character, appearance and amenity of the conservation area and neighbouring properties. The proposal complies with policies STRAT2, DEV2, DEV6 and ENV19 of the Midlothian Local Development Plan 2017.

Subject to the following conditions:

1. 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.
2. On completion of the decontamination works referred to in Condition (1) above and prior to any dwellinghouse on the site being occupied, a validation report or reports shall be submitted to the Planning Authority confirming that the works have been carried out in accordance with the approved scheme. No part of the development shall be occupied unless or until the Planning Authority have approved the required validation.

Reason for conditions 1 and 2: *To ensure that any contamination and/or previous mineral workings on the site are adequately identified and that appropriate decontamination 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.

3. Development shall not begin until temporary protective fencing is erected around all trees on the site to be retained. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the trees canopy unless otherwise agreed in writing with the local planning authority. No excavation, soil removal or storage shall take place within the enclosed area.

Reason: *To ensure the development does not result in the loss or damage of trees which merit retention in accordance with local and national planning guidance and advice.*

4. Prior to any external finish materials, hard surface materials; and fences/boundary walls being installed details and, if requested, samples of the materials shall be submitted to and approved in writing by the Planning Authority. Thereafter development shall comply with the approved details unless otherwise approved in writing by the Planning Authority

Reason: *To safeguard the character of the conservation area.*

5. The parking and access arrangements shown on the approved site plan (drawing no. HD ESKH 04A) shall be completed and operational prior to the house being occupied.

Reason: *To ensure that the house is provided with safe and adequate access and parking; and to protect the amenity of local residents.*

6. Prior to the house being occupied the brick boundary wall shown on the approved site plan (drawing no. HD ESKH 04A) shall be completed.

Reason: *To protect the amenity of future occupants of the dwellinghouse and to protect the amenity of children attending the neighbouring nursery.*

Dr Mary Smith
Director of Education, Communities and Economy

Date: 15 January 2019

Application No: 18/00760/DPP

Applicant: Mrs Christina Walters, GENESIS (J and T) Ltd, 3
Eskview Villas, Eskbank, Dalkeith

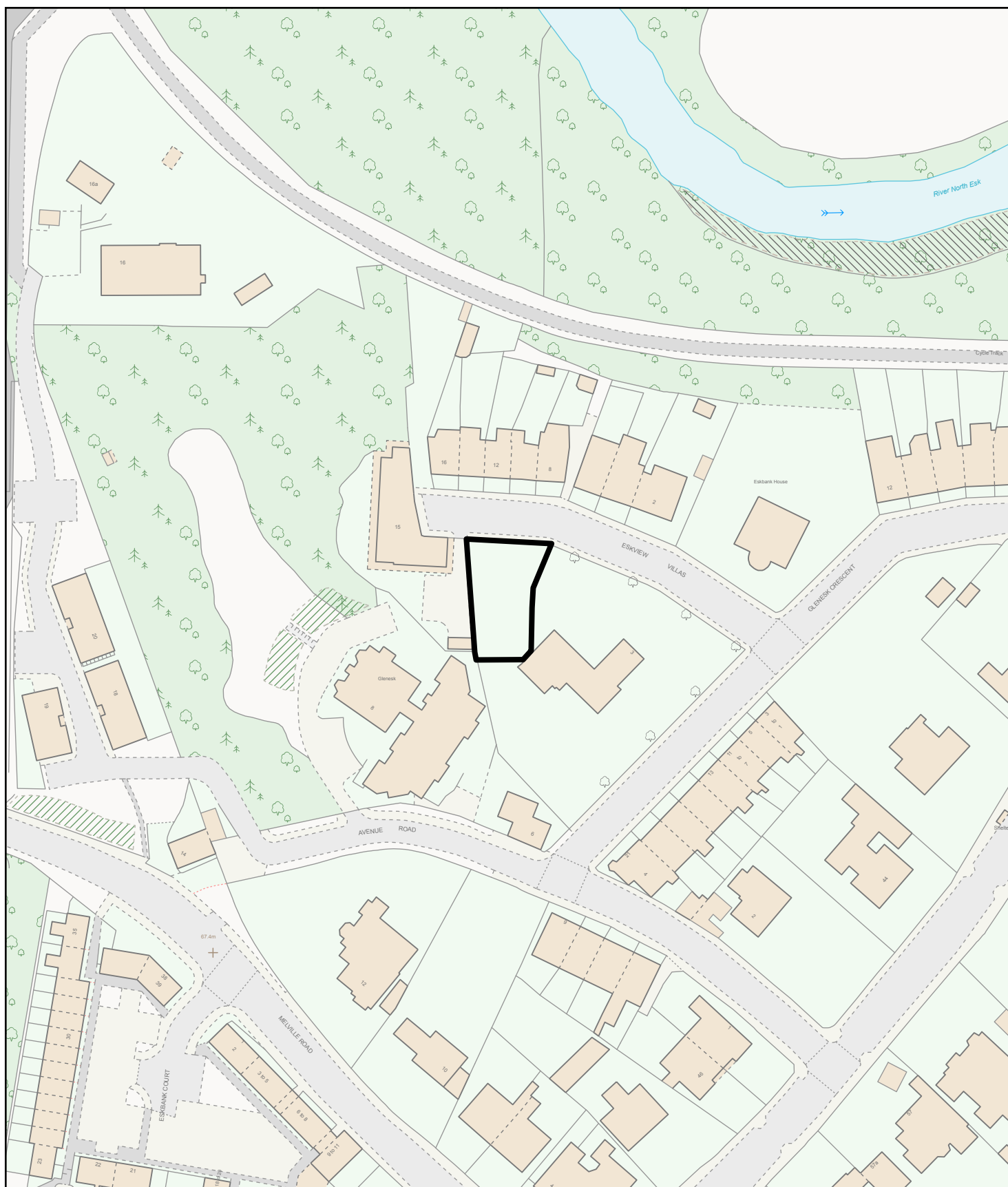
Agent: Gail Halvorsen, Halvorsen Architects, Mountskip
House, Gorebridge

Validation Date: 5 October 2018

Contact Person: Graeme King

Tel No: 0131 271 3332

Background Papers: 17/00920/DPP, 18/00135/DPP



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

Erection of dwellinghouse; formation of access and car parking and associated works at Land at 3 Eskvielw Villas, Dalkeith

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationary Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings

Midlothian Council Licence No. 100023416 (2018)

File No. 18/00760/DPP

Scale: 1:1,250
Page 187 of 188



