



**APPLICATION FOR PLANNING PERMISSION (18/00494/DPP) FOR THE
ERECTION OF 5 DWELLINGHOUSES AND 16 FLATTED DWELLINGS,
FORMATION OF ACCESS AND ASSOCIATED WORKS AT SITE HS22,
LAND TO THE NORTH OF KIRK HILL ROAD, PENICUIK**

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the erection of five dwellinghouses and 16 flatted dwellings on land to the north of Kirkhill Road, Penicuik. There have been 25 representation from 16 separate households and consultation responses from Scottish Water, the Council's Archaeology Advisor, the Council's Head of Education, the Council's Policy and Road Safety Manager and the Council's Land Resources 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 STRAT 3, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN5, IT1, ENV10, ENV22, ENV24, ENV25, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017. The recommendation is to grant planning permission subject to conditions and securing developer contributions.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The application site is located to the south east of Penicuik, off Kirkhill Road at its junction with Eskhill. The site is located within a primarily residential area with dwellinghouses bounding the site to the south, east and northwest. A cricket field sits to the southwest and Kirkhill Bowling Club and outdoor tennis courts are situated to the northeast.**
- 2.2 The site is elevated and sits near the top of a local high point; the site is relatively high in relation to the majority of Penicuik. However, the site is not highly visible due to the surrounding buildings screening the site from any distance views. There is a significant drop in levels across the site from south to north. The land in the northern part of the application site steeply slopes down towards Kirkhill Bowling Club and the outdoor tennis court.**

- 2.3 The site comprises an area of rough grassed land used as informal recreational open space by local residents who access the site on foot between 50a and 52 Kirkhill Road and from the northeast corner of the site via a private lane.
- 2.4 The surrounding residential properties are a mix of single and two story buildings of various design styles. The neighbouring Eskhill estate dates from the 1970s. The more traditional style buildings located in Kirkhill Road are of an older date.
- 2.5 Residential properties 50 and 50a Kirkhill Road adjoin the site to the south and are a category C listed building/s. There is an existing vehicle access taken from Kirkhill Road which serves 50a Kirkhill Road.
- 2.6 The western boundary of the site is defined by a high stone wall. There is a low stone boundary wall to the south of the site fronting towards Kirkhill Road. The stone boundary walls forms part of the historic listing associated with 50 and 50a Kirkhill Road. The eastern boundary of the site is defined by high wire fencing.

3 PROPOSAL

- 3.1 The planning application is for the erection of four semi-detached dwellings, one detached dwellinghouse and 16 flatted dwellings. The proposed development is part of the Council's housing programme and comprises all affordable housing units.
- 3.2 The 16 flatted dwellings comprise two storey semi-detached cottage flats; 12 one bedroom flats and 4 two bedroom flats. The flatted dwellings are of a traditional form with a pitched roof and incorporate a single storey porch to the front elevation.
- 3.3 The four semi-detached dwellinghouses are two storey and comprise; 2 three bedroom dwellings and 2 four bedroom dwellings. The four dwellings are of a traditional form with a pitched roof and incorporate a single storey porch to the front elevation.
- 3.4 The detached dwellinghouse is a single storey building, with a car port, of traditional form with a hipped roof. It is a three bedroom property designed to be wheelchair accessible.
- 3.5 All of the dwellings are to be finished in a white render and buff colour brick base course with white uPVC windows, a concrete tile roof with solar photovoltaic panels on the roof. The porches are either light green fibre cement cladding board or finished in a white render.
- 3.6 The existing ground levels across the site vary; the land on which the proposed dwellinghouses sit is to be cut and filled to level the site. The finished ground levels will sit slightly lower than 52–58 Kirkhill Road.

- 3.7 A new 10.55 metre wide opening in the existing western boundary wall is proposed to enable the formation of a vehicular access to the site; the proposed vehicle access will connect to Eskhill.
- 3.8 Two courtyard parking areas are proposed providing 19 communal parking spaces for 12 of the flatted dwellings and visitors; the remaining flatted units and dwellinghouses are afforded in-curtilage parking spaces with an additional visitor space provided to the front of the detached accessible dwellinghouse.
- 3.9 Details of the proposed boundary treatments have not been submitted.

4 BACKGROUND

- 4.1 A listed building consent application (19/00060/LBC) for alterations to the western boundary wall to form a pedestrian access is subject to assessment.
- 4.2 A listed building consent application (18/00550/LBC) for alterations to the western boundary wall to form a vehicular access was granted permission in September 2018.
- 4.3 The current application has been called to Planning Committee for consideration by Councillor Hardie because of the concerns raised by local residents and by Councillor McCall because of concern over site levels and access rights.

5 CONSULTATIONS

- 5.1 **Scottish Water** does not object to the application.
- 5.2 The Council's **Archaeology Advisor** has confirmed that a satisfactory programme of archaeological works (trial trench evaluation) has been carried out.
- 5.3 The Council's **Head of Education** estimates that 21 dwellings would give rise to seven primary school pupils and five secondary school pupils and advises that the applicant will be required to make a developer contribution to meet the provisional requirements. The site is in the catchment area of Strathesk Primary School, Sacred Heart Primary School, Penicuik High School and St David's RC High School.
- 5.4 The Council's **Policy and Road Safety Manager** does not object to the application.
- 5.5 The Council's **Land Resources Manager** objected to the application because there is no proposal for an onsite play area.

6 REPRESENTATIONS

6.1 There have been 25 objections from 16 separate households, all of which can be viewed in full on the online planning application case file. A summary of the objections are as follows:

- Lack of communication between the Council (as landowner) and local residents regarding the development of the site;
- The catchment area and consultation time periods of the neighbour notification procedures are not appropriate;
- The potential to damage properties adjacent to the site, as was the case in 2015 during site investigation works. A pre-work inspection survey should be undertaken to assess the existing buildings in case any damage is caused by the construction process;
- The loss of recreational green/open space - the land should be maintained as open space for the local community;
- The loss of an interesting mix of flora and fauna;
- The proximity of the proposed access to neighbouring land owned by no. 283 Eskhill;
- The construction access and construction vehicles impacting on the condition of the existing road and parking availability;
- Road safety concerns over the proposed access location and alterations to the lay-by, particularly during construction work;
- The loss of part of an existing parking lay-by and the removal of trees to form the access;
- Noise and disturbance during the construction work;
- The scale and design of the proposal is over-bearing and out of character with the area;
- Impact upon nearby historic listed buildings;
- Concerns over loss of privacy from the proposed footpath to the rear of 64 Kirkhill Road;
- The development will result in overlooking/overshadowing of neighbouring properties;
- The development proposal will result in the loss of a view of the Pentlands;
- The impact the site levels will have on sewage and rainwater drainage;
- The location of the proposed SUDS;
- Impact upon water pressure/supply;
- Impact upon property prices;
- Impact on the established trees on the site perimeter;
- The proposal is for one more unit than originally advised by the applicant in 2015;
- Repair works to the roads and pavements in the local area, including the steps down to Dunlop Terrace, should be carried out;
- Inaccurate information from the Council regarding the frequency of grass cutting;
- The land was gifted from the YMCA for residents to use;

- Compensation should be provided for pets to be kennelled or medicated during the construction process;
 - Increase in crime and security concerns;
 - The private lane to the northeast of the site being blocked off; this is the only access available to 96 Kirkhill Road; and
 - Additional pressure on schools and doctors surgeries.
- 6.2 Kirkhill Bowling Club to the north of the site has raised concerns relating to the lack of access provision to the Club through the site. They have advised that the property title contains provision for any access road constructed being extend to their property boundary. The Club also request that the ground levels are amended to facilitate a safe access to the Club.

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.

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 20 dwellings on the site (Hs22).
- 7.5 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.

- 7.6 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.
- 7.7 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 Policy **DEV6 Layout and Design of New Development** requires good design and a high quality of architecture, in both the overall layout of developments and their constituent parts. The layout and design of developments are to meet listed criteria.
- 7.9 Policy **DEV7: Landscaping in New Development** requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment.
- 7.10 Policy **DEV9: Open Space Standards** 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 **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.
- 7.13 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.14 Policy **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.

- 7.15 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.
- 7.16 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.
- 7.17 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.
- 7.18 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.
- 7.19 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.
- 7.20 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

National Policy

- 7.21 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.
- 7.22 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.

- 7.23 The Scottish Government policy statement, Creating Places, emphasises the importance of quality design in delivering good places. These are communities which are safe, socially stable and resilient.

8 PLANNING ISSUES

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

Principle of Development

- 8.2 The site is allocated in the MLDP as housing site Hs22 and is located within the built up area of Penicuik 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. The consultations carried out have not highlighted any overriding reasons as to why the site could not be redeveloped for residential purposes.
- 8.3 The principle of residential development on the site is established by its allocation for housing in the MLDP, with an indicative allocation of 20 residential units. The proposal is for 21 residential units, one more than the allocation. This is acceptable if the proposed development is of good design and the impact of the development in terms of infrastructure can be mitigated, in particular in terms of education provision.
- 8.4 While the Council own the site they are not identified as being the applicant for the planning application. However, in the interests of clarity, it is the case that the application relates to a scheme for Council housing, to be delivered by a third party. As the units will be affordable housing there is no requirement to secure the usual policy requirement of 25% affordable housing on the site. However, it is appropriate to ensure the affordable housing is delivered and that the site is not transferred to a third party with no requirement for affordable housing. Therefore, it will be necessary to use a planning condition to ensure delivery of affordable housing on the site.

Layout and Form of Development

- 8.5 The proposed development is for five dwellinghouses and 16 flatted dwellings with an average density of 27 dwellings per hectare. This equates to an average/medium density development in a suburban area. The development has been designed primarily as a traditional street layout responding to the shape of the site and the residential form in the surrounding area. The layout consists of a single street (cul-de-sac) running into the site with dwellings fronting onto the street, landscaping and two parking courtyards. A new vehicle access to the site is to be taken off Eskhill and runs from southwest to north. The two proposed courtyard parking areas provide 19 communal parking spaces for 12 of the flatted dwellings and visitors; the remaining flatted units and dwellinghouses are afforded in-curtilage parking spaces to the front or side with an additional visitor space provided to the front of the detached accessible dwellinghouse. A separate pedestrian access to the site is formed in the south off Kirkhill Road. Together, the orientation of buildings fronting onto the street, the street pattern and layout and the relationship between the buildings, both proposed and existing, creates a development which is compatible with its surroundings and provides good amenity.
- 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. 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 or a designated space per flat. The proposed dwellings have the requisite private open space provision and are configured to meet the necessary separation distances between dwellinghouses to mitigate against overlooking, loss of privacy and a sense of overbearing on neighbours, both proposed and existing.
- 8.7 The mix of house types and sizes is acceptable. The residential units comprise a mix of types, namely 1, 2, 3 and 4 bed semi-detached houses and flats. The architectural styles of the houses and flatted buildings are relatively traditional in form (square/rectangular two storey buildings with pitched roofs – one single storey bungalow is also

proposed) and complement the character of the area. The application comprises the Council's standardised house designs.

- 8.8 In principle, the proposed materials of render walling, concrete roof tiles with solar photovoltaic panels and light green fibre cement clad porches are compatible with the surrounding area and are acceptable. However, in order that the external finishes of the buildings are complementary to each other and appropriate to the character of the area, it should be made a condition of a grant of planning permission that samples are submitted for the prior approval of the planning authority. None of the proposed buildings are identified as being within an area of improved quality (AIQ) in terms of design and materials. An AIQ seeks to add interest and character to developments by enhancing the quality of some buildings, landscapes and streetscape, usually 20% of the scheme. The absence of an AIQ is to the detriment of the design of the scheme. However it can be made a condition of a grant of planning permission that details of the proposed materials to be used in an AIQ shall be submitted for the prior written approval of the planning authority. Buildings identified as an AIQ shall be at key locations, fronting onto communal open space or at road entrance points and junctions.
- 8.9 No details of the 'percent for art' for the development; an artistic feature that would add interest and local reference to the development, has been submitted with the application. It should be made a condition of a grant of planning permission that details of percent for art for the development be submitted for the prior written approval of the planning authority.
- 8.10 The majority of the existing western stone boundary wall is to be retained; a vehicle and pedestrian opening are to be formed within the wall. Details of boundary treatments to the north, south and east of the application site have not been detailed within the application submission, but can be covered by a condition on a grant of planning permission.
- 8.11 The development as a whole provides good levels of amenity to future occupants, has a considered layout, incorporates landscaping and links to the local area. Whilst it is acknowledged that the proposal is over the indicative allocation (by one unit) the overall quality of the development is acceptable and accords with development plan policy.

Impact on Amenity

- 8.12 Concern has been raised regarding potential overlooking of a number of residential properties in Eskhill. The single storey accessible dwelling (block 4) in the northern corner of the site is approximately 24m from 273 Eskhill, rather than the expected 25m standard, and sits at a slightly higher level because of the fluctuation in ground levels. However, due to the proposed dwelling being single storey the

development proposal will not result in a significant loss of amenity to neighbouring properties. While there will be some potential overlooking of rear gardens it is at a level which is to be expected within an urban environment.

- 8.13 The gable end of a block of flatted dwellings (block 1) in the southwest corner of the site is located in close proximity to the rear gable end of the former YMCA building (currently vacant). There is a ground floor window within the entrance porch and a first floor window in the southwest side elevation of the main building which serves a staircase. These openings will potential overlook the neighbouring vacant site.
- 8.14 The southwest gable end of the semi-detached three bedroom dwelling (block 7), sited in the southwest corner of the application site is located a minimum of approximately 20m from the rear elevation of 58 and 56 Kirkhill Road, this exceeds the expected 16m standard. There are no windows included within the southwest gable end of the semi-detached dwelling (block 7), this will mitigate any concern of potential overlooking.
- 8.15 It is noted that one block of flatted dwellings (block 2) is located close to the boundary of 283 Eskhill and may result in some overshadowing of a small part of the rear garden ground. There are no windows within the northwest side elevation of the proposed dwelling and there is one ground floor window, one upper window and single storey conservatory within the rear eastern elevation of 283 Eskhill. Between approximately 11am and 1pm the shadow cast from the proposed flatted dwellings will fall on to the southeast corner of the rear garden ground. The overshadowing of the 283 Eskhill is calculated by using the 'sun on ground indicators'. This calculation shows that the shadow cast by the proposed block of flats is likely to fall on to the southern and eastern elevation of the house each morning until around 10.30am. After 1pm the shadow cast will be out with the curtilage of the neighbouring property. While there will be some overshadowing of the rear garden of 283 Eskhill, early in the morning this will not last for long and does not result in such a poor level of amenity so as to warrant refusing the planning application.
- 8.16 The proposal includes the formation of a footpath to allow for pedestrian access to the site via the southeast corner of the site connecting to Kirkhill Road. The proposed footpath is offset approximately 1.5m from the eastern boundary of 58 Kirkhill Road and continues around to the rear of 52 to 58 Kirkhill Road but set back a minimum of 2.3m from the rear garden boundaries. The proposed footpath will be lit. Details of the proposed street lighting will be secured via condition. The proposed footpath does not raise any significant concerns in terms of impact upon amenity.

- 8.17 Overall, the development proposal will not result in a significant loss of amenity due to the scale, design, siting and orientation of the proposed dwellings.

Open Space and Landscaping

- 8.18 The site is currently an area of overgrown grass which is used as informal open space by some local residents. The site is no longer maintained by the Council and overtime its unkempt state is likely to have a detrimental impact on the character and amenity of the local area. The site was identified within the Council's Open Space Audit in 2009 as an area of open space that has a relatively low amenity value. Furthermore, it was noted that it should not be designated as a site of high value fauna or flora. However, it is acknowledged that based on the representations made the ground contributes towards the character and amenity of the area for some local residents who would rather keep the space undeveloped.
- 8.19 The size of the site and the relative small scale of development (21 units) mean that it is not viable or pragmatic to incorporate the provision of a children's play area on site. As a consequence a developer contribution towards off-site provision of children's play facilities within the wider Penicuik area will be secured. There are nearby play areas, parks and sports and leisure facilities at the cricket club on the opposite side of the road to the development, at the neighbouring bowling club and outdoor tennis courts, Angle Park, High Park, Ladywood leisure centre and as part of the Esk Bridge housing development.
- 8.20 The proposed development will also incorporate landscaping and a sustainable urban drainage system designed to mitigate any increased risk of localised flooding as a result of the development. The details of which will be secured by a planning condition.

Access and Transportation Issues

- 8.21 A new vehicle access is to be taken from Eskhill, this is the safest and most appropriate place to access the site. The proposed development provides a total of 33 off-street car parking spaces and five additional spaces within the lay-by adjacent to Eskhill. This level of parking provision complies with the Council's standards. The proposed footpath to the southern end of the site that connects to Kirkhill Road is to be illuminated by street lighting.
- 8.22 Four communal electric vehicle charging points are proposed within the communal courtyard parking areas. Each dwelling with a garage or private driveway is also expected to have a dedicated vehicle charging point – the Council's aspirations in this regard can be secured by a condition on a grant of planning permission.

- 8.23 There is sufficient space within the parking and vehicle access area to accommodate a vehicle turning area. This has been demonstrated by means of a refuse vehicle tracking plan that accompanied the application submission.
- 8.24 The Council's Policy and Road Safety Manager does not object to the application - the formation of a new vehicle access, parking, footpath and the alterations to the lay-by do not raise any concerns in terms of road or pedestrian safety.
- 8.25 There are bus stops located within close proximity to the site on Bryans Road, where Lothian Buses provide a number of services, seven days a week, (no.37, 47 and X47 connecting the site to Edinburgh City Centre and to other parts of Midlothian).

Other Matters

- 8.26 Neighbouring the southwest corner of the application site is 50 and 50a Kirkhill Road, which together form a category C listed building; the former Kirkhill School and Schoolhouse which is an early example of a purpose built school building by a philanthropic industrialist for the children of his workforce at Esk Mills. Today 50 Kirkhill is a residential dwelling and 50a is the vacant YMCA building. The impact of the residential development upon the setting of the listed building has been taken into consideration in the assessment of the planning application and it is considered that the layout, scale and design of the residential development have been designed not to impact upon the setting of the listed buildings.
- 8.27 The following matters which have been raised in representations which are not material considerations in the determination of the application are:
- The level of communication between the applicant and local residents;
 - The planning application notification procedures, which are specified by the Scottish Government in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013;
 - The potential risk of damage to neighbouring properties is a private matter between parties;
 - Private access rights is a matter between parties;
 - The potential risk of damage to roads is a matter between the developer and the Council as the roads authority;
 - Loss of views;
 - Water pressure and supply is a matter between the developer and Scottish Water;
 - Impact on property values/prices;
 - Any future (unknown proposals) for the former YMCA building;
 - Speculation that the YMCA gifted the land to local residents; and

- Compensation for the disturbance of pets.

Developer Contributions

- 8.28 If planning permission were granted it should be subject to the conclusion of a planning obligation to secure developer contributions towards (i) primary and secondary denomination and non-denominational education provision; (ii) off site play provision; and (iii) the A701 relief road.

9 RECOMMENDATION

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

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

Subject to:

- i) The prior signing of a legal agreement to secure:
- a contribution towards education provision;
 - a contribution towards off site play provision; and
 - a contribution towards the A701 relief road.

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

- ii) the following conditions:

1. Development shall not begin until details of a 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. 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, rain gardens, road verges and open space, including trees, shrubs, hedging, wildflowers and grassed areas as well as root protection measures;

- iv. location and design of any proposed walls, fences and gates, including retaining walls and 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. drainage details and sustainable urban drainage systems to manage water runoff;
- viii. proposed car park configuration and surfacing;
- ix. proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and
- x. 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). Thereafter 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 adopted 2017 Midlothian Local Development Plan and national planning guidance and advice.

2. 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. 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 adopted 2017 Midlothian Local Development Plan and national planning guidance and advice.

3. 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 in

the adopted 2017 Midlothian Local Development Plan and national planning guidance and advice.

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

Reason: *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure in accordance with the requirements of policy IT1 of the Adopted 2017 Midlothian Local Development Plan.*

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

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

6. 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 Adopted 2017 Midlothian Local Development Plan.*

7. No development shall begin on any part of the site until the following additional procedures have been completed:
 - a) The developer has submitted to the planning authority details of the measures it proposes to ensure that all the flats (dwellinghouses) built on the site are occupied in perpetuity only as affordable housing as defined in the adopted Midlothian Local Development Plan 2017;
 - b) The planning authority has approved the measures, submitted to discharge requirement 14.a) above, in writing; and

- c) The developer has provided documentary evidence to the planning authority that the measures that the planning authority has approved are in place and the planning authority has confirmed in writing that the provision that has been made is satisfactory.

Reason: *The application has been assessed on the basis that the development provides affordable housing and this condition is essential in order to ensure that the flats (dwellinghouses) remain available for occupation by people on modest incomes to meet locally the identified needs of people who cannot afford to buy or rent housing generally available on the open market; in compliance with policy DEV3 of the adopted Midlothian Local Development Plan.*

Dr Mary Smith
Director of Education Communities and Economy

Date: 12 February 2019

Application No: 18/00494/DPP
Applicant: Hart Builders (Edinburgh) Ltd
Agent: Hackland and Dore Architects
Validation Date: 19 July 2018
Contact Person: Whitney Lindsay
Tel No: 0131 271 3315
Background Papers: None



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

Erection of 5 dwellinghouses and 16 flatted dwellings,
formation of access and associated works at Land to The
North of Kirkhill Road, Penicuik

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Scale: 1:1,250

