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## **APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE 15/00546/PPP FOR RESIDENTIAL DEVELOPMENT ON LAND WEST OF THE COTTAGE, HARDENGREEN, DALKEITH**

Report by Head of Communities and Economy

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### **1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

**1.1 The application is for planning permission in principle for residential development on land west of The Cottage, Hardengreen, Dalkeith. There have been nine letter of representation and consultation responses have been received from Network Rail, the Scottish Environment Protection Agency (SEPA), the Eskbank and Newbattle Community Council and the Council's Head of Education, Environmental Health Manager and Policy and Road Safety Manager. The relevant development plan policies are policies 7 and 12 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESPlan) and policies RP1, RP2, RP4, RP5, RP7, RP13, RP14, RP24, RP28, RP31, HOUS4, IMP1, IMP2 and IMP3 of the Midlothian Local Plan (2008). The proposed Midlothian Local Development Plan published in May 2015 is a material consideration in the assessment of the application. The recommendation is to refuse planning permission in principle.**

### **2 LOCATION AND SITE DESCRIPTION**

**2.1 The application site comprises a parcel of rough grazing land approximately 2.2 hectares in area. It is located immediately to the west of the residence known as 'The Cottage' and nearby to the north of Hardengreen roundabout. The land has recently been used as a temporary access and materials storage site by contractors in connection with the Borders Railway project. The site has now been cleared of material and returned to rough grazing land.**

**2.2 The site is identified as being in the Green Belt in the adopted Midlothian Local Plan 2008. The site has been designated as Green Belt since December 2003. The site is bounded by mature trees to the north east, the B6392 road (Dalhousie Road) to the south east and mature woodland to the south immediately beyond which is the Hardengreen roundabout. The Borders Railway line is immediately to the west of the site and a gas pipeline crosses through the middle of the site in an east to west orientation.**

- 2.3 The closest residential properties are 'The Cottage' and 'The Long Croft' which are both located immediately to the east of the application site. The Category C listed Hardengreen House is located nearby to the north east of the site. The scheduled ancient monument of Hardengreen Enclosure, which comprises the remains of an enclosed settlement of prehistoric date, lies nearby to the west of the site.

### **3 PROPOSAL**

- 3.1 The application is for planning permission in principle for residential development. Although the application is in principle the applicant has submitted an indicative masterplan and a Design and Access Statement comprising a design concept for the development of the site. The masterplan considers issues relating to access, roads, pedestrian routes and residential development pockets, open space, landscaping, drainage/SUDS, built form and materials. In addition indicative site sections have been submitted for consideration. The masterplan indicatively shows up to 47 dwellings on the site. On the basis of a development of this size the housing density across the whole site would be 21 dwellings per hectare which would equate to a medium density development. The masterplan delineates the following mix of dwellings:

- Detached 25
- Semi-detached 10
- flats 12

- 3.2 Vehicular access to the site would be from the existing vehicular access off the B6392 Dalhousie Road.
- 3.3 It is stated in the Design and Access Statement that materials used for the proposed buildings would be render and cast stone for external walls and flat/profiled roof tiles.
- 3.4 The application is accompanied by a pre-application consultation report, a supporting planning statement, a housing land supply assessment, a design and access statement, a transportation statement, a landscape and visual impact assessment, an arboricultural survey report, an ecological appraisal report, a noise assessment report, a flood risk statement, a drainage strategy and a preliminary environmental risk assessment.

### **4 BACKGROUND**

- 4.1 Pre-application consultation 15/00276/PAC for a residential development was received in April 2015.
- 4.2 An Environmental Impact Assessment (EIA) Screening Opinion request (15/00320/SCR) for a proposed residential development was submitted on the 15 April 2015. The applicant was advised that an EIA was not required under schedule 2 of the Town and Country Planning Environmental Impact Assessment (Scotland) Regulations 2011.

4.3 The application site is part of a larger 6.4 hectares site located south of Eskbank, between Newtongrange and Bonnyrigg, which was subject to a previous planning application (00/00121/OUT) for outline planning permission for a residential development. The applicant appealed against the failure of the Council to determine the application within a specified time period. The Scottish Government dismissed the appeal for the following reasons:

- *There is no scope in the structure plan to increase the amount of allocated housing land in Midlothian. Therefore, there is no justification for allocating the site as a housing development site.*
- *The proposal to safeguard and ultimately develop the site for housing would be contrary to the approved structure plan.*
- *The proposal amounts to isolated or sporadic housing development in the countryside, which conflicts with national planning advice and local planning policy.*
- *The housing strategy in the finalised local plan has not yet been adopted. Its general approach, as well as to the safeguarding of this particular site, have all been the subject of unresolved objections, so that they form part of the ongoing local plan inquiry. The development plan process remains the proper and fair forum for considering these competing and disputed issues, and until the Council makes its decision in light of the local plan inquiry findings, it is considered that it would be premature to release the site for development. Adherence to a plan led approach complies with legislation and national planning advice and generally, the process should not be undermined by the premature and piecemeal release of part of sites, which are currently no more than longer term development options.*

## 5 CONSULTATIONS

- 5.1 **The Head of Education** has advised that the applicants will be required to make a developer contribution towards non-denominational primary school provision. A contribution is not required towards denominational primary school provision. A developer contribution will be required towards secondary denominational and non-denominational provision.
- 5.2 The Council's **Policy and Road Safety Manager** has requested that details of access, parking, footpaths, SUDS, public transport infrastructure and a Green Travel Plan are submitted as part of any subsequent matters specified in conditions applications if permission is granted.
- 5.3 The **Scottish Environment Protection Agency (SEPA)** raises no objection to the application.

5.4 **Network Rail** does not object to the principle of the proposed development. However, owing to the close proximity of the site to the Borders Railway they advise that the following controls be secured by conditions imposed on a grant of planning permission: (A) the applicant provide a suitable trespass proof fence at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal. They specify that the fence be constructed of 1.8 metre high 'rivetless palisade' or 'expanded mesh'. Network Rail's existing boundary measures must not be removed without prior permission; and, (B) the proximity and type of planting proposed are important when considering a landscaping scheme. Leaf fall in particular can greatly impact upon the reliability of the railway in certain seasons. Network Rail can provide details of planting recommendations for neighbours. Where trees/shrubs are to be planted adjacent to the railway boundary these should be positioned at a minimum distance from the boundary which is greater than their predicted mature height. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Furthermore the applicant must be advised that there are issues with noise sensitive developments being situated in close proximity to the rail line. The applicant should be aware that any proposal for noise or vibration sensitive uses adjacent to the railway may result in conflict between neighbours. Every endeavour should be made by the applicant in relation to adequate protection of the uses contained within the site; and construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Applicants must be aware of any embankments and support structures which are in close proximity to their development. Details of all changes in ground levels, laying of foundation, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. When any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks.

5.5 **Eskbank and Newbattle Community Council** objects to the application as they are not in agreement with the principle of development in the Green Belt. In addition, they inform that local residents have raised the following concerns: (i) coalescence of Midlothian villages; (ii) divergence with the Environmental Impact Assessments (EIAs) that has already been determined; (iii) design/quality of the proposed houses; (iv) the design quality of the masterplan submitted; (v) concern that the final product will not adhere to the proposed masterplan; and, (vi) pressure on local services, particularly schools and health service facilities.

- 5.6 The **Council's Environmental Health Manager** raises concerns regarding the impact of traffic noise (both rail and road traffic) affecting the site, particularly to the west and south west of the site. However, they consider that residential use is possible on the proviso that it is designed with a sensible layout and that the following mitigation is applied: (a) the erection of an acoustic barrier along the west boundary of the site and returned along the south west edge. The dimensions and design specification of the barrier shall be to the satisfaction of the planning authority; (b) noise mitigation to the external garden areas to the east of the site; (c) acoustic double glazing being installed within living apartment windows; and, (d) a vibration assessment being undertaken to ensure that the proposed residences are not affected by vibration from train movements. Furthermore, the Council's Environmental Health Manager recommends mitigation to deal with contamination of the site and/or previous mineral workings.

## 6 REPRESENTATIONS

- 6.1 Nine letters of representation have been received. The main points raised are as follows:
- The site is identified in the Midlothian Local Plan as Prime Agricultural Land;
  - The site is not allocated for housing;
  - The proposed development is contrary to Green Belt policy;
  - The proposed development would lead to the permanent loss of this prime agricultural land;
  - The proposed development would be contrary to Local Plan policies that aim to protect the countryside;
  - Concern that the traffic generated by the proposed development would exacerbate current problems with traffic congestion on the local road network;
  - There has been a previous refusal for housing on the site;
  - The development would not be in keeping with; but instead, would detract from the landscape character and amenity of the area;
  - The development would spoil the countryside boundary on the approach to the settlement of Eskbank;
  - In the MLDP some Green Belt land in Bonnyrigg (site HS10) has been released for housing. This has considerably reduced the amount of land between Bonyrigg and Eskbank, which strengthens the case for the application site to be retained as Green Belt to prevent coalescence of Bonnyrigg and Eskbank and for reason of visual and landscape setting;
  - The development would not be well integrated into the rural landscape;
  - The proposed development is contrary to policy 7 of SESPlan which states that in order to maintain an effective five year housing land supply the following criteria should be satisfied: The "development will not undermine Green Belt objectives". The proposed development undermines Green Belt objectives;

- Proposals to release Green Belt land should be considered as part of the development plan process rather than through individual planning applications;
- The traffic survey submitted in support of the application is not fit for purpose because the application does not take account of access to public transport and services;
- The site is a wildlife corridor linking the South Esk with the North Esk;
- The recent increase of new houses in the area has resulted in an increase in walkers and dog walkers within the nearby Newbattle Woods, which is showing signs of overuse including damage to trees. In addition mountain bike cyclists are accessing Newbattle Wood;
- There are flaws with the traffic survey: (i) the transport survey displays poor analysis of the traffic flow on the B6392; (ii) it was carried out at the wrong time of year as May is a 'lighter' month for car traffic whilst there is heavier traffic in winter; (iii) it does not take into account the traffic impact when the new railway station at Eskbank opens and people will drive to it; (iv) the travel survey should have picked up routes to alternative schools including Bonnyrigg Primary School, Lasswade Primary School and Lasswade High School and not just Kings Park PS and Dalkeith School campus; the travel survey should have taken cognisance of the fact that travel to school will mostly be by car;
- Concern about increased traffic on the already congested Eskbank Toll Roundabout;
- Concerns that Kings Park Primary School could not accommodate the pupils that would result from the proposed houses;
- Children from the houses on the site would have to be transported to the denominational school at Woodburn or Kippielaw;
- There is a limited bus service on the A7, which is the nearest bus route to the site;
- Existing local GP surgeries and other medical surgeries are already overcrowded;
- The site has recently been restored to grazing land after having recently been used as a material store for the construction of the Borders Railway. It can be used for grazing again; and
- The houses that would be built on the site would create a depressing townscape.

## 7 PLANNING POLICY

7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) (SESplan) and the Midlothian Local Plan (MLP), adopted in December 2008. The following policies are relevant to the proposal:

### South East Scotland Strategic Development Plan 2013 (SESPlan)

7.2 **Policy 7: Maintaining a Five Year Housing Land Supply** states that proposed developments could be supported outwith strategic

development areas in support of maintaining an effective housing land supply subject to a number of criteria. One restrictive criterion is that the proposed development will not undermine Green Belt objectives.

- 7.3 Policy **12 Green Belts** states that Local Development Plans will define and maintain Green Belts around Edinburgh for the following purpose to: (a) maintain the identity and character of settlements and prevent coalescence, unless otherwise justified by the Local Development Plan settlement strategy; (b) direct planned growth to the most appropriate locations and support regeneration; (c) maintain the landscape setting of these settlements; and, (d) provide opportunities for access to open space and the countryside. Local Development Plans will define Green Belt boundaries to conform to these purposes, ensuring that the strategic growth requirements of the Strategic Development Plan can be accommodated. Local Development Plans should define the types of development appropriate within Green Belts. Opportunities for contributing to the Central Scotland Green Network proposals should also be identified in these areas.

Midlothian Local Plan (MLP):

- 7.4 Policy **RP1: Protection of the Countryside** states that development in the countryside will only be permitted if: it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation, tourism, or waste disposal (where this is shown to be essential as a method of site restoration); it is within a designated non-conforming use in the Green Belt; or it accords with policy DP1.
- 7.5 Policy **RP2 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. are for 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. are in accord with policy RP3, ECON1, ECON7 or are permitted through policy DP1.

Any development proposal will be required to show that it does not conflict with the overall objectives of the Green Belt.

- 7.6 Policy **RP4: Prime Agricultural Land** states that development will not be permitted which leads to the permanent loss of prime agricultural land (Classes 1, 2 and 3.1 of the Macaulay Institute Land Classification for Agricultural system) unless: A. the site is allocated to meet Structure Plan requirements; or B. there is a location justification for the development which outweighs the environmental or economic interest served by retaining the farmland in productive use; and C. the

development accords with all other relevant Local Plan policies and proposals.

- 7.7 Policy **RP5 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, individual trees (including areas covered by a Tree Preservation Order, areas defined as ancient and semi-natural woodland, or areas forming part of a designed landscape) and hedges which have particular amenity, nature conservation, biodiversity recreation, landscape character, shelter or other importance. Where an exception to this policy is agreed, any trees lost will be replaced with equivalent.
- 7.8 Policy **RP7: Landscape Character** which advises that development will not be permitted where it may adversely affect the quality of the local landscape. Provision should be made to maintain local diversity and distinctiveness of landscape character and enhance landscape characteristics where improvement is required.
- 7.9 Policy **RP13: Species Protection** requires that any development that would affect a species protected by law will require an appropriate level of environmental and biodiversity assessment. Where development is permitted, proposals will require: A. measures for mitigation; and B. measures for enhancement or sustainable habitat replacement, where appropriate.
- 7.10 Policy **RP14: Habitat Protection Out With Formally Designated Areas** requires that where a development affects sites which contain habitat of some significance, effects on the habitat as well as mitigation measures will be taken into account.
- 7.11 Policy **RP24: Listed Buildings** states that development will not be permitted where it would adversely affect the setting of a Listed Building.
- 7.12 Policy **RP28: Site Assessment, Evaluation and Recording** states that where any development proposal 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 impact of the proposal on the archaeological resource.
- 7.13 Policy **RP31: Open Space Standards** advises that the Council proposes to bring forward supplementary planning guidance based on the open space strategy outlining the minimum open space standards in respect of all new development, and until that is available the requirements for open space provision are as set out in policy DP2.
- 7.14 Policy **HOUS4: Affordable Housing** requires that on residential sites allocated in this Local Plan and on windfall sites identified during the plan period, provision shall be required for affordable housing units equal to or exceeding 25% of the total site capacity, as follows:



- for sites of less than 15 units (or less than 0.5 hectares in size) no provision will be sought;
- for sites of between 15 and 49 units (or 0.5 to 1.6 hectares in size) there will be no provision for the first 14 units thereafter 25% of the remaining units will be for affordable housing
- for sites of 50 units and over (or larger than 1.6 hectares in size), there will be a requirement for 25% of the total units to be for affordable housing.

Lower levels of provision, or a commuted sum, may be acceptable where this has been fully justified. Supplementary planning guidance with regard affordable housing provision provides advice on: the acceptable tenure split between social and low cost housing; possible delivery mechanisms; the scope for commuted sums; and other relevant matters as necessary. The Council's "Supplementary Planning Guidance on Affordable Housing" was published in March 2012.

- 7.15 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 is education provision, transport infrastructure, 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.
- 7.16 Midlothian Local Plan 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 requirements, related to the scale and impact of the proposal. This includes essential roads infrastructure, protecting valuable environmental assets within or adjacent to the site and compensation for any losses including alternative provision where appropriate. In this case the need to upgrade junctions and access arrangements will come through a Traffic Assessment and specific requirements may arise from water and drainage and flood risk assessments.

Midlothian Local Development Plan Proposed Plan (MLDP) 2014

- 7.17 In the MLDP Proposed Plan 2014 the site is identified as being within the Green Belt and is thereby covered by Policy ENV1 of that Plan which states 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 essential infrastructure; or (E) Form development that meets a national requirement or established need if no other site is available. Any development proposals will be required to show that it does not conflict with the overall objective of the Green Belt which is to maintain the identity and landscape setting of Edinburgh and Midlothian's towns by clearly identifying their physical boundaries and preventing coalescence. With regards to housing Policy ENV1 states that housing will normally only be permitted 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 met within an existing settlement; and that the occupier will be employed full-time in the associated countryside activity.

### National Policy

- 7.18 The **SPP (Scottish Planning Policy)** sets out Government guidance for Green Belts. The policy seeks to restrict unallocated residential development in the Green Belt.

## **8 PLANNING ISSUES**

- 8.1 The main planning issue to be considered is whether or not the proposal complies with the development plan policies and, if not, whether there are any material planning considerations which would otherwise justify approval. The consultation responses and the letters of representation are material considerations.

### The Principle of Development

- 8.2 The proposed site is not allocated for housing and as such is contrary to the development plan.
- 8.3 The application site is located within the Green Belt, as indicated in the Midlothian Local Plan, and as such any development on the site should comply with both policy 12 of SESplan and policy RP2 of the MLP. Development will not be permitted in this area unless it is essential for the furtherance of agriculture, horticulture, forestry, outdoor sport or outdoor recreation and are related to other uses appropriate to the rural character of the area. The policy does not support residential developments in the Green Belt and the proposed development is not required in connection with an established use in the Green Belt. Thereby the proposed development is contrary to development plan policy.
- 8.4 The proposed development is also contrary Policy RP1 (Protection of the Countryside) of the adopted Midlothian Local Plan as the development is not required for the furtherance of an agricultural use or other use appropriate to the countryside.

- 8.5 The proposed development would result in the permanent loss of prime agricultural land. The applicant has not provided an overriding justification for the development which outweighs the environmental or economic interests served by retaining the farmland in productive use. Thereby the proposed development is contrary to adopted MLP policy RP4 (Prime Agricultural Land).
- 8.6 The site was assessed by the Council as a potential housing site for inclusion in the proposed MLDP. However, it was considered that the site was not appropriate for housing because it would result in the loss of Green Belt and prime agricultural land and would contribute towards coalescence between Eskbank, Newtongrange and Bonnyrigg. The site is designated as Green Belt in the proposed plan. Support for the proposed residential development would set an undesirable precedent for allowing residential developments on the edges of towns and villages in the Green Belt contrary to the Council's spatial strategy as set out in the adopted MLP and proposed MLDP.

#### Masterplan

- 8.7 The illustrative masterplan submitted with the application seeks to outline a potential housing density for the site. However, it does not show how a development of 47 dwellings could be accommodated on the site. Therefore the masterplan cannot be given consideration in the assessment of this application. The number, positioning, height, scale, form, appearance of the residential buildings (houses and flats) and details of the position and layout of road infrastructure, open spaces and landscaping, are considerations for matters specified in conditions or detailed planning application, not this application for planning permission in principle.
- 8.8 If the site were developed with houses it could be designed in a manner which would not result in undue harm to the setting of the neighbouring Category C listed Hardengreen House. Neither would a residential development on the site harm the setting of the nearby scheduled ancient monument known as Hardengreen Enclosure.

#### Transportation and the Borders Railway

- 8.9 Subject to the controls recommended by the Council's Policy and Road Safety Manager; which could be secured by conditions imposed on a grant of planning permission in principle, the proposed development could be acceptable in transportation terms.
- 8.10 There exists an adequate bus service within the area to serve the proposed development.
- 8.11 The report on the noise assessment submitted in support of the application concludes that both daytime and night time noise levels across the site from the adjacent Borders Railway line would exceed guideline values for outdoor amenity. Mitigation is recommended in the

form of a combination of strategic design layout, passive attenuation ventilation, suitable glazing and acoustic grade garden fencing. Subject to the mitigation; which could be secured by conditions imposed on a grant of planning permission in principle, the future occupants of dwellings erected on the site would not be significantly adversely affected by the operation of the Borders railway line.

#### Applicant's Planning Statement

- 8.12 The applicant's agent has submitted a planning statement to support the planning application. The applicant seeks to justify the residential development of the site. This is contrary to the Council's position that the development is contrary to policies and objectives of the adopted MLP and the proposed MLDP.
- 8.13 The applicant's statement argues that the proposed development meets the requirements of policy 7 of SESplan because the Council needs additional residential development to meet its housing commitments. This is not correct. The proposed development would undermine Green Belt objectives and is not required to meet the Council's housing requirements (which is delivered through development plan allocations). The Council currently has an effective five year land supply through its Strategic land allocations within the adopted MLP 2008 and proposed MLDP. Many sites allocated in the MLP are still being developed and a significant proportion of the sites that have been built have been developed with between 10% and 30% more units than they were allocated for in that Plan. Accordingly, there is no requirement for additional housing on sites beyond those allocated in the existing and emerging Local Plans.
- 8.14 The applicant's statement suggests that the proposed development meets the requirements of policy 6 of SESPlan. This is incorrect. Policy 6 states that 'planning authorities may grant planning permission for the early development of sites which are allocated in the Local Development Plan'. The application site is not allocated for housing in the MLDP and thus policy 6 is not a material consideration in the determination of this application.
- 8.15 The applicant's statement states the proposed development would contribute to the achievement of an effective five year land supply within this Strategic development area. The site is not a housing site in the proposed MLDP. The housing sites allocated in 2003 and 2008 which have not been built out along with windfall sites and proposed housing sites within the MLDP collectively provide an effective five year land supply. The application site is not required to contribute to the five year land supply. There is therefore no national requirement or established need for houses to be built on the site. Furthermore, Policy 7 of SESPlan states that in order to maintain a five year's effective housing land supply the following criteria should be satisfied: The "development will not undermine green belt objectives". The proposed development is in the Green Belt and undermines its objectives.

- 8.16 The application site is one of a number of sites adjacent to the Borders Railway corridor, located within the countryside or Green Belt that were used on a temporary basis by contractors to facilitate the construction of the Borders Railway. These sites, including the application site have been/are in the process of being restored back to their former use and condition. With the application site now having been restored back to rough grazing land the temporary unsightliness of it has been addressed. The previous temporary unsightliness of the site, any potential strengthening of the gas mains crossing the site and the proposed erection of new boundary fences on the site does not provide justification in planning terms to support development contrary to the development plan. Whether the site has limited agricultural, ecological and biodiversity value is not justification to allow the proposed residential development, which is unacceptable in principle.
- 8.17 Although the site is not subject to any landscape, environmental, archaeological, ecological or heritage designations or in intensive agricultural use that is not a justification to allow the proposed residential development, which is unacceptable in principle.

#### Developer Contributions

- 8.18 In accordance with policy HOUS4 the provision of 25% affordable housing would be required to be provided on the site if it were to be developed with houses. The applicant has confirmed that the required affordable housing would be met on site if permission is granted.
- 8.19 The development could not be accommodated without increased primary and secondary educational capacity and, if approved, the applicant would be required to contribute towards the consequential costs of any additional school accommodation as part of a legal agreement to secure developer contributions.
- 8.20 There would also be a requirement to provide play facilities for children and/or contribute to wider play provision. This can also be secured by way of legal agreement.
- 8.21 A developer contribution would also be required towards town centre improvements.

#### Biodiversity

- 8.22 The Ecological Appraisal report submitted in support of the application concludes that the site has negligible ecological value although the site has the potential to support a number of notable and protected species, albeit none were recorded during the survey. The Appraisal recommends that a Construction Environmental Management Plan (CEMP) be produced as part of a development on the site if planning permission is granted. With regards to ecology the CEMP should include working methods statements and measures to be used to protect ecological interest (bats and birds) in the area.

## Other Matters

8.23 The following matters raised in the letters of representation are not material considerations in the determination of the planning application:

- Whether the existing local GP surgeries and medical surgeries in the locality have spare capacity to meet the increase in demand that would arise from the proposed houses.
- Whether a recent increase of new houses in the area has resulted in an increase in walkers, dog walkers and cyclists using Newbattle Woods and thus resulting in overuse and damage to trees in the Woods.

## **9 RECOMMENDATION**

9.1 It is recommended that planning permission in principle be refused for the following reasons:

1. The site is not allocated for housing and there does not exist a requirement for the proposed residential development in the Green Belt and countryside. Therefore the proposed development is unacceptable in principle, contrary to SESplan Policy 12 (Green Belts) and adopted Midlothian Local Plan Policies RP1 (Protection of the Countryside) and RP2 (Protection of the Green Belt).
2. The proposed development would result in the permanent loss of prime agricultural land. There is at this time no overriding justification for the development which outweighs the environmental or economic interests served by retaining the agricultural land in productive use. Thereby the proposed development is contrary to adopted Midlothian Local Plan Policy RP4 (Prime Agricultural Land).
3. The proposed residential development is not required to meet Midlothian's effective housing land supply and as such there is no overriding need to support residential development on an unallocated site outwith the development plan process.

**Ian Johnson**  
**Head of Communities and Economy**

**Date:** 10 November 2015

**Application No:** 15/00546/PPP  
**Applicant(s):** Avant Homes C/O agent John Handley Associates, Ltd, 1 St Colme Street, Edinburgh, EH3 6AA

**Validation Date:** 1<sup>st</sup> July 2015

**Contact Person:** Adam Thomson

**Tel No:** 0131 271 3346

**Background Papers:** 15/00276/PAC