

Notice of Meeting and Agenda



Planning Committee

Venue: Virtual Meeting,

Date: Tuesday, 15 March 2022

Time: 13:00

Executive Director : Place

Contact:

Clerk Name: Democratic Services
Clerk Telephone:
Clerk Email: democratic.services@midlothian.gov.uk

Further Information:

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

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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 held on 11 January 2022 - For Approval | 5 - 12 |
| 4.2 | Note of Seminar on National Planning Framework 4 (NPF4) held on 1 March 2022 – For Noting. | 13 - 38 |

5 Public Reports

- | | | |
|------------|--|-----------|
| 5.1 | Planning (Scotland) Act 2019 (PSA19) – The Fourth National Planning Framework (NPF4) Public Consultation – Report by Chief Officer Place. | 39 - 70 |
| 5.2 | Development Plan Scheme for Midlothian - Number 14 – Report by Chief Officer Place.

Applications for Planning Permission – Reports by Chief Officer Place. | 71 - 100 |
| 5.3 | Application for Planning Permission (21/00877/DPP) for the Erection of 90 Dwellings; the Formation of Access Road, Car Parking, Landscaping and Associated Works at former site of Newbattle Community High School, Easthouses Road, Easthouses, Dalkeith. | 101 - 134 |
| 5.4 | Application for Planning Permission (18/00099/DPP) for the Erection of 46 Flatted Dwellings, 17 Dwellinghouses and 12 Extra Care Units; Formation of Access Roads and Car Parking; SUDS features and Associated Works at Land at Gore Avenue and Newbyres Crescent, Gorebridge. | 135 - 166 |
| 5.5 | Application for Planning Permission (21/00732/DPP) for the Erection of 100 Dwellings (including Amendment to Previously Approved Site Layout and House Types); Formation of Access Roads, Car Parking, Open Space, SUDS and Associated Works at Land between Rosewell Road and Carnethie Street (Doctor's Field) Rosewell. | 167 - 200 |

- | | | |
|------------|--|-----------|
| 5.6 | Application for Planning Permission in Principle (20/00774/PPP) for Residential Development and Associated Works at Land at Wellington Farm, Old Craighall Road, Millerhill, Dalkeith. | 201 - 248 |
| 5.7 | Application for Planning Permission in Principle (21/00252/PPP) for Residential Development, Formation of Access Roads and Car Parking, a Sustainable Urban Drainage System and Associated Works at Land at Stobs Farm, Lady Brae, Gorebridge. | 249 - 286 |

6 Private Reports

No private reports to be discussed at this meeting.

7 Date of Next Meeting

To be confirmed.

Plans and papers relating to the applications on this agenda can also be viewed at <https://planning-applications.midlothian.gov.uk/OnlinePlanning>

Minute of Meeting



Planning Committee

Date	Time	Venue
Tuesday 11 January 2022	1.00 pm	Via MS Teams

Present:

Councillor Alexander	Councillor Cassidy
Councillor Curran	Councillor Hackett
Councillor Hardie	Councillor Lay-Douglas
Councillor McCall	Councillor McKenzie
Councillor Milligan	Councillor Muirhead
Councillor Munro	Councillor Parry
Councillor Russell	Councillor Smail
Councillor Wallace	Councillor Winchester

In Attendance:

Derek Oliver	Chief Officer Place
Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Alan Turpie	Legal Services Manager/Monitoring Officer
William Venters	Principal Solicitor
James Gilfillan	Consultant Policy and Planning
Mike Broadway	Democratic Services Officer

1. Apologies

Apologies for absence were intimated on behalf of Councillors Imrie (Chair) and Johnstone.

In the absence of the Chair, Councillor Milligan was appointed by the Committee and took the Chair for the meeting.

2. Order of Business

The order of business was as set out in the Agenda.

3. Declarations of interest

No declarations of interest were intimated at this stage of the proceedings.

Councillor McCall asked that it be recorded that whenever discussion of the former Wellington School site had arisen at Howgate Community Council meetings she had not participated in any of those discussions, nor at any time had she offered a view on the matter. The Committee noted the position.

4. Minutes of Previous Meetings

The Minute of Meeting of 23 November 2021 was submitted and approved as a correct record.

With regards item 5.3, and in response to a question from Councillor McCall regarding the circumstances which had led to the decision to cancel the previously agreed site visit, the Planning Manager explained that following the announcement on Tuesday 21 December by the First Minister of additional protections to help try and stop the spread of coronavirus, it had been agreed following discussion with the Chair, Councillor Imrie, to cancel the site visit and to offer Members visuals of the application site instead. Whilst it was accepted that this in itself could not replace the site visit, given the particular circumstances that prevailed at the time it was considered to offer the next best alternative. The Committee noted the position.

With regards item 5.1, Councillor Hackett emphasised the need for a more formal process of assistance to be offer to Community Councils in order to help them to better understand how to contribute on planning related matters. The Committee were supportive of this suggestion and the Planning Manager agreed to take it on board the possibility of organising something appropriate.

5. Reports

Agenda No	Report Title	Presented by:
5.1	Planning (Scotland) Act 2019 (PSA19) – The Fourth National Planning Framework (NPF4) Public Consultation	Peter Arnsdorf
Outline of report and summary of discussion		
The purpose of this report was to inform the Committee of the publication of the fourth National Planning Framework (NPF4) and provide a brief overview of the key		

issues and current consultation process. The report also advised that it was intended that a further report be submitted to the Committee in March 2022 setting out a proposed formal response to the consultation.

Having heard from the Planning Manager who responded to Members' questions and comments, the Committee discussed the need for greater investment in supporting infrastructure in order to sustain the substantial levels of growth being experienced in Midlothian, and also the need to involve, and consult, existing communities as part of that process.

Decision

The Committee:

- a) Noted the update on the draft NPF4 set out in this report;
- b) Noted that a further report will be submitted to the March Committee seeking approval to submit a formal response to public consultation on draft NPF4; and
- c) Agreed that in advance of the further report coming to Committee that a Seminar be arranged for elected Members.

Action

Planning, Sustainable Growth and Investment Manager/Democratic Services

Agenda No	Report Title	Presented by:
5.2	Planning Performance Framework Annual Report 2020-21	Peter Arnsdorf

Outline of report and summary of discussion

The purpose of this report was to provide an update on the progress of work undertaken on the Planning Performance Framework (PPF) for Midlothian and advise of the feedback received from the Scottish Government on the Council's submitted Planning Performance Framework for 2020/21.

The report advised that in the feedback report on the fifteen 'performance markers' (a copy of which was appended to the report), ten had been rated as "green" giving no cause for concern and the remaining five were rated as "amber" where areas for improvement had been identified. None were rated "red" where specific attention was required. The ratings demonstrated a comparable level of performance with the previous two years and showed a consistency of good service.

Decision

The Committee, having heard from the Planning Manager who responded to Members' questions, noted the feedback from Scottish Government on the Council's submitted Planning Performance Framework (PPF) for 2020/21.

Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Presented by:
5.3	Appeal Against Non-Determination: Application for Planning Permission for 46 Dwellinghouses, Formation of Access Roads and Car Parking and Associated Works at Land at the former Wellington School, Penicuik (20/00144/DPP)	Peter Arnsdorf

Outline of report and summary of discussion

With reference to paragraph 5.3 of the Minutes of 23 November 2021, this report related to an application for planning permission for the erection of 46 dwellinghouses, formation of access roads and car parking and associated works at land at the former Wellington School, Penicuik, consideration of which had been continued in order to allow a site visit to take place, but which was now the subject to an appeal for non-determination as it had not been determined by the local planning authority within the statutory period of time.

The Committee, having acknowledged the issue raised earlier in the meeting by Councillor McCall regarding the decision to cancel the site visit following the announcement on 21 December 2021, by the First Minister, of additional protections to help try and stop the spread of coronavirus, debated whether it was possible to proceed in the absence of the site visit, and discussed if there was scope for a further continuation in order to allow one to be undertaken at the earliest possible opportunity.

The Planning, Sustainable Growth and Investment Manager in response drew Members' attention to paragraph 2.3 of the report which highlighted that a request for an extension of time had already been rejected by the Scottish Government's Planning and Environmental Appeals Division, so it was considered highly unlikely that a further request would be viewed any more favourably.

Councillor Parry recalled that at a previous Planning Committee meeting earlier in the pandemic the possible use of drones had been raised and asked if this could be revisited in the wake of what had happened. Councillor Milligan, added that it would also be helpful to benchmark what other Council's where doing in this regards. The Planning, Sustainable Growth and Investment Manager, having briefly highlighted some of the issues involved, undertook to report back to a future meeting of the Committee on the matter.

After further discussion, and having sought clarity from the Planning, Sustainable Growth and Investment Manager that what the Committee was now being asked to do was to reach a position on the application in order to enable officers to represent it at the appeal, agreed to proceed to consider the application.

Councillor McCall in opening the debate expressed her sadness regarding the applicant's actions in appealing, but felt the proposed development constituted an overdevelopment in terms of the scale of the increase in size of the immediate community around Milkhall Road. It also lacked any provision for basic infrastructure and was poorly served by any means of public transport, which in turn would place considerable pressure on the existing road infrastructure to the detriment of the existing road users and communities in the area. In this regard Councillor McCall questioned the timing of when the traffic survey had been conducted, as if it was carried out during the current pandemic it would be unlikely to be truly representative of traffic movements in the area.

These views were supported by Councillor Alexander who, having expressed concerns regarding the access arrangements, also remarked on the additional pressure that would be placed on the existing road network and also the potential environmental impacts through the loss of flora and fauna, potential damage to the peat bog and a potential for an increase in the incidence of flooding. Councillor Wallace added his concerns regarding any potential damage to the peatbog, stating that this should simply not be permitted. Councillor McKenzie also expressed concerns regarding the likely impact of the loss of trees from the tree belt currently the subject of a TPO.

At the invitation of the Chair, and in response to requests for clarity regarding the access arrangements and any trees subject to the TPO which it was proposed be removed, the Planning, Sustainable Growth and Investment Manager drew particular attention to section 8 in the original report of 12 November 2021 setting out the position in policy terms which supported development of 50-60 units at this site as an 'Additional Housing Development Opportunity', the site being in part brownfield land having formerly been a school. The outstanding constraints relating to this site were "access restrictions", however these were resolved by the proposed new access to the A701 to the west of the site. In order to achieve this new access 15 mature trees covered by the Tree Preservation Order (TPO) would be lost, however in order to mitigate this loss the applicants intended planting around 2,000 trees across the site. The likely presence of peat on the site was acknowledged, however initial indications were that it was minimal and limited to a strip on the boundary of the site well outwith the main area on which development would take place and as such, the applicants would be required by way of condition to prepare a Peat Management Plan. With regards the traffic assessment it was understood that this was carried out prior to the applications submission in March 2020 prior to the first Coronavirus lockdown.

The provision of a separate access off the A701 drew comments from Councillors Muirhead and Winchester. Councillor Winchester also remarked on the number of units being less than allocated and Councillor Muirhead on the fact that they were all single storey bungalow, which were highly sought after in Midlothian, and that the proposed development appeared to accord with the Local Plan. Councillor McCall countered that regardless of the separate access she was concerned that the Milkhall Road would potentially become a rat run.

Councillor Smail then raised whether it would be possible to limit development to the footprint of the former school buildings and perhaps accept a shift away from predominately single storey properties, a view which found favour with Councillor Cassidy, who remarked on the natural beauty of the location and concerns over setting a precedence leading to further similar applications.

The Planning, Sustainable Growth and Investment Manager cautioned that at this stage in the proceedings, the Reporter was very unlikely to consider amendments of the scale suggested to the existing proposals.

After further discussion, Councillor Winchester, seconded by Councillor Hardie, moved to grant planning permission subject to the terms and conditions set out in the report.

As an amendment, Councillor Parry, seconded by Councillor McCall, moved to refuse planning permission for the reasons referred to in the foregoing discussions.

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

Decision

The Committee agreed to recommend to the appointed Reporter determining the appeal to refuse planning permission for the following reason:

The proposed development is unacceptable in environmental terms, will have a detrimental impact on the local community and is not adequately serviced by local facilities or public transport. Furthermore, the development will; generate an unacceptable level of vehicular traffic that will use Milkhall Road to the detriment of highway safety; will result in the unacceptable loss of trees currently protected by a tree preservation order; will result in an unacceptable impact on the peat resource locate on/adjacent to the site; and will be an overdevelopment of the site as the built form of any development shall be concentrated on the footprint of the former school buildings only.

The Committee also agreed to express its' disappointment regarding the timescale set for the Council to respond, particularly as no allowance appeared to have been made for the Festive holiday period nor the restrictions in place as a result of the ongoing Coronavirus pandemic, forcing Members to have to come to a view without the benefit of having visited the site.

Action

Planning, Sustainable Growth and Investment Manager

Agenda No	Report Title	Presented by:
5.4	Application for Planning Permission for Residential Development Including Formation of Roads, Parking, Drainage, Open Space and Associated Works (Amendment to Design, Layout, Housetypes and Numbers Approved by Planning Permission 12/00745/DPP) at Land between Belwood Road and Mauricewood Road, Penicuik. (21/00446/DPP).	Peter Arnsdorf

Outline of report and summary of discussion

This application was for planning permission for the erection of 221 residential dwellings, including formation of roads, parking, drainage, open space and associated works (amendment to design, layout, house types and numbers approved by planning permission 12/00745/DPP) at land between Belwood Road and Mauricewood Road (Greenlaw), Penicuik.

The Committee in discussing the application, heard from the Planning Manager who in response to Members' questions and comments, advised that the removal of maturing vegetation from the site was in accordance with the extant planning permission and that the proposed landscape scheme sought to mitigate any impact of this; the site's north west boundary had required to be adjusted as a result of the requirement for a development standoff zone for the water mains; affordable housing provision had been addressed in the earlier phases although there were still a number included in this phase; and that the timing of the provision of the likes of safes routes to school was normally addressed as a priority, however if there

was an issue with this that he would happily take it, and any indeed other matters, up with the developers.

Decision

After further discussion, the Committee agreed that planning permission be granted or the following reason:

By virtue of its scale, location, design and choice of materials the proposed development accords with policies STRAT1, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV17, ENV18, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the adopted Midlothian Local Development Plan 2017. The layout and detailed appearance of the development will add interest to the street scene and it will not have a significant adverse impact on the amenity of nearby properties. The presumption for development is not outweighed by any other material consideration.

subject to:

(a). the completion of a minute of variation to the existing Section 75 legal agreement to secure;

- That the “original” number of dwellings provided in this permission are bound by the varied agreement;
- A financial contribution towards additional primary (including nursery) school capacity;
- A financial contribution towards additional secondary capacity;
- A financial contribution towards the A701 Relief Road;
- The provision of 2 additional affordable housing units; and,
- A contribution in relation to the Traffic Regulation Order.

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

(b). the detailed conditions contained in the report.

Action

Planning, Sustainable Growth and Investment Manager

6. Private Reports

No items for discussion

7. Date of Next Meeting

The next meeting will be held on Tuesday 15 March 2022 at 1.00pm

The meeting terminated at 2.31 pm



Seminar – National Planning Framework 4 (NPF4)

Date	Time	Venue
Tuesday 1 March 2022	10.00 am	Via Microsoft Teams

Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Cassidy	Councillor Curran
Councillor Hackett	Councillor Lay-Douglas
Councillor McKenzie	Councillor Milligan
Councillor Muirhead	Councillor Parry
Councillor Small	Councillor Winchester

In attendance:

Grace Vickers	Chief Executive
Kevin Anderson	Executive Director: Place
Fiona Robertson	Executive Director
Derek Oliver	Chief Officer: Place
Peter Arnsdorf	Planning, Sustainable Growth and Investment Manager
Marc Bedwell	Executive Business Support Manager
Neil Wallace	Lead Officer Development Plans
Alison Challis	Planning Officer
Mike Broadway	Democratic Services Officer

1 Introduction and Apologies

Apologies for absence were intimated on behalf of Councillor Russell.

2 Seminar

(a) Background

By way of background, the Planning, Sustainable Growth and Investment Manager made reference to the report advising of the publication of the fourth National Planning Framework (NPF4) and providing a brief overview of the key issues and current consultation process which had been considered by the Planning Committee on 11 January 2022. The Committee, in noting the update and that a further report would be submitted to the March meeting seeking approval to submit a formal response to the public consultation on draft NPF4, had agreed to hold a Seminar for Elected Members in advance of the further report coming back to Committee.

(b) Presentation

Thereafter, Neil Wallace, Lead Officer Development Plans provided a presentation offering an introduction to the fourth National Planning Framework (NPF4); its likely implications for the next Midlothian Local Development Plan (MLDP2); and the five main sections of draft NPF4 document (Appendix 1 hereto).

In considering the presentation, Members discussed the following –

- The potential impact of the proposed action areas and how responsive they would be to the particular needs of different parts of the country given that very different levels of growth were being experienced across Scotland. It being anticipated that this focus would be something that would be addressed in more detail at a local level in Local Development Plans (LDPs);
- The means by which any conflicts would be resolved and whether there would continue to be a role for the Scottish Reporters service. In this regards, it was acknowledged that whilst NPF4 was still at the consultation stage, indications were that the later adopted Plan would take precedence in such instances, and that there would still be a role for the Reporters service;
- That whilst the policies in NPF4 would influence the form and content of the next MLDP, there would be flexibility based on evidence to reflect local circumstances and then test the policies at Inquiry;
- That the concept of ‘Twenty minute Neighbourhoods’ would require a fundamental rethink of services and infrastructure and how they were provided not just by the public sector but right across the board.
- That whilst the current development at Shawfair offered a unique example in the form of a planned new build community of what a ‘Twenty minute Neighbourhood’ might potentially look like the real challenge would be to replicate this within existing communities.
- The role of Community Groups in preparing the new Local Place Plans and the means by which they would be seen to be used to inform the development of LDPs;
- The fact that the revision of previous SPP and their incorporation into NPF4 included policies on Green Belt, Conservation Areas was acknowledged but Members remained to be convinced that these policies had sufficient profile and priority as part of the proposed plan.

(c) Conclusion

That following today's Seminar, Member could feedback any comments on issues arising from the presentation and/or the proposed consultation response. A report would then be submitted to the Planning Committee meeting on Tuesday 15 March 2022 and there would be an opportunity for further comment before the Council's agreed consultation response would be submitted via ScotGov Portal by the required date of 31 March 2022.

The Seminar concluded at 11.22 am

Draft National Planning Framework (4)

Planning (Scotland) Act 2019

An introduction to the Fourth National Planning Framework (NPF4) & implications for the next Midlothian Local Development Plan (MLDP2)

Midlothian Council, February 2022



Draft National Planning Framework (4)

Process so far:

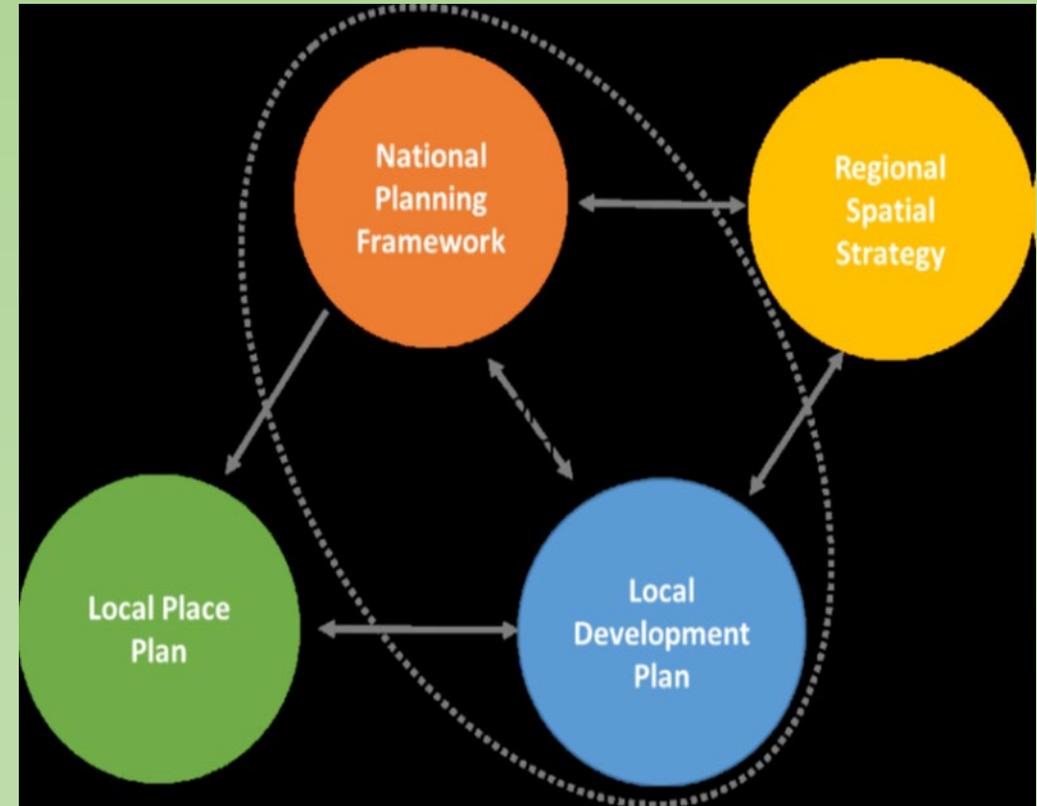
- Planning (Scotland) Act receives Royal Assent July 2019;
- ScotGov implementation programme – section by section, in consultation with stakeholders covering necessary secondary legislation and guidance (<https://www.transformingplanning.scot/>);
- Progress delayed approximately 12 months – Covid-19 lockdown restrictions;
- Draft NPF4 published for consultation – 10 Nov 2021;
- Planning Committee 11 January 2022 – Initial Report & copy of Draft NPF4;
- Planning Committee 15 March 2022 - Proposed Consultation Response for Approval;
- Consultation Deadline - 31 March 2022.



Draft National Planning Framework (4)

Planning (Scotland) Act 2019 - key driver for changes to the development plan process;

- NPF4 now part of the statutory development plan – NPF + MLDP;
- Regional priorities & housing numbers to be set through the NPF;
- Regional Spatial Strategies replace SDPs - not part of the statutory development plan but will inform the NPF & MLDP processes;
- New style LDPs to be reviewed every 10 years instead of 5 years;
- New Evidence Report & Government Gate-check - replaces Main Issues Report stage;
- New Local Place Plans – prepared by Community Groups to inform the LDP;
- Other new duties - include OSS and Play Sufficiency Statements, forestry & woodland strategy, more inclusive engagement.



Draft National Planning Framework (4)

NPF4:

- Is a long term plan for development & investment across Scotland to 2045 (ScotGov Net Zero Carbon target date);
- It has five main sections setting out –
 - Part 1 – National Spatial Strategy for Scotland to 2045;
 - Part 2 – National Developments (18);
 - Part 3 – National Planning Policies (35) (formerly Scottish Planning Policy);
 - Part 4 – Delivering Our Spatial Strategy;
 - Part 5 – Annexes (NPF4 Outcomes Statement; Housing Numbers and Glossary of Definitions); and
- Is a reasonably short but accessible document, written in a concise and clear style. Colour coding usefully assists the reader to easily cross reference between each of the sections of the document.



Draft National Planning Framework (4)

Part 1 - National Spatial Strategy Identifies:

Strategy Themes

Sustainable Places;
Liveable places;
Productive Places;
Distinctive Places.



Development Principles

Compact Growth;
Local Living;
Balanced Development;
Conserving & Recycling
Assets;
Urban & Rural Synergies;
Just Transition.



Action Areas

North & West Coastal
Innovation;
Northern Revitalisation;
North East Transition;
Central Urban
Transformation;
Southern Sustainability.



Draft National Planning Framework (4)

Central Urban Transformation Action Area (Midlothian)

Key Priorities Include:

- Pioneer low-carbon, resilient urban living;
- Reinvent and future-proof city centres;
- Accelerate urban greening;
- Rediscover urban coasts and waterfronts;
- Reuse land and buildings;
- Invest in net zero housing solutions;
- Grow a wellbeing economy;
- Reimagine development on the urban fringe; and
- Improve urban accessibility.



Draft National Planning Framework (4)

Questions on Part I – National Spatial Strategy ?



Draft National Planning Framework (4)

Part 2 - National Developments (18):

“National Developments are significant developments of national importance that will help to deliver our spatial strategy”



In NPF4 some are continued over from NPF3, some are site specific others Scotland wide and some are large Masterplan sites.



Draft National Planning Framework (4)

There are 18 Proposed National Developments:

- Central Scotland Green Network;*
- National Walking, Cycling & Wheeling Network;*
- Urban Mass/Rapid Transit Networks – Aberdeen, Edinburgh & Glasgow;*
- Urban Sustainable, Blue & Green Drainage Solutions;*
- Circular Economy Materials Management Facilities;*
- Digital Fibre Network;*
- Island Hubs for Net Zero;
- Industrial Green Transition Zones;
- Pumped Hydro Storage;
- Hunterston Strategic Asset;
- Chapelcross Power Station Redevelopment;
- Strategic Renewable Electricity Generation & Transmission Infrastructure;
- High Speed Rail;
- Clyde Mission;
- Aberdeen Harbour;
- Dundee Waterfront;
- Edinburgh Waterfront;
- Stranraer Gateway.



Draft National Planning Framework (4)

Questions on Part 2 – National Developments ?



Draft National Planning Framework (4)

Part 3 - National Planning Policies (35):

- Previous SPP Revised & Incorporated into NPF4;
- Intended to provide more consistency in planning decisions & allow LAs to focus on delivering good quality development;
- Seek to avoid duplication @ LDP level but provide flexibility to reflect local circumstances;
- Policies will influence the form & content of next MLDP but will also be a primary consideration in determining planning applications (and any subsequent appeals);
- Policies grouped under strategy themes (similar to SPP approach);
- Lack of clarity in some Policies due to wording/definitions – i.e. significant emissions/community wellbeing etc.



Draft National Planning Framework (4)

Part 3 - National Planning Policies Continued:

Universal policies (1-6) highlight key policy priorities including:

- Plan led approach to sustainable development;
 - climate emergency;
 - Nature Crisis;
 - Human Rights & Equality;
 - Community Wealth building;
 - Design Quality & Place;
- Remaining policies are topic specific;
 - Some quite lengthy & lose some of the direction/focus from SPP - More clarity if broken up into shorter/separate policies.



Draft National Planning Framework (4)

Part 3 - National Planning Policies Continued:

New Policies to support Strategy themes and spatial principles –

- Local Living (7) – Introduces Concept of 20MN;
- Infrastructure First (8) - Acknowledges need to align Development with existing capacities and planned investment strategies, including ScotGov Infrastructure Investment Plan;
- Quality Homes (9) – Minimum All Tenure Housing Land Requirement & deliverable housing land pipeline for a range of sectors – affordable, market, elderly, disabled etc. MLC figure unchanged from 2021 consultation (8050) but approved HNDA3 raises marginally to 8,088;
- Sustainable Transport (10) – Puts the sustainable travel hierarchy at centre of appraisal & assessment of development proposals but is quite lengthy. Subdivision/separate policies may provide greater clarity on objectives;



Draft National Planning Framework (4)

Part 3 - National Planning Policies Continued:

- Heat & Cooling (11)/ Green Energy (19) – Linked to climate emergency action. In principle support for developing/extending low/zero carbon heat networks (MEL Shawfair) & all forms of green energy development;
- Business and Employment (16) – Focus on a green recovery & support for business, industry & innovation including home-working/live-work units/micro-businesses and proposals on non allocated sites where compatible with surrounding uses. Broad reach will allow local policies tailored to MLC circumstances;
- Zero Waste (20) – Stronger focus on recycling and circular economy and limiting scope for new or extended landfill sites/proposals;
- Minerals (22) – Removes support for fossil fuel extraction and reinforces opposition to Fracking;



Draft National Planning Framework (4)

Part 3 - National Planning Policies Continued:

- Distinctive Places (24 – 27) – Covers Town Centres & takes similar approach to previous SPP but Policy 27 Town Centre Living supports Planning authorities to proactively identify opportunities to meet part of their housing land requirements in City & Town Centres;
- Peat & carbon rich soils (33) – Similar policy in MLDP, presumption against extraction and development on these areas – MLDP2 will map these sites to give spatial perspective to the policy & indicate extent of these soil types across the County;
- Trees, Woodlands and Forestry (34) – Similar policy in MLDP, protect & enhance existing stock/presumption against loss. Also aligns closely with new PSA19 requirement to publish a Forestry & Woodland Strategy.



Draft National Planning Framework (4)

Questions on Part 3 – National Planning Policies ?



Draft National Planning Framework (4)

Part 4 - How Government will Deliver the Strategy:

- A detailed Delivery Programme (DP) is essential to achieve wider collective ambitions of the strategy;
- Ongoing work with Scottish Futures Trust/Infrastructure Delivery Group & also further engagement with Local authorities, Key Agencies & other stakeholders to inform final programme once NPF4 approved & adopted;
- Will be a shared delivery programme - Increased emphasis on collaboration/partnerships across the public & private sectors and wider communities;
- Aligning resources with existing programmes, processes & public funding – ScotGov IIP, STPR2, City Growth Deals - focused on the “Infrastructure First” principle (embedded into NPF4 & promoted through future LDP process);
- New guidance on LDPs will bridge the gap between the National Strategy & implementation at a local level;
- Additional mechanisms include LPPs, Planning Obligations, Masterplan Consent Areas, Land assembly (CPO) & investment in the planning service - initially new fee structure & potentially new charging system for other planning services;



Draft National Planning Framework (4)

Questions on Part 4 – How Government Will Deliver the Strategy ?



Draft National Planning Framework (4)

Part 5 – Annexes:

Annex A - NPF4 Outcomes Statement:

- A procedural requirement principally for information – no comment on the statement;

Annex B - Housing Figures:

- Sets out the Minimum All Tenure Housing Land Requirement for all local planning authorities – referenced under the National Policies slides;

Annex C - Glossary:

- Proposed consultation response sets out a number suggested changes and additions to the Glossary as well as requesting clearer definitions of existing words and terminologies.



Draft National Planning Framework (4)

Questions on Part 5 – Annexes ?



Draft National Planning Framework (4)

Next Steps:

- Consider Member feedback from seminar and to proposed consultation response;
- Report to Planning Committee – 15 March 2022;
- Submit MC Consultation response via ScotGov Portal – by 31 March 2022.



Draft National Planning Framework (4)

Any Final Questions ?





PLANNING (SCOTLAND) ACT 2019 (PSA19) – THE FOURTH NATIONAL PLANNING FRAMEWORK (NPF4) PUBLIC CONSULTATION

Report by Chief Officer Place

1 PURPOSE OF REPORT

- 1.1 This report seeks the Committee's approval of the draft response, attached as Appendix A, to the Scottish Government's ongoing National Planning Framework (NPF4) consultation.

2 BACKGROUND

- 2.1 A report setting out the background to the NPF4, the consultation process, an overview of its contents and initial observations was presented to the Committee at its meeting of January 2022. The report set out the position that a draft response to NPF4 will be presented to the Committee at its meeting in March 2022 for consideration. In addition, the Committee requested a seminar on NPF4 – this was held on 1 March 2022. This report should be considered in conjunction with the January 2022 report to the Committee and the seminar. A copy of the draft NPF4 was presented to the Committee in January 2022.
- 2.2 The Planning (Scotland) Act 2019 (PSA19) introduces a number of changes to the development plan process, most significantly, the change in status of the NPF. Once approved by Scottish Ministers and published, NPF4 will become part of the statutory development plan. The removal of the need for strategic development plans (SESplan in Edinburgh and the South East of Scotland) under the same legislation means that the spatial strategy, national developments and the national planning policies set out in NPF4 have primacy in the determination of planning applications (and subsequent appeals and notices of review). It will also influence the form and content of the next Midlothian Local Development Plan (MLDP2).
- 2.3 Draft NPF4 sets out the Scottish Government's vision, ambition and policy for land use and development until 2045. It includes an updated collection of national planning policies, superseding the previous Scottish Planning Policy (SPP, 2014), and sets out a comprehensive land use plan for the future. NPF4 is ambitious in that it combines land use strategy and policy framework in their traditional forms, with the inclusion of wider environmental, economic, social, health and wellbeing and human rights and equality priorities.

3 PUBLIC CONSULTATION

3.1 Draft NPF4 was published for consultation on 10 November 2021. The closing date for responses is 31 March 2022. The consultation asks 58 questions over a range of topic areas covering:

- Part 1 – A Proposed National Spatial Strategy for Scotland
- Part 2 – 18 Proposed National Developments
- Part 3 – 35 Proposed National Planning Policies
- Part 4 – Delivering the Spatial Strategy
- Part 5 – Annexes

3.2 12 additional questions relating to an integrated impact assessment have also been set, but it is considered that no comments are necessary.

4 PROPOSED CONSULTATION RESPONSE

4.1 A copy of the proposed consultation response is attached to the report as Appendix A. A copy of the draft NPF4 was presented to Committee at its meeting of January 2022 and is also available for information in the Members' library as well as on the Scottish Government's Website.

4.2 The proposed response has been prepared so that it can be read in conjunction with a copy of the draft NPF4. To assist with cross-referencing, each response corresponds with a page number of the draft NPF4, where the relevant section of the document can be read in full.

4.3 While it would be impractical to cover every detail of the proposed consultation response in this covering report, it does set out some of the key elements of draft NPF4 which are relevant to Midlothian and the preparation of the next MLDP and include:

- A. ***The National Spatial Strategy for Scotland (pg.1-9 of Appendix A)*** - The draft NPF4 sets out a new national spatial strategy for Scotland to 2045 incorporating a revised suite of national planning policies, replacing the previous Scottish Planning Policy (SPP 2014). It marks a significant departure from previous iterations with the emphasis now on climate action and plan led sustainable development as key priorities. The Scottish Government reinforces its target to reach net zero emissions by 2045; the need to make significant progress towards achieving this by 2030, and the development priorities required to achieve this target. Overall, the Council welcomes this approach and believes that NPF4 succeeds in combining traditional land use strategy and policy framework with a wider focus on the environment, economy, health and wellbeing, human rights and equality, and the climate change targets within draft NPF4 which will enable Midlothian to achieve its target of net-zero carbon emissions by 2030.

B. **National Developments (pg. 10-11 of Appendix A)** – NPF4 identifies eighteen national developments – twelve are site/area specific and six are Scotland wide in nature. The proposed national developments relevant to Midlothian and the surrounding area (as indicated in the January 2022 Committee Report) are welcomed, as reference to these in the NPF4 will provide the statutory leverage to achieve positive outcomes for Midlothian and align well with the agreed outcomes in the Single Midlothian Plan.

C. **National Planning Policies**

Policy 7 (Local Living) (pg.13 of Appendix A) introduces the concept of 20 Minute Neighbourhoods. The Council recognises 20 Minute Neighbourhoods may be challenging to define and apply consistently in all areas and circumstances. As worded, Policy 7 (Local Living) is interpreted as allowing each local authority to decipher what 20 Minute Neighbourhoods will look like within the context of their own area. The Council welcomes this interpretation, given the urban and rural dynamics of Midlothian.

Policy 8 (Infrastructure First) and Policy 10 (Sustainable Transport) (pg. 14 & 15 of Appendix A) – These policies acknowledge the need to align development with existing capacities and planned investment strategies and to put the travel hierarchy at the heart of the appraisal and assessment of new development. These policy approaches are welcomed by the Council, as they acknowledge the importance of supporting a more sustainable approach to the location of development and the role a more accessible and sustainable transport network can play in tackling the challenges of climate change and reducing inequalities.

Policy 9 (Quality Homes) and Annex B- Housing Numbers (pg.15 & 25 of Appendix A, respectively). The draft housing figures are expressed as minimum all tenure housing land requirement (MATHLR) and are based on the accredited Housing Needs and Demand Assessment (HNDA) methodology. At its meeting in May 2021, Committee agreed not to propose any adjustment to the draft housing figures for Midlothian (8,050 over a 10 year period). The latest HNDA was agreed at the Edinburgh and South East Scotland City Region Deal (ESES CRD) Director's meeting on 3 February 2022. The outturn figures for Midlothian (based on the agreed HNDA steady growth scenario) would produce a slightly higher overall figure than the proposed MATHLR in the published draft NPF4 8,088 compared to 8,050. Given that the difference is marginal the Council does not consider it appropriate to request an adjustment to the figure at this time but will review the position at the Evidence Report stage of the next Midlothian Local Development Plan.

It should be noted that the previous need to maintain a minimum 5-year supply of effective housing land is no longer required. NPF4

now takes a longer-term policy direction in respect of deliverable housing land. In the event that sites are unable to be delivered as programmed, later allocations in the delivery supply pipeline or potentially unallocated land can be brought forward for development.

Policy 11 (Heating and Cooling) and Policy 19 (Green Energy)

- These are linked to taking action to combat the global climate emergency. The Council supports the principles of the policies and for the development and extension of low/zero carbon heat networks. The Council already has a similar policy to Policy 11 (Heating and Cooling) in the current MLDP and has established Midlothian Energy Limited in partnership with Vattenfall to deliver a low carbon district heating system at the new town of Shawfair (and potentially wider area). This partnership will assist with the preparation of a Local Heat and Energy Efficiency Strategy (LHEES) for Midlothian and the investigation of potential future low and zero carbon heat network solutions for new developments and as part of a retrofit programme for existing housing stock. It has been suggested that this partnership could be an example to reference in NPF4.

Policy 16 (Business and Employment) – The Council feels that this is a reasonable policy and, given its broad reach, will allow local policies to be tailored to the local circumstances and needs of Midlothian. Although NPF4 may take a rather light-touch approach with this policy, the Council feels that it presents Midlothian with an opportunity to add further value in the next MLDP, with a policy framework aligned with the latest economic development strategy tailored to capture future business employment and innovative development opportunities in the short and longer term.

Policy 22 (Minerals) (pg. 19 of Appendix A) - There is a clear signal of the Scottish Government's intent to move towards a net zero carbon future in respect of its revised policy on minerals. The removal of policy support for the extraction of fossil fuels and for unconventional oil and gas exploration and production is welcomed, particularly in light of Midlothian's ambition to be net-zero by 2030.

Policies 24 to 27 (Distinctive Places) (pg. 20 of Appendix A) - Draft NPF4 includes policies relating to city, town, commercial and local centres (policies 24 – 27). Policies 24-26 embrace the existing town centre first approach. The policies are now also aligned with delivering the 20 Minute Neighbourhood principle and demonstrating enhanced accessibility to established centres. Policy 27 introduces new policy support for Town Centre Living and encourages planning authorities to provide a proportion of their housing land requirements in town centres. This policy approach is welcomed as it aligns with current Council thinking in respect of options for redeveloping Dalkeith in the emerging

Dalkeith Town Centre Masterplan and other centres where redevelopment opportunities are identified.

Policy 33 (Peat and Carbon Rich Soils) – This policy compares with a policy in the adopted MLPD, with a presumption against the extraction of peat and development on peatlands. The next MLDP will map these areas to provide a spatial perspective to the policy and indicate the extent of these soil types across the region.

Policy 34 (Trees, Woodlands and Forestry) – The Council welcomes the inclusion of this policy and recognises that there is a similar policy in the MLPD which seeks to enhance existing tree and woodland stock and maintain a presumption against loss. This policy also relates to the requirement set out within PSA2019 for local authorities to prepare a Forestry and Woodland Strategy which the Council will commence preparation of in due course.

5 RECOMMENDATION

5.1 It is recommended that the Committee:

- a. Approves the proposed consultation response (attached as Appendix A) and instructs the Planning, Sustainable Growth and Investment Manager to submit the response to the Scottish Government via its online consultation portal.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 4 March 2022
Contact Person: Alison Challis, Planning Officer, Development Plans
alison.challis@midlothian.gov.uk
Background Papers: Response to draft NPF4 Consultation, attached as Appendix A
Draft NPF4 uploaded to Members' Library

APPENDIX A

The below provides a summary of Midlothian Council's responses to the Scottish Governments' draft Fourth National Planning Framework (NPF4). The tabulated responses (58 in total) should be read in conjunction with a copy of NPF4 which has been uploaded to the Members' Library and is also available to download on the [Scottish Government's Website](#). Each response directs the reader to the corresponding page of the NPF4 (e.g. Sustainable Places (p.6)) where the relevant section of NPF4 can be read in full.

PART 1- National Spatial Strategy for Scotland

Sustainable Places (p.6)	
Summary	Our future net zero, nature-positive places will be more resilient to the impacts of climate change and support the recovery and restoration of our natural environment.
Consultation Question 1	Do you agree that this approach will deliver our future net zero places which will be more resilient to the impacts of climate change and support recovery of our natural environment?
MLC Response	Yes, we agree with and support the direction of the NPF. The document puts climate change and the adaptation to the impacts of climate change at the heart of the NPF which is aspirational, as well as necessary.

Liveable Places (p.7)	
Summary	Our future places, homes and neighbourhoods will be better, healthier and more vibrant places to live.
Consultation Question 2	Do you agree that this approach will deliver our future places, homes and neighbourhoods which will be better, healthier and more vibrant places to live?
MLC Response	Yes, we agree with and support this approach. This is an appropriate aspiration but potentially challenging in terms of creating physical 20 Minute Neighbourhoods in all cases and promoting the behavioural changes for people to make the adjustment to living more locally more of the time. For example, when the range and choice of facilities is more limited such as in rural areas where local shops and services may be under threat or do not exist.

Productive Places (p.8)	
Summary	Our future places will attract new investment, build business confidence, stimulate entrepreneurship and facilitate future ways of working – improving economic, social and environmental wellbeing.
Consultation Question 3	Do you agree that this approach will deliver our future places which will attract new investment, build business confidence, stimulate entrepreneurship and facilitate future ways of working – improving economic, social and environmental wellbeing?
MLC Response	Yes, we generally agree. This is an appropriate aspiration and is necessary to transition to a greener economy and a different working pattern/opportunity for many. This could provide a mix of opportunities for new business and skills development as well as existing businesses adapting and re-training.

Distinctive Places (p.9)	
Summary	Our future places will be distinctive, safe and pleasant, easy to move around, welcoming, nature-positive and resource efficient.
Consultation Question 4	Do you agree that this approach will deliver our future places which will be distinctive, safe and pleasant, easy to move around, welcoming, nature-positive and resource efficient?
MLC Response	Yes, agree. This is an appropriate aspiration and potentially an area where planning authorities could capture opportunities and ideas from the LPP process/outcomes.

Distinctive Places (p.9)	
Summary	Our future places will be distinctive, safe and pleasant, easy to move around, welcoming, nature-positive and resource efficient.
Consultation Question 5	Do you agree that the spatial strategy will deliver future places that overall are sustainable, liveable, productive and distinctive?
MLC Response	<p>Yes, we generally agree that it is aspirational and includes the right messages about adapting to climate change and transitioning to new and different lifestyles, job opportunities and ways of facilitating sustainable development.</p> <p>The six spatial principles reinforce the message behind the themes and provide a logical link with, and across, the proposed national planning policies. However, the route map will need to be resourced and the proposed delivery plan requires further context in that respect. The suggested partnership/collaborative approach in this regard is accepted, but may be challenging to deliver in reality. It will largely be local planning authorities that are tasked with enabling the spatial strategy and principles at a local level through the relevant Local Development Plan and Development Management decisions.</p>

The Six Spatial Principles for Scotland 2045 (p.10)	
Summary	Compact Growth, Local Living, Balanced Development, Conserving & recycling assets, urban and rural synergy, Just Transition
Consultation Question 6	Do you agree that these spatial principles will enable the right choices to be made about where development should be located?
MLC Response	<p>Yes, we generally agree, however wish to reinforce that the 20 Minute Neighbourhood concept may be challenging to define and apply consistently in all areas and circumstances. The six spatial principles reinforce the message behind the themes and provide a logical link with, and across the proposed national planning policies which should assist in the development of an appropriate development strategy and delivery programme in the next Midlothian Local Development Plan.</p>

Action Areas for Scotland (p.11)	
Summary	Each part of Scotland can make a unique contribution to building a better future. Our shared strategy will be taken forward in five action areas. Each area can support all spatial principles, and the following section sets out priorities for the action areas.
Consultation Question 7	Do you agree that these spatial strategy action areas provide a strong basis to take forward regional priority actions?
MLC Response	Yes, we generally agree. The five identified Action Areas broadly reflect the general geographies, features/characteristics of the country and make it manageable for the reader to relate them to the themes, national developments and the national policies in the document. The boundaries indicated on the action area map are schematic rather than definitional and there is a degree of overlap between them but consider this to be a similar approach taken to other strategic land use documents where the physical extent of the area is such that it warrants this type of approach.

North and West Coast Innovation (p.12)	
Summary	This area broadly comprises the island communities of Shetland, Orkney, the Western Isles, and parts of Highland and Argyll and Bute including the north and west mainland coastline.
Consultation Question 8	Do you agree with this summary of challenges and opportunities for this action area?
MLC Response	While each action area will have different characteristics (urban/rural; highland/lowland; islands/mainland coast etc.) each area is expected support all the spatial principles. This will present quite different challenges in some areas and not others, for example the 20 Minute Neighbourhood concept and may lead to inconsistency in the application and delivery of the spatial strategy and national planning policy.

North and West Coast Innovation (p.12)	
Summary	This area broadly comprises the island communities of Shetland, Orkney, the Western Isles, and parts of Highland and Argyll and Bute including the north and west mainland coastline.
Consultation Question 9	What are your views on these strategic actions for this action area?
MLC Response	No comment.

Northern Revitalisation (p.19)	
Summary	This area broadly includes Highland with parts of Argyll and Bute, Moray and much of the national parks. There are links west and north to the island communities.
Consultation Question 10	Do you agree with this summary of challenges and opportunities for this action area?
MLC Response	While each action area will have different characteristics (urban/rural; highland/lowland; islands/mainland coast etc.) each area is expected support all the spatial principles. This will present quite different challenges in some areas and not others, for example the 20 Minute Neighbourhood concept and may lead to inconsistency in the application and delivery of the spatial strategy and national planning policy.

Northern Revitalisation (p.19)	
Summary	This area broadly includes Highland with parts of Argyll and Bute, Moray and much of the national parks. There are links west and north to the island communities.
Consultation Question 11	What are your views on these strategic actions for this action area?
MLC Response	No comment.

North East Transition (p.25)	
Summary	This area broadly includes Aberdeen City and Aberdeenshire with links through Moray towards Inverness, and south towards the Tay estuary.
Consultation Question 12	Do you agree with this summary of challenges and opportunities for this action area?
MLC Response	While each action area will have different characteristics (urban/rural; highland/lowland; islands/mainland coast etc.) each area is expected support all the spatial principles. This will present quite different challenges in some areas and not others, for example the 20 Minute Neighbourhood concept and may lead to inconsistency in the application and delivery of the spatial strategy and national planning policy.

North East Transition (p.25)	
Summary	This area broadly includes Aberdeen City and Aberdeenshire with links through Moray towards Inverness, and south towards the Tay estuary.
Consultation Question 13	What are your views on these strategic actions for this action area?
MLC Response	No comment.

Central Urban Transformation (p.29)	
Summary	This area broadly covers central Scotland from the Glasgow city region and the Ayrshires in the west to Edinburgh city region in the east, including the Tay cities, the Forth Valley and Loch Lomond and The Trossachs National Park.
Consultation Question 14	Do you agree with this summary of challenges and opportunities for this action area?
MLC Response	Yes, we generally agree with this summary. This area includes the previous NPF commitment to the Central Scotland Green Network National Development but now takes on more significance in respect of climate change mitigation and adaptation, which is welcome.

Central Urban Transformation (p.29)	
Summary	This area broadly covers central Scotland from the Glasgow city region and the Ayrshires in the west to Edinburgh city region in the east, including the Tay cities, the Forth Valley and Loch Lomond and The Trossachs National Park.
Consultation Question 15	What are your views on these strategic actions for this action area?
MLC Response	The CUT area is densely urbanised so issues such as the 20 Minute Neighbourhood concept should be achievable in many places. It also has the benefit of physical and human scale to support more sustainable approaches to development, living and travel than other areas.

Southern Sustainability (p.40)	
Summary	This area broadly includes Dumfries and Galloway and The Scottish Borders, with links to the Ayrshires and Glasgow city region in the west and to the Edinburgh city region in the east.
Consultation Question 16	Do you agree with this summary of challenges and opportunities for this action area?
MLC Response	While each action area will have different characteristics (urban/rural; highland/lowland; islands/mainland coast etc.) each area is expected support all the spatial principles. This will present quite different challenges in some areas and not others, for example the 20 Minute Neighbourhood concept and may lead to inconsistency in the application and delivery of the spatial strategy and national planning policy.

Southern Sustainability (p.40)	
Summary	This area broadly includes Dumfries and Galloway and The Scottish Borders, with links to the Ayrshires and Glasgow city region in the west and to the Edinburgh city region in the east.
Consultation Question 17	What are your views on these strategic actions for this action area?
MLC Response	The strategy and policy framework of NPF4 stops at the border with England. However the plan somewhat underplays the emphasis and potential opportunity that cross border collaborations (with Northumberland and Cumbria) could bring to the area. Section 4 of the draft plan talks about the need for collaboration and partnership to ensure the strategy is delivered. This should be extended to include cross border collaboration and partnership and more emphasis should be placed on the future potential of such an approach such as extending Borders Rail to Carlisle and improving and developing passenger rail and freight facilities.

Overall Spatial Strategy (p.43)	
Consultation Question 18	What are your views on these strategic actions for this action area?
MLC Response	The strategy is coherent and focused on addressing the challenge of climate change in terms of its impact on our places, the way we live our lives, and in terms of what must do to adapt and provide opportunity and protection for future generations. There is a clear and obvious acknowledgement to the work and the role of Regional Spatial Strategies and City Region Growth Partnerships in securing the stated outcomes. The status of NPF4 as part of the statutory development plan also means that the spatial strategy will now form part of Local Development Plans and be a material consideration in determining future planning applications (and appeals).

PART 2 – National Developments

National Developments (p.44-67)	
Summary	National developments are significant developments of national importance that will help to deliver our spatial strategy.
Consultation Question 19	Do you think that any of the classes of development described in the Statements of Need should be changed or additional classes added in order to deliver the national development described?
MLC Response	We generally agree with the classes of development and have no suggested amendments.

National Developments (p.44-67)	
Summary	National developments are significant developments of national importance that will help to deliver our spatial strategy.
Consultation Question 20	Is the level of information in the Statements of Need enough for communities, applicants and planning authorities to clearly decide when a proposal should be handled as a national development?
MLC Response	Yes.

National Developments (p.44-67)	
Summary	National developments are significant developments of national importance that will help to deliver our spatial strategy.
Consultation Question 21	Do you think there are other developments, not already considered in supporting documents that should be considered for national development status?
MLC Response	No, beyond the nationwide developments that will impact on Midlothian and the next Midlothian Local Development Plan - the Central Scotland Green Network and the Walking, Wheeling and Cycling Network - we do not have any further recommendations of other developments in Midlothian that should be considered for national development status.

PART 3- National Planning Policy

Part 3- National Planning Policy (p.68)	
Summary	We want our places to help us tackle the climate and nature crises and ensure Scotland adapts to thrive within the planet's sustainable limits.
Consultation Question 22	Do you agree that addressing climate change and nature recovery should be the primary guiding principles for all our plans and planning decisions?
MLC Response	Yes, we agree that tackling climate change and tackling nature recovery are vital to achieving the aims of Sustainable Development

Policy 1: Plan-led Approach to Sustainable Development (p.68)	
Consultation Question 23	Do you agree with this policy approach?
MLC Response	We generally agree with this policy and particularly welcome the definitions of Sustainable Development and Planning. There is clear synergy between this policy and other parts of the 2019 Act as well as references to National Outcomes.

Policy 2: Climate Emergency (p.69)	
Consultation Question 24	Do you agree that this policy will ensure the planning system takes account of the need to address the climate emergency?
MLC Response	We generally agree with this policy as land use planning has a key role to play in agreeing and identifying the change of use of land. However, as the policy is written, it introduces the need for additional assessments into the planning application process and raises a question in respect of the capacity of many planning authorities in terms of staff resource and skill set to satisfactorily interpret such assessments. It would be helpful to have further clarification/confirmation of what level of emissions constitutes "<i>significant</i>" emissions – possibly a scale from low-medium-high. Is it the intention to provide additional, specific training for planners, and what assistance will be available to Local Planning Authorities where resources and expertise is limited? Additionally, we would also be interested in knowing whether a standard template for assessing carbon emissions will be made available in order to make recommendations in line with this policy.

Policy 3: Nature Crisis (p.69)	
Consultation Question 25	Do you agree that this policy will ensure that the planning system takes account of the need to address the nature crisis?
MLC Response	<p>We agree, in principle, with this valid and wide-ranging policy. It aligns with Policy 2 in as much that it uses natural solutions to enrich and enhance natural assets and biodiversity which would be impacted by development.</p> <p>That being said, the policy is perhaps too long and its meaning risks becoming lost in translation. The policy could be more directional so that ministerial intention is clear. The policy also suffers from a lack of cross-referencing to external information sources e.g. NatureScot Guidance. The policy would benefit from clearer and more consistent terminology as it feels as though too much is left up to individual interpretation.</p>

Policy 4 : Human Rights and Equality (p.70)	
Consultation Question 26	Do you agree that this policy effectively addresses the need for planning to respect, protect and fulfil human rights, seek to eliminate discrimination and promote equality?
MLC Response	We agree, in principle, with the aims of this policy. It links to Policy 1 (Plan-led Approach to Sustainable Development) and the definition of Planning. However, there could be a slight duplication of the Equalities Act, therefore the need for this policy is questioned.

Policy 5: Community Wealth Building (p.71)	
Consultation Question 27	Do you agree that planning policy should support community wealth building, and does this policy deliver this?
MLC Response	Yes, we agree in principle. This policy also aligns with the new Local Place Plans process and the requirement in the 2019 Act for the inclusion of children and young people in the planning system. There is also a link here with our Community Planning Partnership and the priority outcomes of the current Single Midlothian Plan.

Policy 6: Design, Quality and Place (p.71/72)	
Consultation Question 28	Do you agree that this policy will enable the planning system to promote design, quality and place?
MLC Response	While we agree in principle and welcome design guidance within the document, we feel that the guidance may benefit from being simplified.

Policy 7: Local Living (p.73)	
Consultation Question 29	Do you agree that this policy sufficiently addresses the need to support local living?
MLC Response	We agree with this policy and welcome the further cross-linkage to climate change and local living. We would suggest that "<i>consideration should be given to</i>" is quite a loose term, and should be tightened. As worded, we interpret the policy as allowing each Local Authority to decipher what 20 Minute Neighbourhoods will be within the context of their own area. We welcome this approach, given the urban and rural dynamics of Midlothian.

Policy 8: Infrastructure First (p.75)	
Consultation Question 30	Do you agree that this policy ensures that we make best use of existing infrastructure and take an infrastructure first approach to planning?
MLC Response	We feel that this is a reasonable policy, however the cumulative impact or allocation of large sites with safeguarded adjacent land should be considered. It should be a requirement to identify how sustainable transport solutions can be built in parallel to works on site. For example, where there are large allocations or sites which cumulatively result in large scale development, the ability to put in place walking or bus routes etc. as early as possible, will help shift behavioural habits and travel choices for residents from the outset.

Policy 9: Quality Homes (p.76)	
Consultation Question 31	Do you agree that this policy meets the aims of supporting the delivery of high quality, sustainable homes that meet the needs of people throughout their lives?
MLC Response	<p>In the absence of the proposed guidance on Housing Land Audits, clarification regarding how NPF4 will operate in respect of the Minimum All-Tenure Housing Land Requirement (MATHLR) is required. The MATHLR represents the overall amount of land required in order that the estimated need can be met in full and includes a use of a generosity allowance (25%) for an urban area to this end. It should be clarified that the housing land pipeline is expected to show allocations of effective sites equal to the MATHLR but cannot be expected to show programmed completions meeting the MATHLR as this exceeds demand.</p> <p>The policy should indicate how the Housing Need and Demand Assessment (HNDA) requirements are to be taken into account. In Midlothian the emerging HNDA indicates that half of demand is for affordable housing. Constraints on housing funding control the level of affordable housing output before any planning factors take effect. NPF4 should give further clarification on the link between the HNDA requirements and the all tenure requirement to ensure that affordable needs are not overlooked, and that planning system is not attempting to compensate for non-delivery of affordable homes by allocating more market homes than there is demand for.</p>

Policy 10: Sustainable Transport (p.78)	
Consultation Question 32	Do you agree that this policy will reduce the need to travel unsustainably, decarbonise our transport system and promote active travel choices?
MLC Response	<p>While we agree with the policy in principle, we feel as though it would benefit from being split-up under multiple headings e.g. Active Travel, DPTAG, Trunk Roads, Health and Safety, in order to be more legible.</p> <p>The policy would also benefit from cross references to Policy 6B (Design, quality and place) to make the reader aware that these two policies should be considered in conjunction.</p> <p>10a) alongside prioritising locations of future development that can be accessed by sustainable modes, local development plans also need to identify where retrofitting is required/desirable. Retrofitting would benefit existing communities and may also support/enable new development as well.</p> <p>We would also suggest the following amendments to the wording of 10g):</p> <ul style="list-style-type: none"> - <i>“The design of development should prioritise safe and easy pedestrian movement, including disabled access, and other active travel modes within and to/from the development.”</i> - <i>“The design of new transport infrastructure for all modes should incorporate sustainable drainage systems and other nature-based solutions which are designed to support biodiversity.”</i>

Policy 11: Heating and Cooling (p.80)	
Consultation Question 33	Do you agree that this policy will help us achieve zero emissions from heating and cooling our buildings and adapt to changing temperatures?
MLC Response	This policy could be a major contributor to reducing emissions and satisfying the aims of Policy 2. It is aspirational that all Local Authorities in Scotland will have to address this policy. Midlothian have a similar policy in our currently adopted Local Development Plan and have established Midlothian Energy Limited in partnership with Vattenfall to deliver a low carbon district heating system at the new town of Shawfair (and potentially wider area); to assist with the preparation of the Local Heat and Energy Efficiency Strategy (LHEES) and to investigate the potential of future low and zero carbon heat network solutions. This partnership could be an example to reference in NPF4.

Policy 12: Blue Infrastructure, Play and Sport (p.81)	
Consultation Question 34	Do you agree that this policy will help to make our places greener, healthier, and more resilient to climate change by supporting and enhancing blue and green infrastructure and providing good quality local opportunities for play and sport?
MLC Response	<p>While we agree in principle, this policy would benefit from the addition of cross-references, for example to Policy 3 (Nature Crisis), ensuring that terminology is consistent and to make cross-referencing straightforward. Furthermore, references to Open Space Strategies and Play Sufficiency Assessments and to Transport Scotland Cycling by Design guidance would assist the NPF4 end user.</p> <p>Additionally, the first bullet of 12k) should refer to providing stimulating environments and “a range of play experiences”.</p> <p>The policy would also benefit from being split in two so that 'Play and Sport' and ' Blue and Green Infrastructure' are dealt with separately.</p> <p>It would be helpful for all design guidance mentioned in this, and every policy, to be referenced by way of a direct hyperlink or included in a footnote so that the reader can easily locate the external guidance.</p>

Policy 13: Blue Infrastructure, Play and Sport (p.83)	
Consultation Question 35	Do you agree that this policy will help to ensure places are resilient to future flood risk and make efficient and sustainable use of water resources?
MLC Response	We generally agree with this policy, however it lacks cross-referencing to other key considerations and would be strengthened by making the connection to blue infrastructure and nature-based solutions throughout the document and to the importance of ensuring that SUDS are designed to benefit biodiversity.

Policies 14: Health and Wellbeing and Policy 15 : Safety (p.86)	
Consultation Question 36	Do you agree that this policy will ensure places support health, wellbeing and safety, and strengthen the resilience of communities?
MLC Response	<p>We generally agree with these policies, however would like to suggest the following amendments to the text:</p> <ul style="list-style-type: none"> • Policy 14a) should read "<i>healthier and <u>safer</u> places</i>" rather than "<i>healthier and safe places</i>". • Policy 14 could go further and make specific reference to mental health and the relationship between that and the environment. The policy could also indicate the relationship between mental health and active health.

Policy 16: Land and premises for business and employment (p.87)	
Consultation Question 37	Do you agree that this policy ensures places support new and expanded businesses and investment, stimulate entrepreneurship and promote alternative ways of working in order to achieve a green recovery and build a wellbeing economy?
MLC Response	This is a reasonable policy and we welcome the inclusion of the term " <i>employment</i> " as it provides more flexibility when allocating sites to consider a mix of potential uses which will generate jobs than the standard economic allocations for class 4 business, class 5 general industrial and class 6 storage and distribution uses. Increasingly we are seeing applications for a mix of commercial developments of one sort or another on economic sites.

Policy 17: Sustainable Tourism (p.88)	
Consultation Question 38	Do you agree that this policy will help to inspire people to visit Scotland, and support sustainable tourism which benefits local people and is consistent with our net zero and nature commitments?
MLC Response	While we appreciate the direction of this policy, it is still primarily focused on the economic benefits of tourism. That being said, we feel that the policy does not address low-carbon transport solutions for tourism and that this should be addressed in cross-reference to achieving net-zero.

Policy 18: Culture and creativity (p.89)	
Consultation Question 39	Do you agree that this policy supports our places to reflect and facilitate enjoyment of, and investment in, our collective culture and creativity?
MLC Response	We agree with and welcome the inclusion of this policy.

Policy 19: Green Energy (p.90)	
Consultation Question 40	Do you agree that this policy will ensure our places support continued expansion of low-carbon and net zero energy technologies as a key contributor to net zero emissions by 2045?
MLC Response	We agree with and support the inclusion of this policy. One suggested amendment is that the policy could perhaps include locational guidance for the erection of solar panels. It is important that key land adjacent to campus style development is not utilised for solar panels when roof space could be considered instead. We therefore feel that the policy's criteria should be expanded to include roof-mounted solar panels.

Policy 20: Zero Waste (p.92)	
Consultation Question 41	Do you agree that this policy will help our places to be more resource efficient, and to be supported by services and facilities that help to achieve a circular economy?
MLC Response	We are supportive of this policy, however would like to raise the concern of potential impact of waste developments on neighbouring land uses and windfall sites.

Policy 21: Aquaculture (p.94)	
Consultation Question 42	Do you agree that this policy will support investment in aquaculture and minimise its potential impacts on the environment?
MLC Response	We generally agree with this policy. However, more clarity could be given in relation to whether 'industry' needs are being prioritised over environmental impact. Perhaps re-wording of this policy would be beneficial.

Policy 22: Minerals (p.95)	
Consultation Question 43	Do you agree that this policy will support the sustainable management of resources and minimise the impacts of extraction of minerals on communities and the environment?
MLC Response	We welcome the removal of policy support for the extraction of fossil fuels and for unconventional oil and gas exploration and production. We agree with the policy position to support aggregate extraction in line with the suggested criteria and acknowledge the contribution this makes to local, regional and the national economy. However we would consider the requirement to support a ten year landbank for minerals at all times will be challenging given past experience of site operators reluctance to share market information essential for this purpose.

Policy 23: Digital Infrastructure (p.96)	
Consultation Question 44	Do you agree that this policy ensures all of our places will be digitally connected?
MLC Response	We generally agree with this policy and strongly agree with the need to futureproof digital infrastructure. We also welcome the acknowledgement to the importance of visual amenity and siting and design issues of digital infrastructure. This is particularly the case where the infrastructure is located within or adjacent to residential areas and open spaces.

Policies 24 to 27: Distinctive Places (p.97-99)	
Consultation Question 45	Do you agree that these policies will ensure Scotland's places will support low carbon urban living?
MLC Response	We agree with the majority of the provisions of these policies, in particular Policy 27 (Town Centre living). The use of the term " <i>seek to provide</i> " is welcomed as it will not be possible to achieve in every circumstance. Redevelopment and regeneration opportunities quite often have long lead in times, complex issues to resolve and potentially higher costs involved. The ability to provide a range of suitable (and adaptable) house types in a town centre is also limited and this will limit the proportion of the overall land requirement that will be identified in such areas. However, where the Council owns land and/or property in town/neighbourhood centres this requirement is more realistic and potentially achievable.

Policy 28: Historic Assets and Places (p.100)	
Consultation Question 46	Do you agree that this policy will protect and enhance our historic environment, and support the reuse of redundant or neglected historic buildings?
MLC Response	We agree with this thorough policy. One suggestion is that 28(f) may benefit from a reference to demolition recycling and the reuse of building materials onsite as a means of reducing waste and carbon emissions. The circular economy diagram in the Glossary is a useful reference in terms of outlining waste hierarchy and the reader could be directed to that in this policy.

Policy 29: Urban Edges and the Green Belt (p.102)	
Consultation Question 47	Do you agree that this policy will increase the density of our settlements, restore nature and promote local living by limiting urban expansion and using the land around our towns and cities wisely?
MLC Response	We are supportive of this policy and particularly welcome the Scottish Government's sentiment that the Green Belt should remain a protected entity. We do wish to raise the point, however, that criterion 29b) would strengthen the policy support for developments in Green Belt locations if it included reference to the need to ensure that sustainable transport links existed or could be extended to commercial/visitor operations and attractions in the green belt and that these links could accommodate a range of sustainable modes of travel. The policy would also benefit from a cross-reference to Policies 1 (Plan-led approach to Sustainable Development) and 2 (Climate Emergency) to further enhance the spirit of NPF4.

Policy 30: Vacant and Derelict Land (p.104)	
Consultation Question 48	Do you agree that this policy will help to proactively enable the reuse of vacant and derelict land and buildings?
MLC Response	We generally agree with this policy. One observation would be that the policy may benefit from a reference to recycling of demolition materials and the re-use of building materials onsite as a way of reducing waste and reducing the carbon footprint of the development.

Policy 31: Rural Places (p.104)	
Consultation Question 49	Do you agree that this policy will ensure that rural places can be vibrant and sustainable?
MLC Response	While we agree with this policy to a certain extent, we feel that it would benefit from defining “rural” or at least including a definition in the Glossary. The policy could be further bolstered by reference to the Scottish Government’s Six-Fold Urban Rural Classification. The policy will not be applicable in all local authority areas but it does raise an important question as to whether rural development is genuinely sustainable in nature. Interpretation and application will require careful and balanced consideration, particularly when Policy 2 (Climate Emergency) requires significant weight to be given to the global climate emergency when considering development proposals and that all development should be designed to minimise emissions.

Policy 32: Natural Places (p.107)	
Consultation Question 50	Do you agree that this policy will protect and restore natural places?
MLC Response	<p>We generally agree with this policy however feel as though more clarity is required on several points.</p> <ul style="list-style-type: none"> • The policy would benefit from a cross-reference to Policy 3 (Nature Crisis) as well as relevant legislation. • It is not clear what is meant by "<i>unacceptable impact</i>" in 32b). This should be changed to "<i>adverse</i>" or "<i>significantly adverse</i>" to maintain consistency with Environmental Assessment terminology. • 32f) may wish to add reference to "<i>invasive non-native species</i>". • 32g) would be correct to remove capitals from local nature conservation site and local landscape area to allow for different naming conventions – we use Local Biodiversity Site and Special Landscape Area.

Policy 33: Peat and Carbon Rich Soils (p.109)	
Consultation Question 51	Do you agree that this policy protects carbon rich soils and supports the preservation and restoration of peatlands?
MLC Response	While we generally agree with the direction of this policy, there is a slight contradiction in part d) with the overall spirit of NPF4.

Policy 34: Trees, Woodland and Forestry (p.110)	
Consultation Question 52	Do you agree that this policy will expand woodland cover and protect existing woodland?
MLC Response	We agree with and welcome the direction of this policy.

Policy 35: Coasts (p.111)	
Consultation Question 53	Do you agree that this policy will help our coastal areas adapt to climate change and support the sustainable development of coastal communities?
MLC Response	We acknowledge the importance of this policy and its relevance to those areas which include coastlines in their vicinity. However, as Midlothian is not a coastal region, we do not have any specific comments to make.

PART 4 - Delivering our Spatial Strategy

Delivering our Spatial Strategy (p.112-114)	
Summary	Delivering our strategy and realising our collective ambitions requires collaborative action from the public and private sectors and wider communities. Actions will range across different scales and include a mix of strategic and project investments. It will be important to focus implementation and monitoring on delivering strategic actions and key developments.
Consultation Question 54	Do you agree with our proposed priorities for the delivery of the spatial strategy?
MLC Response	<p>Yes, we agree. This presents a pragmatic approach to securing and prioritising sufficient resources to ensure delivery of the spatial strategy priorities and proposed national developments. Particularly evident, in the establishment and development of City Region Growth Deals (and latterly Green Growth Deals) as a funding and governance model to manage investment and coordinate the delivery of development opportunities at a strategic scale.</p> <p>The infrastructure first approach is welcome as it puts climate change and sustainable development at the centre of capital planning and investment decisions and seeks to ensure the most effective use of infrastructure as possible.</p> <p>The acknowledged need to invest in the planning system is also welcomed, however more resource is also needed in respect of extra learning support and training for planners to be able to undertake some of the additional duties arising from the legislation, including the impact of/adaptation to climate change and health and well-being requirements.</p>

Delivering our Spatial Strategy (p.112-114)	
Summary	Delivering our strategy and realising our collective ambitions requires collaborative action from the public and private sectors and wider communities. Actions will range across different scales and include a mix of strategic and project investments. It will be important to focus implementation and monitoring on delivering strategic actions and key developments.
Consultation Question 55	Do you have any other comments on the delivery of the spatial strategy?
MLC Response	We agree that monitoring is an important part of the Local Development Plan (LDP) process. If the ambition is to combine NPF4 monitoring, PPF and National Performance Framework then it would make sense to extend this to cover LDPs as well – that is if a ‘one size fits all’ is appropriate and would work. We do however, appreciate that not all councils are similarly resourced and/or use the same back office systems as Midlothian Council that would facilitate a meaningful monitoring process.

PART 5 - Annexes

Annex A – NPF4 Outcomes Statement (p.115-117)	
Consultation Question 56	Do you agree that the development measures identified will contribute to each of the outcomes identified in Section 3A (3) (c) of the Town and Country Planning (Scotland) Act 1997?
MLC Response	Yes, we agree.

Annex B – Housing Numbers (p.118-119)	
Consultation Question 57	Do you agree with the Minimum All-Tenure Housing Land Requirement (MATHLR) numbers identified above? – We may have to submit a locally adjusted estimate in response to HNDA3 adjustments in respect of the HoToc calculation.
MLC Response	Midlothian Council did not submit a locally adjusted housing estimate as part of the MATHLR consultation in June 2021 as it was satisfied with the methodology and initial outturn figure. The latest HNDA was agreed at the ESESCRD Director’s meeting on 3 February 2022. The partnership agreed the steady growth scenario which (using the HNDA annualised figure and 25% flexibility allowance) would produce a slightly higher overall figure than the MATHLR in the published draft NPF4 8,088 compared to 8,050. Given that the difference is marginal the Council does not consider it appropriate to request an adjustment to the figure at this time but will review and considered the position at the Evidence Report stage of the next Midlothian Local Development Plan.

Annex C – Glossary of Definitions (p.120-128)

**Consultation
Question 58**

Do you agree with the definitions set out above? Are there any other terms it would be useful to include in the glossary?

MLC Response

We agree with much but feel that the glossary could be amended and extended to take account of responses to previous questions. For example:

Useful terms used in Draft NPF4 but not included in the Glossary:

- Borrow pits (ref. policy 22)
- Community wealth (ref. policy 5)
- Creating Places (Scottish Government, 2013) (ref. policy 6)
- Design and Access Statement (ref. policy 6)
- Design Code (ref. policy 6)
- Design Framework (ref. policy 6)
- Design Guide (ref. policy 6)
- Design Statement (ref. policy 6)
- Designing Streets (Scottish Government, 2010) (ref. policies 6 and 12(j))
- Development Brief (ref. policy 6)
- Low carbon fuels (ref. policy 19)
- New Design in Historic Settings (HES, 2013) (ref. policy 6)
- Place Principle (ref. policy 1 and 7)
- Place Standard (ref. policy 6)
- Play Sufficiency Assessment (ref. policy 12)
- Public art (ref. policy 18)
- Ramsar site (ref. policy 32(d))
- Site of Special Scientific Interest (SSSI) (ref. policy 32(d))
- Special Area of Conservation (SAC) (ref. policy 32(c))
- Special Protection Area (SPA) (ref. policy 32(c))

Other terms which could potentially be used in Draft NPF4 policy and included in the Glossary:

- The Building (Scotland) Regulations 2004 (ref. policy 2)
- Building Standards (ref. policy 2)
- Cycling by Design (Transport Scotland, 2021) (ref. policies 6(b), 10, 12(j) and 14)
- Digital Planning Strategy (Scottish Government, 2020) (ref. policy 23)



DEVELOPMENT PLAN SCHEME FOR MIDLOTHIAN - NUMBER 14

Report by Chief Officer Place

1 PURPOSE OF REPORT

- 1.1 This report seeks approval for the Development Plan Scheme for Midlothian number 14 (DPSM14) and provides a short update on the implementation of the Planning (Scotland) Act 2019.

2 BACKGROUND

- 2.1 Preparation of the Development Plan Scheme (DPS) is a statutory requirement. Each year local planning authorities are required to prepare, publish and submit a DPS to Scottish Ministers setting out their intentions with respect to preparing, reviewing and consulting on the development plan for their area over the coming 12 months.

3 DEVELOPMENT PLAN SCHEME FOR MIDLOTHIAN

- 3.1 A DPS is required to contain:
- the proposed development plan programme (including the proposed timetable and details of what is likely to be involved at each stage of preparation or review); and
 - the participation statement (including an account of when and with whom consultation is likely to take place, its format and the steps to be taken to involve the public at each stage).
- 3.2 Consultation on the DPS is not required at present, however the Planning (Scotland) Act 2019 (PSA19) will require formal consultation on participation statements in future. As in previous years, DPS14 includes a question seeking views on the Council's proposed engagement activities and welcomes comments from interested parties. After approving the DPS, the local planning authority is required to publish it (including electronically), place it on deposit in public libraries and send it to Scottish Ministers (for information only, not for approval).
- 3.3 Last year's DPS13 proposed a major change: that the plan be prepared in accordance with the new PSA19 regulations, and using the National Planning Framework 4 (NPF4) to provide strategic guidance for the following reasons:

- The rejection of the proposed Strategic Development Plan 2 (SDP2) meant that SDP1 remains the approved SDP (June 2013) and the evidence base underpinning the plan was increasingly out of date;
 - There was no guidance in SDP1 as to how the housing land requirements for the period 2024 – 2032 should be aggregated and distributed across SESplan;
 - The declaration of a climate change emergency in Scotland (and by the Council) was likely to have land use planning policy implications and it would be advantageous to work with a strategic planning framework that takes this into account; and
 - There was insufficient time to progress the review to Proposed Plan stage before the transition arrangements end and new regulations come into effect.
- 3.4 At its meeting of 4 October 2021 the Edinburgh and South East of Scotland Development Plan Authority (SESplan) resolved that the authority be abolished, as a consequence of the PSA19 requirements and the strategic planning role being absorbed within the Edinburgh and South East Scotland City Region Deal governance structure.
- 3.5 The Scottish Government has published its new draft NPF4 and is undertaking a consultation until 31 March 2022. A formal response to this consultation is the subject of a separate report to the Committee.
- 3.6 The preparation of DPSM14 has taken place in the context of the ongoing Covid-19 Pandemic and associated emergency restrictions. Notwithstanding the recent announcement from the Government around easing restrictions from the end of March, the guidance is still to be cautious and to continue to wear face coverings in indoor settings – as a consequence here remains some uncertainty about the nature and extent of any in person engagement activities the Council can deliver over the next twelve months.
- 3.7 Key elements of the DPSM14 programme and participation statement include:
- a revised timetable for preparing MLDP2 which aligns with the Government’s programme for implementing the PSA19;
 - a formal launch of the MLDP2 replacement process, commencing with a member briefing as soon as is practically possible following the local elections in 2022;
 - a commitment to developing online engagement techniques for duration of Covid-19 restrictions and a commitment to widening this out to other group/in person activities when safe to do so;
 - a commitment to develop engagement activities for the special groups identified in PSA19 (including children and young people, the disabled, and gypsy travellers). This will require the planning service to collaborate with other Council services to design and deliver these engagement activities;

- a commitment to support the Local Place Plan process in Midlothian;
 - publication of the Proposed MLDP2 in 2024; and
 - proposed adoption of MLDP2 in 2026.
- 3.8 The system of development planning introduced by the PSA19 envisages local development plans (LDPs) being updated every 10 years, with LDPs adopted within 5 years of NPF4 being approved. The timetable set out in DPS14 would see a new LDP for Midlothian adopted within less than 5 years of NPF4 approval (provided NPF4 is approved by the Scottish Parliament this summer as scheduled).
- 3.9 The adopted Midlothian Local Development Plan (MLDP) will be nearly nine years old by late 2026. The new policies of NPF4 will form part of the development plan for the area, and provide updated policy to determine planning applications in many respects. The Action Programme review process also provides an additional mechanism and opportunity to reassess the adequacy of the housing and economic land supply following publication of NPF4 as well as addressing any other emerging issues if required, using the measures described in paragraph 2.3.9 of the adopted MLDP.
- 3.10 A copy of the DPSM14 is attached to this report.

4 PLANNING (SCOTLAND) ACT 2019 UPDATE

- 4.1 The PSA19 received royal assent in July 2019. In November 2019, Members considered a report on the Government's programme for implementing the new legislation and the changes affecting the review of the MLDP. Progress has been made with secondary legislation and with the NPF4 which will also form part of Midlothian's development plan when adopted.
- 4.2 The draft NPF4 was published on 10 November 2022. A consultation is underway, and Scottish Ministers expect to place the NPF4 before Parliament in the summer (2022) to seek approval.
- 4.3 In tandem, the Government has also published draft regulations and guidance on the preparation of the new style LDPs along with Open Space Strategies and Play Sufficiency Statements for consultation. It is anticipated that these regulations will be adopted at the same time or shortly after NPF4 to facilitate early preparation of replacement LDPs.
- 4.4 The Scottish Government has issued regulations for Local Place Plans (LPPs). These LPPs will be prepared independently of the Council by community bodies. They will contain proposals for the use and development of land, and will have to take account of NPF4 and the LDP for the area. The emerging MLDP will in turn have to have regard for any valid LPPs in the Council area.

5 RECOMMENDATION

5.1 It is recommended that the Committee:

- (a) approves the Development Plan Scheme for Midlothian No.14 (appended to this report);
- (b) agrees to publish the DPSP14 and place copies in Midlothian's public libraries; and
- (c) formally submit a copy to Scottish Ministers.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 4 March 2022
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Development Plan Scheme for Midlothian Number 14



April 2022



1. Introduction

1.1 This is the 14th **Development Plan Scheme** (DPS) for Midlothian. The previous Development Plan Scheme (number 13) was approved by Planning Committee in April 2021. DPS13 set a new course for delivering development plans in Midlothian, reflecting the reformed planning system brought about by the 2019 Act.

1.2 In the last year the Scottish Government has published National Planning Framework 4 (NPF4) which will form part of the development plan for Midlothian and set a housing requirement to be delivered by the next Midlothian Local Development Plan. Accompanying draft regulations and guidance on local development plans have also been published by the Scottish Government, and this DPS has sought to take the emerging framework for preparing development plans into account.

1.3 More information is available in the Scottish Government's Transforming Planning website [Transforming Planning link](#)

1.4 Covid-19. The landscape of engagement and consultation has been changed by the Covid 19 pandemic. In the last year there has been no in person contact between the planning service and interested parties. The overriding focus in DPS14 is to ensure public safety, but to allow for a wide range of engagement as the situation allows. Implementation of future engagement activity will depend on the health guidance operative at the time.

1.5 The DPS sets out the timetable for preparing the **Local Development Plan (LDP)**, and other related planning guidance. It also includes a **Participation Statement** which describes how and when you can get involved in the preparation of the plan. We will prepare a new Development Plan Scheme every year.

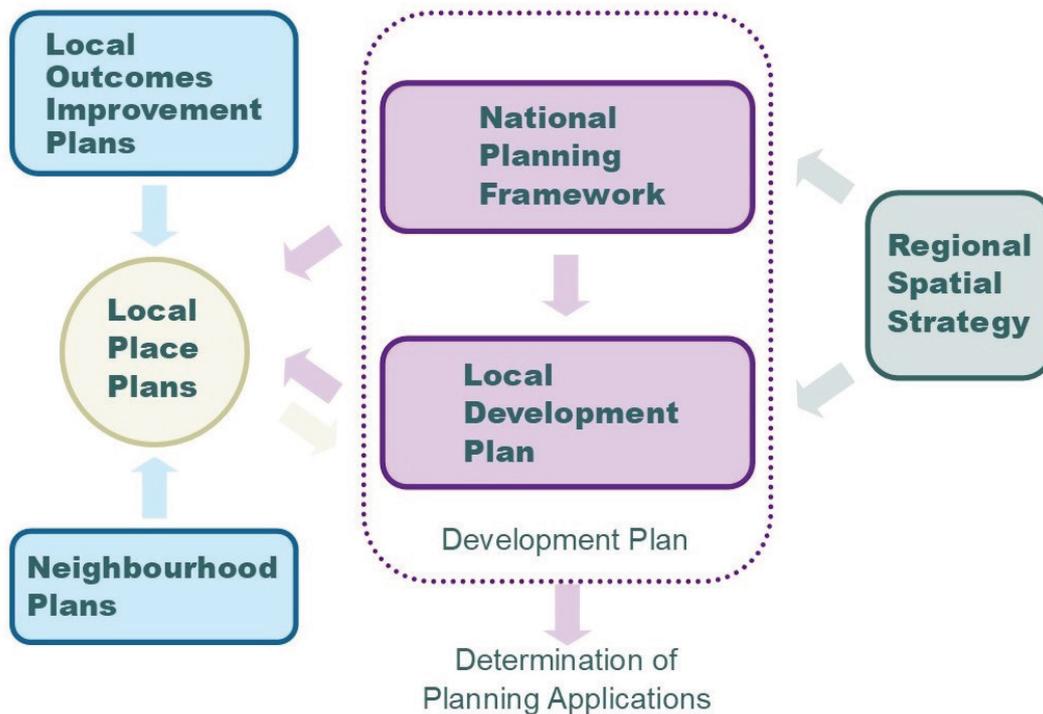
1.6 Status of Strategic Development Plan. In May 2019 the Scottish Ministers rejected the proposed Strategic Development Plan for South East Scotland (SDP2). The first Strategic Development Plan (SDP1) and its associated supplementary guidance on housing land remains in force until approval of National Planning Framework 4 (NPF4) which is expected in Summer 2022.

Changing Context for Development Planning

1.7 The Planning (Scotland) Act 2019 received Royal Assent in July 2019. The Act changes many features of the current system of development plans, including:

- removing the requirement to prepare Strategic Development plans
- removing provisions which allowed Supplementary Guidance to form part of the development plan
- making the Scottish Government's National Planning Framework part of the Development Plan
- introducing Regional Spatial Strategies to provide long term spatial development frameworks at regional level
- replacing Main Issues Reports with a new requirement to prepare an Evidence Report
- Changing the regulations to allow the Proposed Plan to be more of a consultative document
- Introducing a longer 10 year review period for development plans, rather than 5 years at present
- Introducing potential for locally constituted community groups to prepare new Local Place Plans

1.8 The new development plan hierarchy is shown in the diagram below.



Relationship between new plans and strategies

1.9 More information on the main changes introduced by the 2019 Act may be found in the report to Midlothian Council on 27 August 2019 (available through this link [2019 Act Committee Report](#)). Further information about the programme to implement the Act can be found on the Scottish Government website (available through this link [Scottish Government planning reform](#)). The Scottish Government is consulting on Local Development Plan Regulations and Guidance until 31 March 2022.

1.10 The Scottish Government has published regulations for **local place plans** which came into force on 22 January 2022. These LPPs will be prepared by locally constituted community groups. Section 5 below contains more details about Local Place Plans. The accompanying Circular sets out the duties of the planning authority and how those plans are handled through the planning system [Local Place Plan Circular](#).

DPS14

1.11 Recognising that all planning authorities are at different stages of their plan preparation, transitional arrangements have been published [Transitional arrangements document](#), . As Midlothian will base its replacement LDP on NPF4 and the new regulations, the 'stop' provisions in the transition arrangements for old style plans 'started but not finished' will not apply.

1.12 The 2019 Act introduces new requirements to seek and have regard to any views expressed by the public as to the content of the participation statement in the Development Plan Scheme: the regulations that give effect to this change are expected to come into force later in 2022. In advance of this becoming a formal requirement, Midlothian Council would like to know what you think of its proposed consultation arrangements, see the question 'HAVE YOUR SAY' at the end of section 5.

1.13 Fourth National Planning Framework for Scotland (NPF4). The NPF4, once approved by the Scottish Parliament and approved by Scottish Ministers, will become part of the development plan for Midlothian. NPF4 will set a minimum all tenure housing requirement to be met by the LDP. NPF4 will also incorporate Scottish Planning Policy. This is a major change because not only will it have a direct influence on the form and content of the next Midlothian Local Development Plan (MLDP), but will be a primary consideration in the determination of planning applications (and any subsequent appeals).

1.14 NPF4 was published in November 2021. Alongside Parliamentary scrutiny a consultation is underway until 31 March 2022. The draft NPF4 may be viewed on the Scottish Government website [National Planning Framework 4 Consultation](#) The Scottish Government expect to lay NPF4 before Parliament in Summer 2022. The timetable for preparing the second Midlothian Local Development Plan (MLDP2) is based on Parliamentary approval in Summer 2022.

1.15 To inform the preparation of development plans, the planning authorities in the South East Scotland area have prepared an **interim Regional Spatial Strategy**. This is not a document of equivalent weight to the Strategic Development Plan but sets a framework for the future development of the region - [IRSS link](#)

2. The Development Plan for Midlothian

Current Development Plan

WHAT DEVELOPMENT PLANS EXIST AT PRESENT IN MIDLOTHIAN?

The adopted development plan for Midlothian is provided by the Strategic Development Plan (SDP) for Edinburgh and South East Scotland 2013, and the Midlothian Local Development Plan (MLDP) 2017. The development plans may be viewed online by clicking on this link [Development Plans and Policies](#). The SDP will cease to be operative when NPF4 is approved. As COVID-19 emergency regulations permit, these may also be viewed in paper copy at any Midlothian library or at the Council's office at Fairfield House, Dalkeith.

WHAT DOES A DEVELOPMENT PLAN DO?

Development Plans allocate land for development and contain policies which will be used to assess applications for planning permission. They are also accompanied by an Action Programme which sets out how the plan will be delivered.

2.1 There are a number of ongoing tasks associated with the adopted MLDP. A revision of the current Action Programme (AP) was adopted by the Council in June 2021. This represented a delay in the usual publication schedule (and reflected the impact of Coronavirus). The AP is a requirement of the Planning Act, and identifies the actions which will help implement the policies and proposals of the plan. The biennial Action Programme will resume, with the aim of approving the next one in June 2023.

2.2 Midlothian Council also carries out post adoption monitoring, looking at the performance of the plan, progress on implementing proposals, how policies are being interpreted and applied in determining planning applications, and the impact of the policies and proposals on a number of environmental factors.

Supplementary Guidance

2.3 The Midlothian Local Development Plan requires Supplementary Guidance (SG) and planning guidance (pg) to be prepared. The Supplementary Guidance, once adopted has the same status as a policy in the plan (this is changing, when the 2019 Act takes effect, see below). Planning guidance has a lesser status but is a useful aid to applicants and to

DPS14

decision making on development proposals. The table below shows the planned SG and pg, and progress at the start of 2022. Approved guidance and emerging guidance subject to consultation may be viewed online through the [Midlothian planning portal](#)

Midlothian Green Network (SG)	Adopted
Special Landscape Areas (SG)	Adopted
Resource Extraction (SG)	Adopted
Development in the Countryside and the Green Belt (SG)	Adopted
Food and Drink and Other non Retail Uses in Town Centres (SG)	Adopted
Community Heating (SG)	Under review
Low Density Rural Housing (SG)	Consultation concluded, review underway
Nature Conservation (pg)	Adopted
Dalkeith Shop Front Design Guide (pg)	Adopted
Dalkeith Townscape Heritage Initiative (THI) Homeowners Guide: 'Repair and Maintenance of Historic Buildings in Dalkeith, Home Owners Guide' (pg)	Adopted

Adopted and forthcoming Supplementary (SG) and planning guidance (pg)

2.4 The Planning (Scotland) Act 2019 repeals those provisions of the 1997 Town and Country (Planning) Scotland Act which allowed SG to form part of the development plan, although there are transitional arrangements relating to this change.

2.5 The Transitional Arrangements for the new planning Act envisage that a period of 24 months after the coming into force of the development plan regulations, will be allowed for the adoption of supplementary guidance associated with local development plans adopted under the 2006 Act. After this point, no further supplementary guidance will be allowed to come forward for adoption.

2.6 Consultation was recently concluded on the Low Density Rural Housing (SG), and Community Heating (SG) is under review. The planning guidance for Hillend Country Park may be superseded by the planning application process.

2.7 The Council will reflect on how the outstanding guidance is to be provided, in recognition of the fact that supplementary guidance will not be part of the new development plan system. Now that the NPF4 will form part of the development plan, it is appropriate for the Council to consider the new policies and decide if it is best to continue bringing forward supplementary guidance in all cases.

2.8 The outstanding Supplementary Guidance is comprised: Advertisements, Flooding and Water Environment, Planning Obligations and Affordable Housing, and Quality of Place; as well as planning guidance for Open Space Standards, Shop Front Design Guide and site masterplans (as well as the emerging guidance referred to in paragraph 2.6 above).

3. Production of the Second MLDP

3.1 Following the decision of Scottish Ministers to reject the second Strategic Development Plan for Edinburgh and South East Scotland, the local authorities that make up the Strategic Development Planning Authority for Edinburgh and South East Scotland (SESplan) decided not to prepare a revised SDP.

3.2 When NPF4 is approved by parliament it will form part of the development plan for Midlothian (and every other Scottish planning authority). The approved SDP is superseded at this point. The Midlothian Local Development Plan remains adopted but the most up to date plan (NPF4) will take precedence should there be any incompatibility between the two plans.

3.3 As described in the introduction, The Planning (Scotland) Act 2019 makes significant changes to the system of development plans. The planning authorities which constitute SESplan, the Strategic Development Planning Authority for South East Scotland, resolved to wind up SESplan at their meeting of 4 October 2021. The strategic planning function has been absorbed into the Edinburgh and South East Scotland City Region Deal governance structure. The City Deal partners prepared the first Regional Spatial Strategy for South East Scotland in 2020. This was approved by the SESplan joint committee on 21 September 2020 and submitted to Scottish Ministers following ratification by individual authorities. The Regional Spatial Strategy informed the preparation of the Fourth National Planning Framework.

3.4 Before preparing a LDP, Councils will be required to prepare an Evidence Report which will be the subject of a government 'gatecheck' procedure. The 2019 Act also introduces new Local Place Plans which are described in the box at the end of this section. Many of these features of the new system are the subject of additional guidance to give greater clarity as to how they will work.

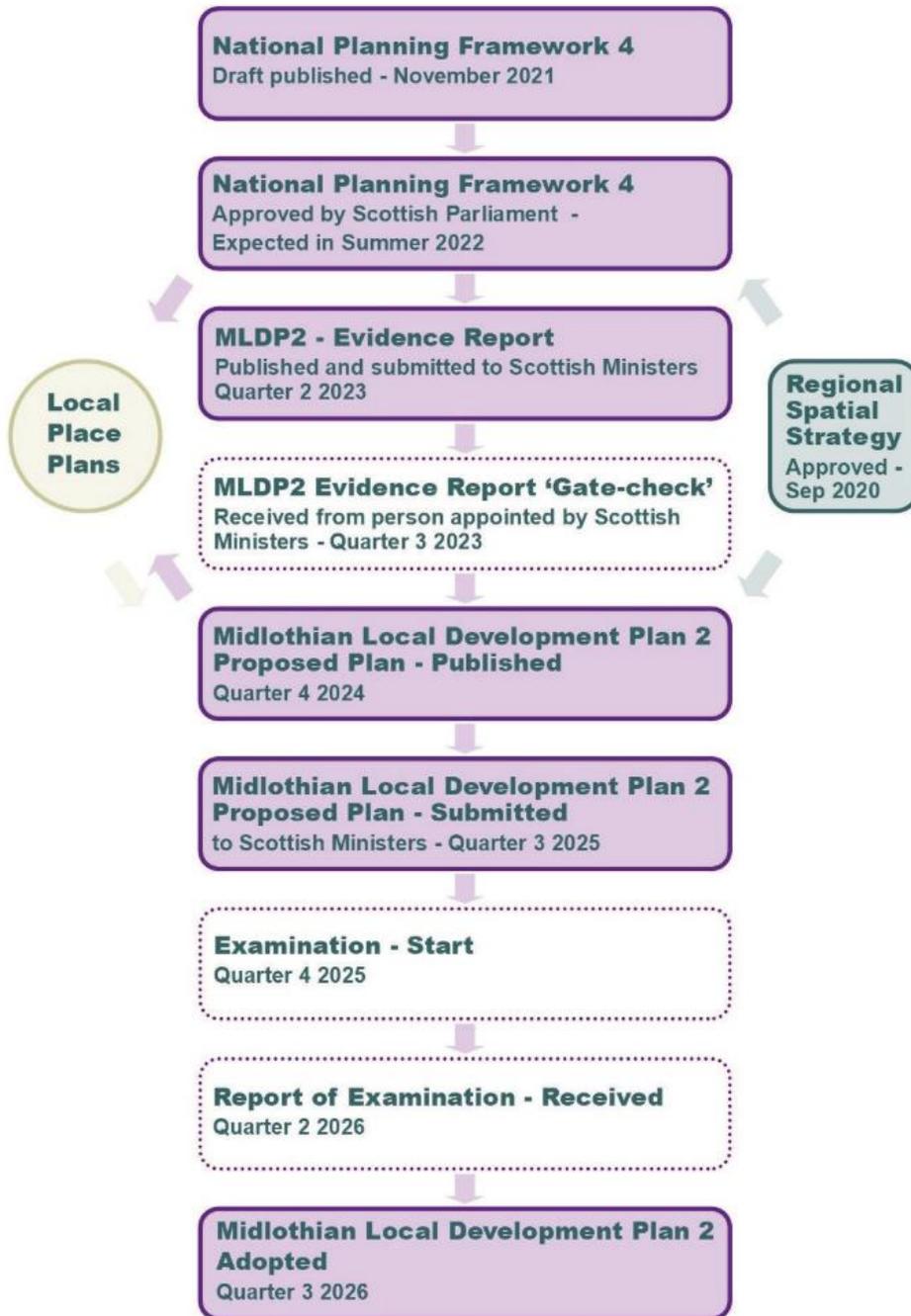
3.5 Midlothian Council will carry forward its replacement LDP (MLDP2) under the new regulations established by the 2019 Act, and recognising that NPF4 will then form part of the development plan.

3.6 Under the new system LDPs will be replaced every 10 years and replacement LDPs should be prepared within 5 years of National Planning Framework approval.

3.7 Midlothian Council is front loading work to inform the preparation of MLDP2. This will assist in bringing MLDP2 to adoption as soon as possible after NPF4 is adopted. The MLDP2 will still be less than 5 years old by December 2022. Midlothian Council will use the Action Programme process to review implementation of the plan and in particular to assess the adequacy of the housing land supply (as described in paragraph 2.3.9 of the MLDP).

3.8 The timetable in Section 4 below is Midlothian Council's best estimate of how long the new processes will take, starting with approval of NPF4 in 2022. We expect to adopt MLDP2 in 2026, so within 5 years of NPF4 being approved.

4. Timetable for LDP2



2022 Timetable for LDP2

5. Local Place Plans

5.1 Local Place Plans have been introduced by the 2019 Planning Act. Regulations on Local Place Plans (including the roles of local communities and the planning authority) came into force on 22 January 2022. LPPs are plans relating to the development and change of use of land in a community. A Local Place Plan is not produced in isolation - it must have regard to the Local Development Plan for the area and the National Planning Framework.

5.2 Key duties on planning authorities in relation to Local Place Plans are:

- Publish an invitation to local communities to prepare Local Place Plans.
- Publish information on the manner and date by which such Local Place Plans are to be prepared in order to be taken into account in the preparation of the Local Development Plan.
- Provide information on the assistance that the authority may offer to communities wishing to produce a Local Place Plan.
- Maintain a register of Local Place Plans
- As well as maintaining a register of LPPs, local authorities are also required to maintain a map, which shows the land where LPPs are registered.

5.3 The Council will work with its Community Planning Team and the Federation of Community Councils to raise awareness of LPPs and engage in a discussion about how LPPs may be progressed. It must be stressed that these will be the communities' plans, and the Council will not be leading this process. It is likely that in most cases it will be the Community Council that will lead preparation of the LPP, as these are established bodies with an existing interest in land use planning. However, other community based bodies that meet the definition in the Community Empowerment (Scotland) Act 2015 may come forward (for example a group concerned with the regeneration of a particular locality), or perhaps a group constituted solely for the purpose of preparing an LPP.

5.4 The Council will place information on the planning pages of its website to act as an information hub for parties interested in LPPs. Midlothian Council will set up a local place plan email address where any queries about LPPs may be sent.

5.5 Midlothian Council hopes to be in a position later this year to issue an invitation to community bodies to prepare LPPs. This will set out the assistance that the Council can give, and provide guidance to ensure that LPPs are prepared that meet the requirements of the legislation. Midlothian Council expects to issue its invitation to prepare LPPs shortly after the Council elections in May 2022. In the interim we would encourage any community body to get in touch, or to register an interest using the contact details at the end of this DPS.

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5.6 For an LPP to be taken into account in the preparation of the MLDP2, it is important that the Scottish Government regulations are observed. Reference should be made to the Circular and Regulations but the main requirements are:

- The LPP must be prepared by a community body as defined under the Community Empowerment (Scotland) Act 2015
- The LPP is focused on proposals for the development and change of use of land within a defined community boundary
- In preparing the Local Place Plan, the Community Body must have regard to other plans including the NPF, the LDP and any locality plan published for the area
- When submitting the LPP to the planning authority, a statement indicating the degree of community support for the proposals contained in the LPP together with the extent and outcome of engagement undertaken must be included

5.7 Midlothian Council will maintain a register of valid LPPs and will also list these in future editions of the DPS.

5.8 WHEN SHOULD LPPs BE PREPARED? The timing of an LPP is up to the community body that prepares it, but in order to be taken into account in the next LDP it is likely that Midlothian Council would need to receive and validate it around 6 months before the Proposed Plan is published. **This points to submission of LPPs being required around Spring 2024 so that they may be taken into account in the preparation of the LDP.**

6. Participation Statement

6.1 A Participation Statement sets out how, when and with whom the Council will consult and engage on its Development Plan. Independent planning Reporters will review the Council's engagement activities to see that they match what the Council said it would do in the Participation Statement. The timescale for activities may change depending on progress with NPF4 and secondary legislation associated with the Planning (Scotland) Act.

6.2 Engagement is at its most effective at the early stages of plan preparation. Within the framework of the new planning system, the Council will seek to maintain open channels of communication so that a wide range of ideas on policy can be exchanged in advance of publication of the Proposed Plan.

6.3 The new LDP should align with the work of the Community Planning Partnerships (CPPs) who have drawn together public, voluntary and private sector bodies, and local communities to develop a shared 'plan' to improve the lives of local people: the [Single Midlothian Plan](#)

6.4 The Climate Emergency Community Planning Group has identified as one of its priorities '*Place the Climate Emergency as the Central theme of the Midlothian Local Development Plan. 2*'. More generally the Council recognises that there is widespread interest and knowledge in the community on a variety of topic areas which can be used to improve the next LDP.

Aims

- To raise awareness of Local Development Planning in Midlothian
- To design an approach to engagement that is as open and inclusive as possible
- To provide meaningful opportunities to shape the next LDP, allowing input to the plan before it is written

Our Approach

- To seek to use best practice, looking at the approach of other organisations including Planning Aid for Scotland
- Produce information across a variety of formats, including our website, consultation portal and social media, alongside traditional written material
- To work closely with neighbourhood planning and community planning partnerships

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- To advise and assist communities in preparing Local Place Plans
- Collaborate with Key Agencies and other interested parties - we will explore the potential for co-production of parts of the second LDP
- Seek to continuously improve by carrying out annual review of our engagement activities
- Make information available as early as possible
- Use clear, plain language in all our material
- To ensure that events and materials are accessible as far as is practicable
- To consider all engagement activity in the context of the Councils public sector equality duty
- Use graphics and maps where appropriate
- Provide events in communities throughout Midlothian
- During the period where special arrangements for the Covid-19 pandemic are in place, to seek meaningful engagement opportunities which preserve public health.

6.5 A revised DPS may be brought out before the next planned update in April 2023 if the changing situation justifies it - for example through the relaxing of Covid-19 restrictions and/or any delays to the approval of NPF4 or publication of regulations in respect of the new LDP process. Online engagement will remain a key tool for communicating with stakeholders but parallel in person events and activities will be considered when public health concerns permit, so that those who do not have internet access or whose preference is not to use online engagement are not excluded from participating in the LDP process.

Overview of proposed engagement activities for the second Midlothian Local Development Plan in period covered by DPS14 (2022-2023).

Activity	Description	What we plan to do	Timescale
Development Plan Scheme 14	Sets out Midlothian Council's programme for reviewing its development plans.	Publish online and distribute to Community Councils. Seek views on participation statement. Place in libraries (provided not contrary to emergency guidance)	April 2022
Elected Councillors briefing to initiate MLDP2 project	To formally launch the MLDP2 replacement plan project. This will be an opportunity to inform members of new style of development planning and the issues for Midlothian	Meeting either through electronic medium or physical meeting	After May 2022 elections & when Council/Committee timetable agreed.
Evidence Report	The EvR is a new requirement of the 2019 Act. The planning authority are to set out its view on the principal characteristics of the area.	Engage with public at large as well as groups defined in legislation in preparing the EvR. As well as activities listed elsewhere in the Participation Statement, this will involve: (i) awareness raising through email 'mailshot' to customer database inviting comments/feedback;	Published early 2023. Engagement activities will seek views and information to inform the EvR, so between Cllr briefing and anticipated 2023 publication date.

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Overview of proposed engagement activities for the second Midlothian Local Development Plan in period covered by DPS14 (2022-2023).

Activity	Description	What we plan to do	Timescale
		(ii) local media releases; (iii) awareness raising among Council staff; (iv) publishing information online and using all Council channels to raise awareness; (v) meeting and discussing issues with stakeholder groups expressing interest/concern on request.	
Brief and involve elected members, including reporting to Planning Committee at key stages	Following on from the initial briefing, updates will set the context for MLDP2; outline requirements as they emerge from National Planning Framework and issues arising from adopted plan and committed development	Updates to elected members	Throughout period covered by DPS14 (2022/23)
Prepare Community Council briefing	Inform Federation of Community Councils of	Online meeting	After elected member briefing and launch of project.

Overview of proposed engagement activities for the second Midlothian Local Development Plan in period covered by DPS14 (2022-2023).

Activity	Description	What we plan to do	Timescale
	forthcoming LDP, and discuss issues		
Seek contacts for future engagement	Promote online engagement and promote & encourage registration on consultation database	Use all channels including the 'Register an Interest' page in this DPS to facilitate this process	Throughout period covered by DPS14 (2022/23)
Awareness raising with Community Planning Partnership (particularly through Climate Emergency Group of the Partnership)	Follow from project initiation briefing, to develop understanding of new plan and related LPP process and seek ideas/input.	Attend events with Community Planning partners regarding new LDP, and raise awareness of Local Plan Plans	After elected Cllr briefing in 2022, and launch of project
Action Programme	Action Programme is biennial review of adopted LDP implementation	Carry out information gathering for 2nd Action Programme review.	Throughout 2022 and to June 2023
Links with Key Agencies	Key Agencies are organisations defined in planning legislation; Planning authority is required to	Regular discussions with Key Agencies, Community Planning Partnership and other Council services.	Throughout period covered by DPS14 (2022/23)

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Overview of proposed engagement activities for the second Midlothian Local Development Plan in period covered by DPS14 (2022-2023).

Activity	Description	What we plan to do	Timescale
	engage with them and they in turn to engage with development plan preparation.		
Develop a programme of engagement using the place standard tool	Place Standard Tool is technique to understand communities views on the place they live - by this means we will seek to understand main deficiencies and problems in Midlothian Communities, as an input to the EvR	Likely to work best as an in person event (to be considered in light of evolving Covid situation)	After elected Cllr briefing in 2022, and launch of project
Understanding needs of Children and Young People, people with disabilities, and gypsies and travellers in respect of LDP2	PSA-19 requires planning authorities to seek to engage with these groups in preparation of the Evidence Report.	An engagement package focussed on these groups is to be developed, in conjunction with other Council services.	Nature of engagement to be developed in 2022 and used to inform preparation of Evidence Report

LOOKING AHEAD TO THE EVIDENCE REPORT

The programme diagram above envisages publication of the Evidence Report in the 1st quarter of 2023 (calendar year) and the Proposed Plan in the 4th quarter of 2024 (i.e. October to December).

The Evidence Report (EvR) will set out the Council's view on the characteristics of the area including the capacity of infrastructure and the need for additional development land. This is a key consultation stage under the 2019 Act.

It is a requirement of the Planning Act that the views of the key agencies, children and young people (in particular school pupils, youth councillors and youth parliament representatives), and the public at large are taken into account in its preparation.

After publishing the Evidence Report (EvR), the Council will submit the EvR to Scottish Ministers, who will appoint a person to determine whether it contains sufficient information to enable the authority to prepare the plan. This is known as the Gatecheck process.

Given the current changing situation with lifting of pandemic restrictions there is still uncertainty as to the range of engagement activities in respect of the Evidence Report and Proposed Plan but we will consider views received in response to this DPS.

There will be a statement in the EvR setting out how the Council sought views in preparing the EvR, and how they were taken into account.

6.6 Following the Evidence Report and 'Gatecheck', the draft Development Plan Regulations envisage a 'Call for Ideas' stage to inform the preparation of the Proposed Plan. This should be open to everyone to propose ideas for any aspect of the plan. The Council will consider this further as the Regulations are finalised.

6.7 The new system of development planning is very different and in some cases not fully known as the Regulations governing the system are not finalised, and the resource implications are not known.

THE PROPOSED PLAN

Under the new planning system introduced by the 2019 Act, it remains the case that the Proposed Plan represents the plan that the Council proposes to adopt. However, there is provision under the 2019 Act to make modifications after the representation period, before submitting to Scottish Ministers. Any unresolved representations will be

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considered by an independent planning reporter as part of an examination of the plan at a later date. A communications plan will be prepared to manage engagement activities throughout the key stages of the new LDP process.

MAKING SURE EVERYONE IS INVOLVED

2019 Planning (Scotland) Act introduces a particular requirement when preparing the Evidence Report to consult with:

- disabled persons
- gypsies and travellers
- children & young people on the Evidence Report.

A planning authority must also make arrangements that they consider appropriate to promote and facilitate participation by children and young people in the preparation of the LDP more generally.

FAIRER SCOTLAND DUTY

The Fairer Scotland Duty places a legal responsibility on public bodies to pay due regard to how they can reduce inequalities of outcome caused by socio-economic disadvantage when making strategic decisions.

Midlothian Council is a public body and the MLDP2 is a strategic decision making document, so it is covered by the duty.

Involving communities and facilitating participation are central to good policy making

The Council will measure progress on meeting the requirements of the duty at key stages, through its Integrated Assessment process.

PUBLIC SECTOR EQUALITY DUTY

The Public Sector Equality Duty was established in the Equality Act 2010.

There is a requirement for public authorities in the exercise of their functions to advance equality of opportunity between people who share a relevant protected characteristic and those who do not.

Protected characteristics includes age, disability and race - including gypsies and travellers.

In preparing the first MLDP the Council prepared an Equality Impact Assessment (EqIA), which assessed the impact of the plan on the identified protected characteristics groups (which include age, disability, and race -).

The EqIA approach was useful as it involved systematic assessment of the plan in respect of the protected groups to ensure there was no disadvantage and that opportunities were not missed. The EqIA also considered the approach to consultation and engagement. Midlothian Council will use the successor tool to EqIA, known as Integrated Assessment, to provide a similar assessment process for MLDP2. The participation statement requires tailored consultation for targeted groups: as we draw nearer to the Evidence Report in 2022 we will provide further detail on how this will be carried out.

Question 1

HAVE YOUR SAY

What is your view of our planned consultation activities? Please let us know if you have any suggestions to improve engagement

If you are viewing the DPS as a paper copy and you wish to respond to the question above, you can use the contact details below.

CONTACT US

If you have any questions about the Local Development Plan or this Development Plan Scheme, please get in touch.

by email: ldplan@midlothian.gov.uk

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by writing: Midlothian Council Planning, Fairfield House, 8 Lothian Road, Dalkeith, EH22 3AA

During the period of the Covid-19 pandemic the planning office is not always continually staffed during office hours, so we advise that you email or write in this interim period. Once more normal circumstances return we will restore the option of phoning the planning office.

7. Register an interest

Are you interested in being involved in the second Midlothian Local Development Plan?

Follow this link to register as an interested party in the Second Midlothian Local Development Plan.

[Link to register as a consultee or agent with Midlothian Council](#)

Once we have your contact details we can send you information about events, documents for comment and keep you informed about progress with the MLDP.

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 (ناہیا افراد کے لیے) اُبھرے ہوئے حروف کی کھائی (میں) نیپ پر یا بڑے حروف کی کھائی میں فراہم کر سکتے ہیں۔



APPLICATION FOR PLANNING PERMISSION 21/00877/DPP FOR THE ERECTION OF 90 DWELLINGS; THE FORMATION OF ACCESS ROAD, CAR PARKING, LANDSCAPING AND ASSOCIATED WORKS AT FORMER SITE OF NEWBATTLE COMMUNITY HIGH SCHOOL, EASTHOUSES ROAD, EASTHOUSES, DALKEITH

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 **The application is for the erection of 90 dwellinghouses, the formation of access road, car parking, landscaping and associated works on the site of the former Newbattle Community High School, Easthouses Road, Easthouses, Dalkeith.**
- 1.2 **There have been no representations received. Consultation responses have been received from the Coal Authority, Scottish Water, NatureScot, SportScotland, the Mayfield and Easthouses Community Council (MAECC), the Wildlife Information Centre, the Council's Archaeology Advisor, the Council's Senior Manager Protective Services, the Council's Policy and Road Safety Manager and the Council's Land Resources Manager.**
- 1.3 **The relevant development plan policies are policies 5 and 7 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT2, DEV2, DEV3, DEV5, DEV6, DEV7, DEV 8, DEV9, DEV10, TRAN1, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV16, ENV18, ENV24, ENV25, NRG3, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.4 **The recommendation is to grant planning permission subject to conditions and the applicant entering into a Planning Obligation to secure contributions towards necessary infrastructure and the provision of affordable housing.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 **The site measures 3.44ha and comprises the central and southern part of the former Newbattle High School site on the west side of Easthouses Road, Easthouses. The site slopes down to the west, away from Easthouses Road, by approximately 14m, however there**

are level terraced areas on the site which are the remnants of the previous school use and associated playing fields. The former school buildings have been demolished to ground level. There are a number of trees on the eastern boundary of the site.

- 2.2 The site is bound to the north west/west by Core Path MID/5-12a/1, beyond which is agricultural land which forms part of the Newbattle Conservation Area and Safeguarded Newbattle Strategic Green Space (Policy ENV3). Planning permission has been granted for a new primary school to be erected on land to the north. Development is yet to commence on the construction of the primary school. To the east the site is bound by Easthouses Road and beyond by land associated to the new Newbattle High School and playing fields. To the south, and situated below the level of this site, is land under development for new housing.
- 2.3 The site is identified in the MLDP as part designated as open space (Policy DEV 8). The site is within the built area of Easthouses. The shape of the open space designation is clearly outlined around the former Newbattle High School buildings to cover the associated playing fields.
- 2.4 The site forms a largely previously developed site between Easthouses and Newtongrange. The site is currently being used as a construction compound associated with a nearby development.

3 PROPOSAL

- 3.1 The proposed development comprises:
- 44 two-storey, pitched roof houses;
 - 28 cottage flats;
 - 12 flatted dwellings;
 - 6 bungalows;
 - associated bin and cycle store structures;
 - the formation of a vehicular access off Easthouses Road;
 - the formation of internal roads;
 - the formation of a SUDS basin in the west/north west extremity of the site;
 - the installation of an underground attenuation tanks; and
 - the erection of boundary treatments.
- 3.2 The housing mix, consists of seven different house types, comprising:

Flats	12	one bed units	24
Cottage flats	28	two bed units	43
Houses	50	three bed units	16
		four bed units	7
<u>Total</u>	<u>90</u>	<u>Total</u>	<u>90</u>

- 3.3 The applicant proposes 100% affordable housing units comprising 24 one bed units, 43 two bed units, 16 three bed units and 7 four beds units.
- 3.4 The drainage strategy includes a SUDS Pond at the north west boundary of the site. This will be fed from attenuation tanks under the proposed open space. The site is shown on the SEPA flood maps as being outside of the area which is at risk from extreme fluvial or tidal flooding and the site is therefore not at risk from flooding in the 1 in 200 year event. There are minor areas of high likelihood of surface water flooding (10% each year). Comparison of the surface water flood map to aerial imagery of the site would indicate that those areas identified as having a high chance of surface water flooding were hard surfaced areas around the former school building.
- 3.5 The layout seeks to deliver a predominantly terraced form of properties, with flats, and bungalows mixed into the layout.
- 3.6 The application is accompanied by:
- design and access statement;
 - landscape strategy;
 - geotechnical interpretative and design report;
 - contaminated land risk assessment;
 - coal mining risk assessment;
 - preliminary ecological appraisal report; and
 - pre application consultation report

4 BACKGROUND

- 4.1 The applicant carried out a pre application consultation (21/00632/PAC) for residential development (flats and dwellinghouses), landscaping, access roads and SUDS/drainage infrastructure which was reported to the Committee at its meeting in October 2021.
- 4.2 Planning permission (18/00308/DPP) for the erection of 79 dwellinghouses and associated works on land to the south of the former Newbattle High School site was granted in January 2019. The application was presented to Committee at its meeting in October 2018. This development is currently being built out and the construction compound is located on the former artificial pitch associated with the high school.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application. Records indicate that the eastern half of the site lies within an area of both

recorded and probable unrecorded shallow coal mining. This could affect the safety and stability of the redevelopment of this part of the site. However, the Coal Authority is satisfied with the conclusions of the Site Investigation Report, February 2021, informed by the site investigation works; that coal mining legacy issues are not significant within the application site and do not pose a risk to the proposed development. Accordingly, no specific mitigation measures are required as part of this development proposal to address coal mining legacy issues.

- 5.2 **Scottish Water** does not object to the application. They advise that there is currently sufficient capacity within the Rosebery Water Treatment Works for future water supply. However, it was noted that capacity of the Edinburgh PFI Waste Water Treatment Works could not be confirmed and that a detailed Pre-Development Enquiry is required to be provided to consider future connection. They also note that future capacity cannot be reserved and that capacity will be reviewed upon any formal connection application being submitted to Scottish Water.
- 5.3 **NatureScot** does not object to the application.
- 5.4 **SportScotland** have commented a number of times on the application. Initially they highlighted that there was a concern that the development would result in the loss of a sports pitch which was not re-provided at the new Newbattle High School site to the east of the Easthouse Road, and therefore lodged a holding objection against the proposal. These comments were made in light of the Council's Sports Pitch Needs Assessment. SportScotland requested additional information as to any consultation that had been undertaken with the users of the site and the local community. Details of what consultation had been undertaken was provided by the agent, including a report to Council on the consultation with local football teams, were then issued to SportScotland. The information provided to date has been reviewed and SportScotland have confirmed that they have not been satisfied that sufficient consultation has been undertaken to warrant the net loss of a pitch. As such, their holding objection remains extant – the applicant needs to do further work to secure the removal of the objection prior to any planning permission being issued.
- 5.5 **Mayfield and Easthouses Community Council (MAECC)** set out a position broadly favourable and welcome the proposed redevelopment of the brownfield site. They further comment:
- The proposed density seems appropriate;
 - Welcome the commitment to council housing;
 - Welcome the proposed financial contributions to Easthouses Park;
 - Recognise the conflict the application has with the open space designation but are favourable for the change of use to housing and identify the historic brown field nature of the site;

- Concerns have been raised in regards to traffic generation in proximity to the nearby play facilities and school;
- There is a lack of public transport in the area to serve the development;
- The appearance of the dwellings does not present much variety and appears bland;
- Concern over the continued disruption of construction activity along Easthouses Road;
- Some concern as to the ability of users to introduce electric vehicle charging points should they desire; and
- Concern about disparity between Communal Heating requirements.

5.6 **The Wildlife Information Centre (TWIC – the Council’s biodiversity advisor)** does not object to the application.

5.7 **The Council’s Archaeological Advisor** does not object to the application.

5.8 **The Council’s Senior Manager Protective Services** does not object to the application, but has raised some concern in regard to the proximity of an approved multi use games area (MUGA) at the adjacent primary school site. The MUGA can be a source of light spill and noise nuisance on residential development. To assess and mitigate the potential impact of the MUGA on residential development, the following conditions are proposed:

1. An acoustic barrier shall be provided between the MUGA pitch and new residential housing. The dimensions and design specification of the acoustic barrier shall be to the satisfaction of the planning authority.
2. (i) The floodlighting system and any security lights shall be designed and installed such that there is no direct illumination of any neighbouring sensitive property and the lamp design shall be such that the actual lamps and inner surface of the reflectors will not be visible from the neighbouring sensitive receptors' properties.
(ii) The floodlighting system shall also be fitted with an automatic cut out to ensure that the system cannot operate after 9pm.
(iii) The design and construction of the lighting should take account of the guidance contained within the Scottish Government Guidance to Accompany the Statutory Nuisance Provisions of the Public Health etc. (Scotland) Act 2008.
3. The Site Investigation information submitted with this application has been assessed by our external reviewers and a number of areas have been identified where further information is required. These areas are detailed below: -
 - i. Further submission of a remediation and validation strategy.
 - ii. Further clarity on the backfilling and decommissioning of deep investigation holes.

- iii. Clarification as to why a detailed mine gas risk assessment has been omitted, which casts some doubt on the conclusions of the ground gas risk assessment.
4. On completion of the decontamination/ remediation works referred to in condition 3 above, and prior to any dwelling 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 dwelling on the site shall be occupied unless or until the planning authority have approved the required validation.

It is noted that the 2nd condition suggested relates to development (the MUGA) beyond the control of this planning application and cannot be added to this application.

- 5.9 The **Council's Policy and Road Safety Manager** does not object to the application subject to conditions being attached to any grant of planning permission.
- 5.10 The **Council's Land Resources Manager** does not object to the application. There are two rights of way (which are also designated as Core Paths) immediately adjacent to the application site and these should be retained, although preferably upgraded, for active travel use to serve the new development. These routes must not be blocked or otherwise obstructed without written agreement.

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, 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 out with 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 **STRAT2: Windfall Housing Sites** supports 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.
- 7.5 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** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, and passive energy gain, positioning of buildings, open and private amenity space provision and parking.
- 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 **DEV8: Open Spaces** states that the Council will seek to protect and enhance the open spaces identified on the Proposals Map. Development will not be permitted in these areas that would:
- A Result in a permanent loss of the open space; and/or
 - B Adversely affect the accessibility of the open space; and/or

- C Diminish the quality, amenity or biodiversity of the open space; and/or
 - D Otherwise undermine the value of the open space as part of the Midlothian Green Network or the potential for the enhancement of the open space for this purpose.
- 7.11 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).
- 7.12 Policy **DEV10: Outdoor Sports Facilities** seeks to protect outdoor sports facilities from re-development except in certain circumstances: where the proposed development is ancillary to the principle use of the site as an outdoor sports facility; the loss is only minor and would not affect its overall use; the outdoor sports facility is to be replaced either by a new facility of comparable or greater benefit for sport or upgrading of an existing facility on the same site or nearby; or where the sports pitch needs assessment, open space audit and consultation with Sportscotland identify a clear excess of provision to meet the existing or anticipated demand in the area and the overall quality of provision in the locality will be maintained.
- 7.13 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.14 Policy **TRAN5: Electric Vehicle Charging** seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals.
- 7.15 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.16 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.
- 7.17 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.

- 7.18 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.
- 7.19 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environment.
- 7.20 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.
- 7.21 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.22 Policy **ENV16: Vacant, Derelict and Contaminated Land** supports the redevelopment of vacant and derelict land for uses compatible with their location. Developments will be required to demonstrate that the site is suitable for the proposed new use in terms of the risk posed by contamination and instability from historic uses.
- 7.23 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.
- 7.24 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 **NRG3: Energy Use and Low & Zero-Carbon Generating Technology** requires that each new building shall incorporate low and/or zero-carbon generating technology projected to contribute an extra percentage reduction in greenhouse gas emissions beyond the emissions standard to which the building is subject under the Building Regulations. Policy **NRG4: Interpretation of Policy NRG3** interprets Policy NRG3.
- 7.27 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 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 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.*"
- 7.38 "*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.*"

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 consultation responses received are material considerations.

Principle of Development

- 8.2 The site is not allocated for housing within the MLDP, but is located within the built-up area of Easthouses and as such is considered a proposed windfall development where the requirements of MLDP policy STRAT2 are relevant. The site is in part previously developed land due to the prior school structure. The artificial pitch previously located on the site would also be seen as previously developed land. Specific criteria are further set out in policy STRAT2 including the requirement that development does not lead to a loss or damage of valuable public or private open space. The former playing pitches at the site are identified as open space (MLDP policy DEV8). It is worth noting that the MLDP was in preparation in the years leading up to 2017 when it was adopted. This was prior to the demolition of the former school and as such, at the time of designation the application site comprised sports pitches associated with the school.

Open Space

- 8.3 Criteria A of policy DEV8 sets out that where development results in the permanent loss of open space the development would be refused. As the site is designated as open space in the MLDP and that the development would result in the permanent loss of the open space it would appear that the proposed development would conflict with policy DEV8. The value of the site is not identified within the MLDP.
- 8.4 The evidence base that underpins the designation of open space and its value is Midlothian's Open Space Audit (OSA) is currently in the process of being updated. The 2018 version of the OSA does not identify the site as having any open space on it (after the closure of the school site). The earlier 2009 OSA further did not reference the site.
- 8.5 In terms of assessing the site's open space value, there is a thorough exercise that goes into the preparation of the OSA that would not be appropriate to reiterate in this report. However, the qualitative criteria for assessing sites include:
- Access and community - question remains as to whether sports pitches were publically available on the former site. As is set out later in this section, a rugby pitch was identified as publically available.
 - Attractiveness/place appeal - the site is devoid of particular features and engineering works and grading have been required to make the site appropriate for sports. Excellent views to the west are achieved from the site.
 - Biodiversity - due to the former use there is understood to be little biodiversity value on the site.
 - Functionality - there appears to be no restrictions to the public from accessing the site, however the maintenance of any pitches has not been continued.

- Community benefits - the open site would form some community benefit as informal open space.
- 8.6 In terms of the value of this open space there is no clear reason as to why the site was designated as such within the MLDP other than the presence of sports pitches, one of which is artificial. Whilst the above does not represent a thorough assessment, the site's absence from the 2009 and 2018 OSAs would suggest that the site is not functioning or relied on as open space. Whilst the site's designation is formerly approved, the evidence base is a material consideration in this matter.
- 8.7 Criteria B of policy DEV8 requires that development should not hinder the accessibility to open space. The development would deliver pedestrian and cycle access to the existing core path networks to the west. Open space provided as part of the development would further be easily accessible through the development.
- 8.8 Criteria C of policy DEV8 requires that development not diminish the biodiversity of the site. Given the site's previously developed nature, and the use of the wider site, the disruption to biodiversity is considered to be minimal. This is further confirmed through ecology surveys and no objection is raised from TWIC.
- 8.9 The final criteria (D) of policy DEV8 would require that development not otherwise harm the site's role as open space as part of Midlothian's green network. The Green Network Supplementary Guidance 2017 identifies the site as greenspace, but does not address the site directly and sets no aims of the site. The importance of the Strategic Newbattle Greenspace is highlighted, which bounds the site's north west/west edge. The site provides a connection from more open space to the east with the Strategic Newbattle Greenspace. Whilst the proposals would clearly interrupt the width of that connection, the proposals seek to establish green corridors across the site connecting east and west areas and retain connections across the site.
- 8.10 The proposed development cannot be seen to be compliant with policy DEV8 considering the formal identification of the site as open space in the MLDP. However, the lack of reference to the site within the OSA is a consideration. In view of the OSA the assessed conflict with policy DEV8 is considered to be minor and not an obstacle to approval of the development in principle.

Sports Pitches

- 8.11 MLDP policy DEV10 sets out a presumption against the loss of sports pitches except in certain circumstances. These are:
- A. the proposed development is ancillary to the principal use of the site as an outdoor sports facility;*

B. the proposed development involves only a minor part of the outdoor sports facility and would not affect its use and potential for sport and training;

C. the outdoor sports facility would be replaced either by a new facility of comparable or greater benefit for sport in a location that is convenient for users, or by the upgrading of an existing outdoor sports facility to provide one of better quality on the same site or at another location that is convenient for users, such that the overall playing capacity in the area is maintained or improved; or

D. the sports pitch needs assessment, Open Space Audit and consultation with sportscotland identify a clear excess of provision to meet current and anticipated demand in the area, and demonstrate that the site could be developed without detriment to the overall quality of that provision.

- 8.12 In the first instance it is necessary to explore whether a loss of sports pitches has occurred. It is clear from historic aerial imagery that there were historically sports pitches at the application site. The Council's Sports Pitch Needs Assessment (SPNA) is a consideration in this assessment. This document was not publically consulted on and does not form part of MLDP. However, the document is useful in establishing what pitches were located at the site.
- 8.13 The 2007 SPNA identifies these pitches as a grass football pitch, grass rugby pitch and one artificial pitch. It further identifies that the rugby pitch was open to community use, whereas the football pitch was not.
- 8.14 Following the 2007 SPNA the Newbattle High School closed. The 2018 SPNA suggests that due to this closure all the sports pitches associated with the school were further lost. However, the 2018 SPNA is to a degree contradictory, in that in regards to rugby it references a pitch at the former site. As such the proposed development at the site would be seen to result in the loss of sports pitches at the site, in the amount of a former artificial pitch (albeit in bad repair) and a rugby pitch. The proposed development then needs to be assessed against the aforementioned criteria of DEV10.
- 8.15 The proposed development would not be ancillary to the principal use of the site (criteria A) as an outdoor sports facility, neither would the development represent only a minor part of the outdoor sports facility (criteria B).
- 8.16 In regards to criteria C, the development of the site is clearly linked to the provision of the new Newbattle High School immediately opposite the site's eastern boundary. It is clear that a new 3G pitch has been delivered at the new high school site. This will provide compensation for the loss of the artificial pitch at the former site and provide the school, and other users (out of school hours) good opportunity to utilise the facility even in poor weather conditions.

- 8.17 The applicant's position is that all required sports pitches and facilities have been re-provided at this new site. However, SportScotland have raised concerns that the redevelopment results in the net loss of one pitch. They have lodged a holding objection against the application. The planning authority has sought information from the applicant in order to address SportScotland's concerns but this has not been possible to resolve in advance of this report being prepared. Additional information is required from the applicant.
- 8.18 From a review of the approved application at the new high school site, there are no other additional pitches delivered at the site. Some amendment has been made to existing pitches that were in situ on the site. It is understood that this includes the rugby pitch at the site. However, as this is a reallocation of existing sports pitch space, there would still be a net loss in sports pitches across the sites. Were additional improvements to those grass pitches, such as drainage or lighting be provided, increasing the pitches' quality and usability, this would potentially compensate the loss of a pitch from the former site. However, at this time no such information has been provided to suggest this has occurred. In light of this, it is considered that the development would not comply with criteria C of policy DEV10.
- 8.19 In regards to criteria D of DEV10, the SPNA suggests that sufficient provision has been made in the local area. As previously set out, the OSA does not reference the site. The reason for this is not known. SportScotland have stated that they lack sufficient information (referenced above) to mitigate any concerns over the loss of a pitch. Without SportScotland support for the proposals the proposed development would not comply with criteria D.
- 8.20 As such, the proposed development would be in conflict with policy DEV10. In order to mitigate this conflict, it is considered that contributions would be required towards either the creation of new grass sports pitch or to the improvement of existing facilities at Newbattle High School. Were such improvements to existing facilities be achieved the proposed development would satisfy criteria C of DEV10. This contribution would be on top of the required contribution for a sports pitch as generated by the new population of the site itself.
- 8.21 Considering the above assessment a consideration of other material benefits that might outweigh any identified harm should be undertaken.
- 8.22 Turning to the proposed development itself, areas of the site are proposed to be included as open/amenity space, including the installation of new landscaping that is currently lacking on the site as well as some informal play facilities. In total the proposed development delivers just over a hectare (over two application sites) of open/amenity space within the development. The size of the open space designation at the site was circa 3.45ha. As such, the proposed development would mitigate some of the loss given to open space. Further

consideration is given to the fact that an artificial pitch on the site is included as open space. The pitch was assessed as being in poor repair in the SPNA and would constitute previously developed land. The surface is believed to have been removed. A construction compound currently sits on the area and whilst this is temporary the nature of what will remain is unclear but is unlikely to be suitable as a sports pitch.

- 8.23 The MLDP identifies the social objective to deliver new affordable housing in Midlothian. MLDP policy DEV3 requires market housing sites of this scale to deliver 25% affordable housing. The proposed development would deliver 90 new affordable dwellings. The development comprises 100% affordable housing. This is considered to be a valuable contribution to the Council area and there is a clear social benefit derived from the development.
- 8.24 All development carries with it an economic benefit. Whilst housing would generate this in the short term through construction jobs and other technical services, there would be modest benefit associated with such job creation.
- 8.25 From the assessment later in this report it can be seen that there are likely to be biodiversity benefits associated with the development. Likewise, the proposed housing will be energy efficient, also carrying some positive benefit.
- 8.26 Aside from the site's designation as open space the site has a number of merits as a development site. It is within the built limits of the Easthouses/Mayfield/Newtongrange settlements, the site is largely previously developed and it is deemed to be in an accessible location. The reasons for the site's designation as open space is not clear. Mitigation is considered to be available to compensate for the loss of sports facilities on the site.
- 8.27 When considering the harm in policy terms against other material benefits associated with the development the matter is finely balanced. As designated there would be a permanent loss of open space, but considering the background to the designation it is considered that the benefits would marginally outweigh the harm associated with policy DEV8.
- 8.28 Based on the above considerations the principle of development is therefore considered to be acceptable.

Layout, Form and Density

- 8.29 The proposed layout covers the majority of the site. It is disappointing that the site frontage cannot be considered together with the proposed development as that is covered by a separate planning permission in principle application. Whilst an indicative layout is shown within site B

(PPP application) this will not be approved as part of this application and a condition would be prudent to ensure that no development demarcated in site B (indicated by the dashed blue line and opaque shading on the submitted drawings) can be assumed to be acceptable.

- 8.30 The proposed layout delivers an inward looking development. Whilst development generally benefits from addressing neighbouring sites and not turning in on itself the proposed development is flanked to the north by the approved (but as yet unbuilt) primary school and to the south by approved residential development set a lower level to the site and beyond an approved retaining wall feature. At these boundaries there would be no considered benefit in turning dwellings to face outward. As such, the inward facing nature of the development is generally considered to be acceptable.
- 8.31 The proposed orientation of dwellings seeks to respond to the levels on the site that fall away from Easthouses Road towards the north west boundary. Dwellings are predominantly orientated facing either south west or north east. The orientation allows for development to descend gradually to the north west. Solar access is considered appropriate for all dwellings. These matters respond positively to the principles of MLDP policy DEV5.
- 8.32 At the north west of the site is proposed a SUDS storage basin. Centrally within the north west of the site is proposed an area of open space. Whilst these features are separated by a road and proposed flats, the more open nature of the development at the north west of the site seeks to respond to the open agricultural land to the north west, designated as Newbattle Strategic Greenspace Safeguard.
- 8.33 The proposed road layout is from a singular entrance at the south east of the site, which then forms a square within the heart of the site. The proposed development delivers two way traffic movements. At corners and junctions of the road alternative materials (block paving) are proposed in order to encourage slower speeds to drivers.
- 8.34 The site provides pedestrian connections at every boundary including cycle/pedestrian connections through the development from Easthouses Road to the proposed open space, and connecting to the north west boundary. The site further seeks to remove unattractive palisade fencing at the north west boundary with a view to allow an increased width of the existing core path (MID/5-12a/1) to 3m. The development allows for a pedestrian connection to the south and two connections to the north and the proposed primary school. The proposed development is considered to provide good levels of connectivity.
- 8.35 Proposed streets are predominantly bound by green verges and associated landscaping that will aid in creating attractive vistas, particularly when travelling north west through the site.

- 8.36 The proposed built form on the site does strike a degree of contrast from development to the north and south which predominantly delivers semi-detached and detached dwellings. The site delivers dwellings within short terraced runs and does provide some semi-detached properties and bungalows. Whilst terraced units are not located immediately to the north or south of the site, they are features in the wider locality, particularly within Newtongrange to the south. In addition, the site does not sit at the heart of a residential development, and would be flanked to the north by a new primary school. The site is therefore transitional, and the variation in built form is not considered to be inappropriate. All dwellings are proposed with pitched roofs and so generally reflect the massing of residential development in the area.
- 8.37 The pursuit of terraces on the site was further driven by the intent to deliver energy efficiency. The design and access statement sets out that “the proposed buildings will be designed and developed to achieve Passive House certification. A ‘fabric first’ approach will be taken to provide energy efficient buildings, with enhanced levels of insulation to walls, floors and roofs, along with increased air-tightness and energy-efficient windows and doors. Due to the high levels of airtightness, each unit will have a Mechanical Ventilation with Heat Recovery unit to provide fresh, filtered air into the buildings.”
- 8.38 The Council declared a climate emergency in 2019 and as such the proposed inclusion of these measures is considered to be a benefit to the application.
- 8.39 The proposed layout seeks to deliver private amenity space within the development. Midlothian’s space standards are generally achieved, with some properties having an excess of amenity space and others falling just short. However, where garden areas are considered to be just short of requirements, reasonable garden depths are achieved.
- 8.40 In addition to the above the proposed development retains good levels of separation within the development. No visual conflict is identified with neighbouring development, and back to back distances are readily achieved where back to back properties are proposed. Where rear to gable relationships occur, appropriate 16m distances are achieved.
- 8.41 The proposed materials are proposed to be a contemporary combination of white dry dash render, brick and slate roofs. The combination is considered to generally reflect the materials commonly used in the locality. The proposed brick will be of a red hue which will provide a reference to the brick used within Newtongrange, whilst not being a match. Seventeen units at the entrance of the site are proposed to utilise a natural sandstone and white dry dash render combination. The choice of material is sought to deliver an area of improved quality. Sandstone represents a less frequently utilised material within the area but is considered to be a high quality material.

A wet dash render might achieve a better render to accompany the sandstone choice and achieve in delivering a higher quality area. Replacement of the dry dash render on those units proposing sandstone with a wet dash render can be secured by condition.

- 8.42 The proposed built form is therefore generally considered to respond to the sites characteristics appropriately and would be considered to comply with MLDP policy DEV6.

Access and Transportation Issues

- 8.43 No objection has been raised by the Council Policy and Road Safety Manager. Despite this, a number of concerns have been raised that have not been addressed, despite iterations of the design. Some conditions will be required to address these matters, including details of; electric vehicles, cycle parking, minor amendments to foot/cycle paths and parking layouts.
- 8.44 A frequent bus service is located approximately 300m to the south of the site at the junction of Morris Road and Bryans Road. The site is therefore considered to be within a sustainable location and provides opportunity for active travel. The proposed development is considered to comply with MLDP policies TRAN1 and TRAN5.

Landscape and Visual Impact

- 8.45 The planning application was not accompanied by a landscape and visual impact assessment. The proposed development is not located within a special landscape area, however consideration is given to the topography of the site and the open Strategic Newbattle Green Space to the north and west of the development.
- 8.46 Through the determination of the application the layout has been amended to better respect the landscape to the west. Development has been drawn away from this boundary, and the proposed open space has been increased in size to link with the SUDS pond at that boundary. The proposed development is considered to appropriately address this change in land use, retain views from the site to the west and north and complies with MLDP policy DEV7.

Contamination and Remediation

- 8.47 A site investigation report was submitted as the area is located in a 'high risk' area of former coal mining. It was prepared by Bayne Stevenson Associates Ltd. This was reviewed by the Coal Authority and the Council's Senior Manager Protective Services.
- 8.48 The Coal Authority are content that coal mining legacy issues are not significant within the application site and do not pose a risk to the

proposed development and as such have no objection to the development.

- 8.49 The Council's Senior Manager Protective Services has highlighted that the site investigation has been assessed by the external reviewers who have raised a number of areas where additional information is required in order for remediation to be fully assessed. As such a condition will be required to secure; a remediation and validation strategy, clarity on the back filling and decommissioning of deep investigation holes, and clarity on why a detailed mine gas risk assessment has been omitted. Subject to the reasoning for the latter omission, a detailed mine gas risk assessment may be required.
- 8.50 Subject to the application of these conditions the proposed development would be acceptable on these terms.

Noise

- 8.51 At the north west of the site the primary school approved under application 19/00763/DPP delivers a MUGA. Whilst this facility can provide valuable play space for children on the proposed development the resultant light spill and noise impact could have a detrimental impact on the proposed development. It is not known what the intended operation for the MUGA would be and whether it would be accessible into the evenings when light and noise could cause most disturbance. The Council's Senior Manager Protective Services has further raised concerns on this basis.
- 8.52 In regards to light, it is noted that condition 9 of the primary school planning application seeks to limit floodlight operation to no later than 9pm. As such, the impact of light spill is mitigated.
- 8.53 No noise assessment has been submitted to the proposed application. As such the Council's Senior Manager Protective Services recommends that conditions be attached to any grant of planning permission requiring an acoustic barrier be provided between the MUGA and the residential development.

Flood Risk and Surface Water Drainage

- 8.54 The proposed development is sought to deliver a SUDS drainage system that will utilise an attenuation tank system combined with a wet SUDS pond at the north west boundary – this is acceptable.
- 8.55 It is noted that some hard surfaced paths currently appear excessively wide. For example, the proposed pavement at the front of plots 45-39 is a 3m wide path. At plot 39 the width then reduces and the benefit of the 3m wide route is lost. A multi user connection is proposed through the site and as such this pavement can be reduced to facilitate the reduction in hard surfacing. Likewise a multi user route is proposed

through the open space, with additional routes in excess of 2m in width. A condition is proposed in order to secure the reduction in width of pavements where appropriate to maximise permeable surfaces and deter surface water flooding.

- 8.56 With the suggested conditions the proposed development is considered to comply with MLDP policy ENV10.

Landscaping and Arboriculture

- 8.57 The site is generally free from landscaping except at site boundaries. The application was submitted with a landscape strategy that seeks to introduce a variety of planting across the site. The strategy seeks to create more biodiversity rich areas around the SUDS pond and in due course on the boundary of Easthouses Road (subject to the separate PPP application). The proposed open space is designed to be akin to a “village green” whilst smaller residential pocket parks are proposed at site boundaries. As such, landscaping is proposed across the proposed site and seeks to connect the various landscaped spaces with green verges and planting along roads. The approach is considered to have merit and is seen to create an attractive residential setting and complies with MLDP policy DEV7.
- 8.58 Within this site, no trees are proposed to be lost. The proposed loss of some category A and B trees on Site B will be assessed under application 21/00876/PPP.
- 8.59 In the wider area the site has the ability to connect existing green spaces. Aside from sports pitches at Newbattle High School, Bryans Wood is located to the south east and woodland is located on the north boundary of Newbattle High School. The sports pitches provide connectivity, if not habitat, directly between these locations. To the west is the Strategic Newbattle Green Space. It is clear that the proposed development would reduce the width of any open/undeveloped connection from open space and habitats to the east with those to the west. However, the development has sought to provide landscaping along wider verges along the entrance to the site. Landscaping on the sites southern boundary further provides a modest connection from east to west. On balance the development is considered to provide some form of green connectivity and would respond to the Council’s Green Network Supplementary Guidance.

Ecological Matters

- 8.60 Ecology reports were submitted which have been reviewed by the Council’s biodiversity advisor, TWIC. No objection has been raised. The site is considered to be of minimal value in biodiversity terms. The introduction of biodiversity friendly landscaping will aid in creating new habitat. The proposed development is considered to comply with MLDP policy ENV15.

Renewable Energy

- 8.61 MLDP policy NRG3 sets out that “Through attention to location, development mix, phasing, site and building layout and adaptability of buildings to future use, demand for energy should be limited.” The Passive House principles proposed for the dwellings are considered to respond positively to this policy. It is noted that in representations made to the application that the opportunity for renewable features have been overlooked. Opportunities to install solar panels would be available in the future, however internal design is harder to retrofit. The proposed Passive House features are considered to be a positive response to the climate change crisis.
- 8.62 A schedule of the Passive House elements set out in the design and access statement should be conditioned as part of this application. The condition would then require compliance with this schedule.
- 8.63 It is considered that in order to preserve the energy efficiency of the proposed development permitted development rights that might negatively impact the efficiency of the properties be removed. This will be secured by condition.

Developer Contributions

- 8.64 If the Council is minded to grant planning permission for the development it will be necessary for the applicant to enter into a planning obligation to secure:
- A financial contribution towards additional primary education capacity;
 - A financial contribution towards additional secondary education capacity;
 - A financial contribution towards boarders rail,
 - A financial contribution towards offsite equipped play; and
 - A financial contribution towards Mayfield Town Centre;
 - A financial contribution towards off site open space improvements.
- 8.65 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.

8.66 The requirements as set out above for any proposed planning obligation would meet the above tests.

9 RECOMMENDATION

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

The site is within the built area of Easthouses/Mayfield and is partly previously developed land. The loss of open space is considered to result in minor harm with regards policy DEV8 of the Midlothian Local Development Plan. Contributions towards improving open space offsite minimise conflict with policy DEV10. The identified harm is assessed to be outweighed by other material benefits through the provision of affordable housing, economic benefits as well as biodiversity improvement on the site. The proposed development will be of an acceptable scale and character that responds to the surrounding area. The proposal therefore complies with policies STRAT2, DEV2, DEV3, DEV5, DEV6, DEV7, DEV8, DEV9, DEV10, TRAN1, TRAN2, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV16, ENV18, ENV24, ENV25, NRG3, NRG6, IMP1, and IMP3 of the Midlothian Local Development Plan 2017.

Subject to:

- i. the completion of a planning obligation to secure:
 - A financial contribution towards additional primary education capacity;
 - A financial contribution towards additional secondary education capacity;
 - A financial contribution towards boarders rail,
 - A financial contribution towards offsite equipped play; and
 - A financial contribution towards Mayfield Town Centre;
 - A financial contribution towards off site open space improvements.

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

- ii. The prior agreement of SportScotland to remove their objection to the planning application; and
- iii. Subject to the following conditions:

1. Details of the layout within Site B, demarcated by the blue dashed line on plan rev: 1839-SSM-SIT-DR-AR-00020 REV B, is not approved as part of this application and shall not be commenced until such a time as that area has detailed planning permission.

Reason: *To allow that site to be delivered in accordance with the separate planning application currently being determined by the planning authority.*

2. Development shall not begin until 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, roads, parking areas and paths in relation to a fixed datum;
 - ii. existing trees, landscaping features and vegetation to be retained, removed, protected during development (to BS 5837:2012) and in the case of damage or loss, restored;
 - iii. proposed new planting including trees, shrubs, hedging 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. The landscaping shall be completed prior to the development being occupied. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August); unless a suitably qualified ecologist has carried out a walkover survey of the felling/removal area in the 48 hours prior to the commencement of felling/removal, and confirmed in writing that no breeding birds will be affected;
 - vii. proposed car park configuration and surfacing;
 - viii. details of the location, design, height and specification of proposed street lighting within the development;
 - ix. proposed footpaths; and
 - x. proposed parking facilities

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 (2vi). 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 policy DEV7 of the*

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

3. 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. The footpath/cycle link shall be a minimum of 3m in width;
 - 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. proposed bus stops/lay-bys and other public transport infrastructure;
 - ix. a programme for completion for the construction of access, roads, footpaths and cycle paths;

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.*

4. Development shall not begin until details and, if requested, 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: *In the interest of protecting the character and appearance of the area so as to comply with policies DEV2 of the Midlothian Local Development Plan 2017.*

5. Unless otherwise agreed in writing by the planning authority, the render used for plots 54-59 and 75-85, proposed to feature natural sandstone elements, shall be a wet dash render. Detailed elevations identifying

the use of this material will be submitted to the planning authority for approval prior to the commencement of development.

Reason: *To ensure that the development appropriately delivers materials of a high quality and so complies with policy DEV 6 of the MLDP.*

6. Development shall not be commenced until details of cycle parking, including, arrangements, shelter and location are submitted to and approved in writing by the planning authority.

Reason: *To ensure appropriate cycle parking facilities are available for future residents and visitors of the development.*

7. Development shall not begin until details, including a timetable of implementation, of superfast 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 the building. The delivery of high speed fibre broadband shall be implemented as per the approved details or such alternative as may be approved in writing by the planning authority.

Reason: *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure; and to comply with policy IT1 of the Midlothian Local Development Plan 2017*

8. Development shall not begin until details of a scheme to deal with surface water drainage 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 that the development is provided with adequate surface water drainage; and to ensure that development complies with policies ENV9, ENV10 and ENV15 of the Midlothian Local Development Plan 2017.*

9. Development shall not begin until an application for approval of matters specified in conditions for a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:
 - i. Details of construction access routes;
 - ii. signage for construction traffic, pedestrians and other users of the site;
 - iii. controls on the arrival and departure times for construction vehicles, delivery vehicles and for site workers (to avoid school arrival/departure times);
 - iv. details of piling methods (if employed);
 - v. details of any earthworks;

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

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

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

10. 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.

Reason: *To ensure compliance with policy ENV16 of the MLDP 2017.*

11. On completion of the decontamination/remediation works referred to in Condition 10 above and prior to any dwellinghouse 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 dwellinghouse shall be occupied unless or until the planning authority have approved the required validation.

Reason: *To ensure compliance with policy ENV16 of the MLDP 2017.*

12. Unless otherwise agreed in writing no development shall commence until the details of an acoustic barrier/bund shall be provided at the boundary of the site, between the proposed housing and approved MUGA on land to the north of the application site. The location, dimensions and design specification of the acoustic barrier/bund shall be to the satisfaction of the planning authority.

Reason: *In order to protect the amenity of future occupiers of the housing development given the close proximity of the MUGA.*

13. 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. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing by the planning authority.

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 Midlothian Local Development Plan 2017 and national planning guidance and advice.*

14. Development shall not begin until details of the provision and use of electric vehicle charging stations 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.*

15. Development shall not begin until details of a scheme to deal with surface water drainage has been submitted to and approved in writing by the planning authority. This shall include an updated cross section through the proposed SUDS pond which shows water levels and 1:200 year + climate change flooding level. 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 that the development is provided with adequate surface water drainage; and to ensure that development complies with policies ENV9 and ENV10 of the Midlothian Local Development Plan 2017.*

16. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, or any subsequent order amending or superseding it, no external alterations to the new block of six flats shall be permitted without the submission of a planning application.

Reason: To ensure that any future alterations maintain Passivhaus standards.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 4 March 2022

Application No: 21/00877/DPP
Applicant: Midlothian Council, Midlothian House, 40-46
Buccleuch Street, Dalkeith, EH22 1DN

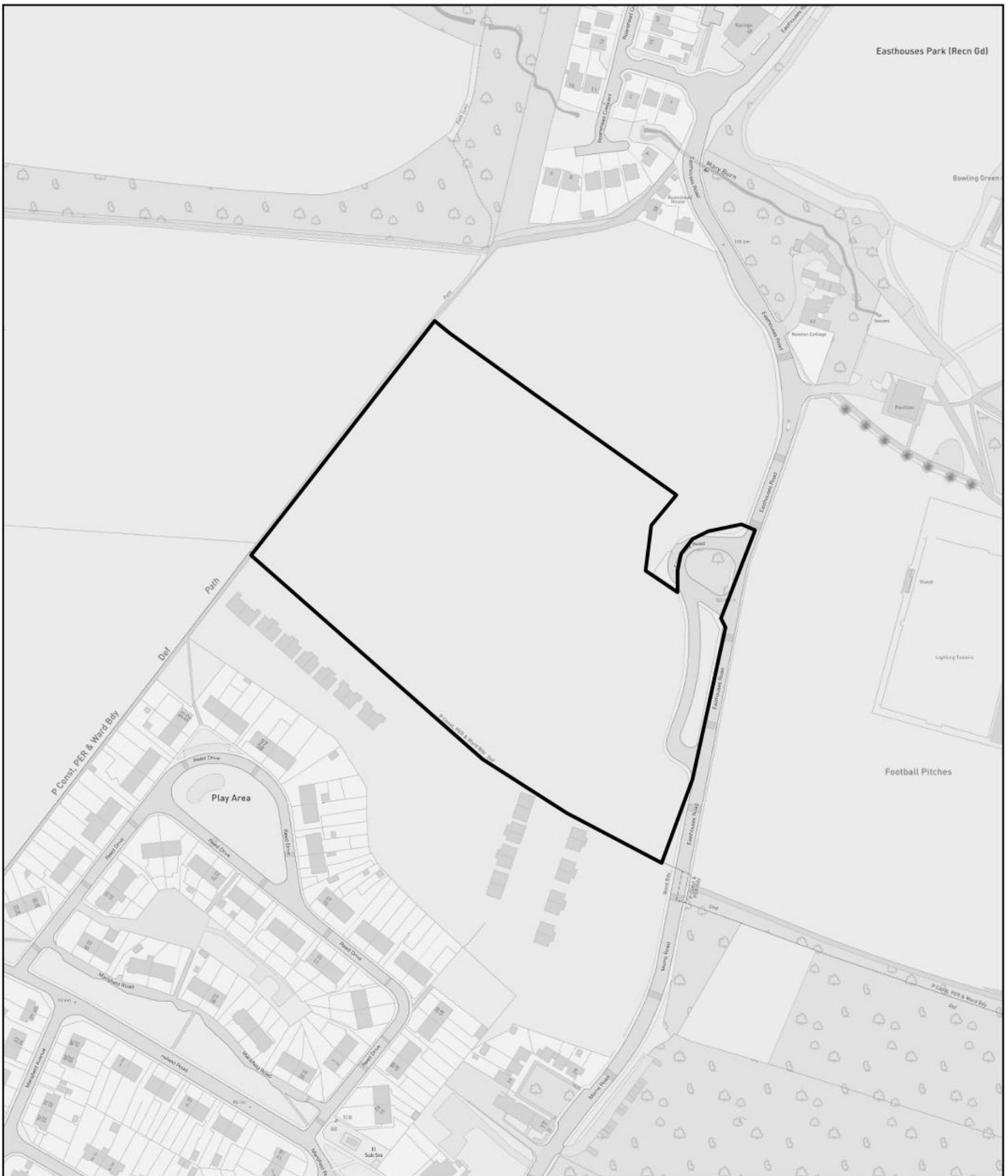
Agent: Smith Scott Mullan Associates

Validation Date: 2 November 2021

Contact Person: Hugh Shepherd

Email: hugh.shepherd@midlothian.gov.uk

Background Papers: 21/00632/PAC



**Planning Service
Place Directorate**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Erection of 98 dwellings; formation of access road, car parking, landscaping and associated works at Former Site of Newbattle Community High School, Easthouses Road, Easthouses, Dalkeith,

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File No: 21/00877/DPP

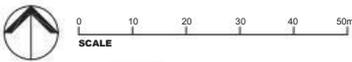


Midlothian Council Licence No. 100023416 (2022)

Scale: 1:3,000
Page 130 of 286



- KEY:**
- SITE BOUNDARY LINE
 - SITE B BOUNDARY LINE
 - DOWNTAKING
 - ▲ MAIN ENTRANCE ARROW
 - ▲ SECONDARY ENTRANCE ARROW
 - SITE A
 - HOUSE
 - COTTAGE FLATS
 - FLATS
 - SITE B



ISSUE	DATE	CHECKED
PLANNING APPLICATION	22.10.21	MVD/GA
REV A REVISED SITE PLAN AS PER PLANNERS COMMENT	04.02.22	MVD/GA
REV B TOTAL SITE BOUNDARY LINE SHOWN IN RED	16.02.22	MVD/GA
REV C BINS AND COLLECTION POINTS ADDED	23.02.22	MVD/GA

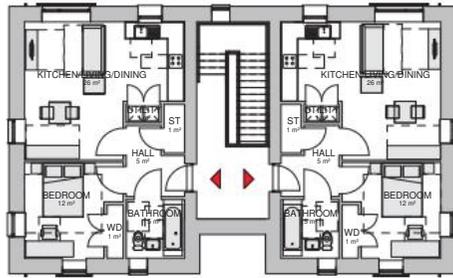
MIDLOTHIAN COUNCIL

NEWBATTLE HOUSING

SITE PLAN AS PROPOSED
UNIT MIX

mail@smith-scott-mullan.co.uk
0131 555 1414

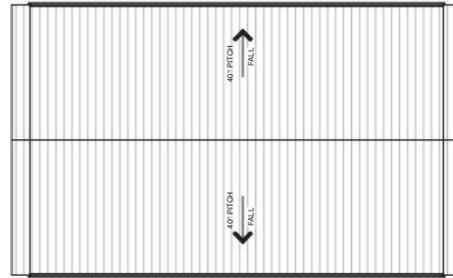
378 Leith Walk
Edinburgh EH7 4PF



TYPE C1.3
1B/2P TENEMENT FLAT, GIFA: 53m²

TYPE C1.3
1B/2P TENEMENT FLAT, GIFA: 53m²

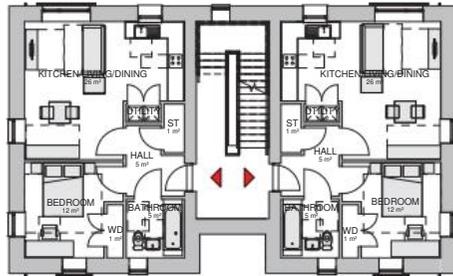
3 SECOND FLOOR PLAN
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4 ROOF PLAN
Scale: 1 : 100



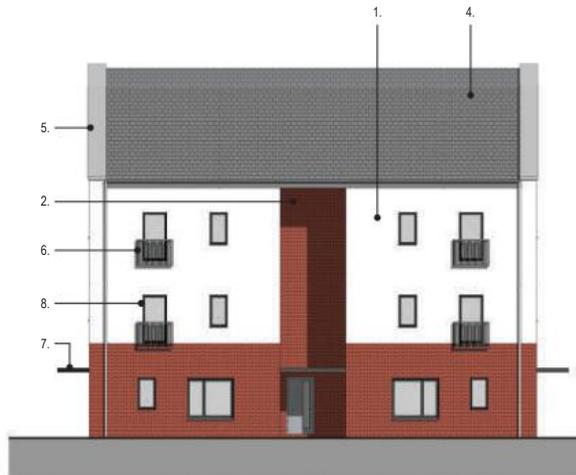
9 CROSS SECTION
Scale: 1 : 100



TYPE C1.3
1B/2P TENEMENT FLAT, GIFA: 53m²

TYPE C1.3
1B/2P TENEMENT FLAT, GIFA: 53m²

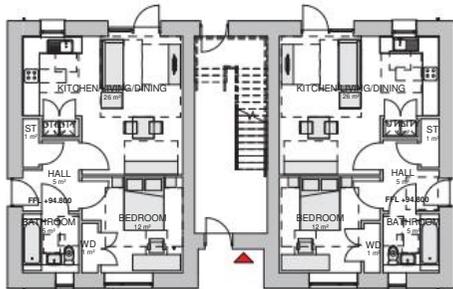
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5 FRONT ELEVATION
Scale: 1 : 100



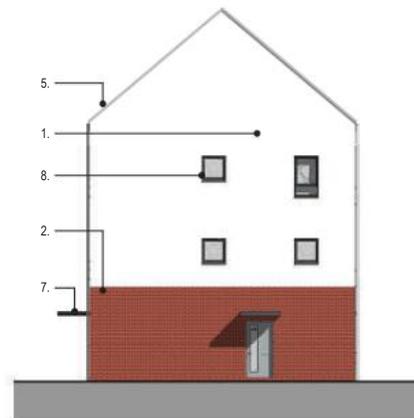
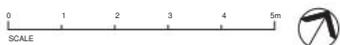
8 REAR ELEVATION
Scale: 1 : 100



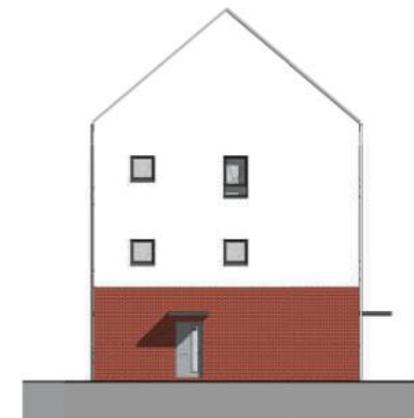
TYPE C1.3
1B/2P TENEMENT FLAT, GIFA: 53m²

TYPE C1.3
1B/2P TENEMENT FLAT, GIFA: 53m²

1 GROUND FLOOR PLAN
Scale: 1 : 100

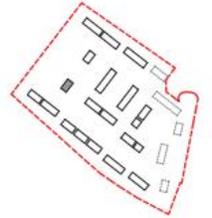


6 GABLE ELEVATION
Scale: 1 : 100



7 GABLE ELEVATION
Scale: 1 : 100

No.	Description	Date	Ch'd
	PLANNING APPLICATION	22.10.21	MWDS
A	BLOCKS UPDATED TO MATCH REVIEWED SITE PLAN	04.02.22	RMWD
B	TYPE OF BRICK AMENDED & ELEVATIONS REVIEWED	16.02.22	



EXTERNAL MATERIALS

1.	WHITE DRY DASH RENDER
2.	IBSTOCK BIRTLEY OLDE ENGLISH BUFF RED BRICK TYPE 1 BRICK BOND
3.	IBSTOCK BIRTLEY OLDE ENGLISH BUFF RED BRICK TYPE 2 BRICK BOND
4.	DARK GREY SLATE TILES PITCHED ROOF (40°)
5.	GREY ALUMINIUM WALL COPING
6.	GALVANISED STEEL JULIET BALUSTRADES
7.	750mm PROJECTION METAL CANOPY
8.	DARK GREY uPVC WINDOWS AND GLAZED DOORS
9.	PROJECTING PRECAST CONCRETE SARRIROUND TO GROUP OF WINDOWS

MIDLOTHIAN COUNCIL

NEWBATTLE HOUSING

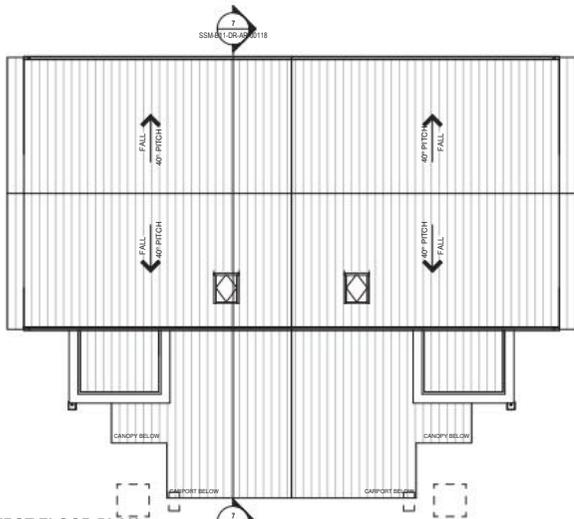
BLOCK 2
GROUND, FIRST, SECOND &
ROOF PLANS, SECTION &
ELEVATIONS

Scale: As indicated @ A1

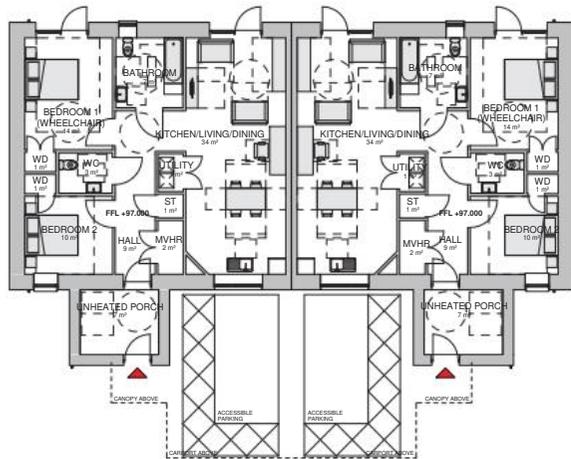
1839-SSM-BL2-DR-AR-00101 REV B

mail@smith-scott-mullan.co.uk 578 Leith Walk
0131 525 1414 Edinburgh EH7 4RF

SMITH SCOTT MULLAN ASSOCIATES



1 FIRST FLOOR PLAN
Scale: 1 : 100



TYPE B2
28/4P WHEELCHAIR ACCESSIBLE BUNGALOW
GIFA: 86m² (EXCL. PORCH.)

TYPE B2
28/4P WHEELCHAIR ACCESSIBLE BUNGALOW
GIFA: 86m² (EXCL. PORCH.)

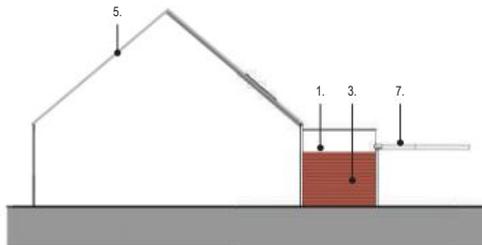
2 GROUND FLOOR PLAN
Scale: 1 : 100



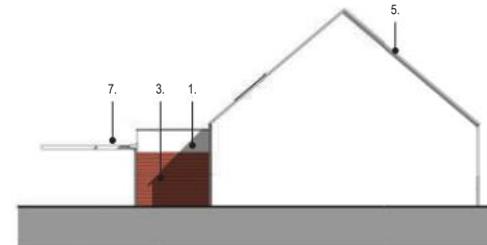
3 FRONT ELEVATION
Scale: 1 : 100



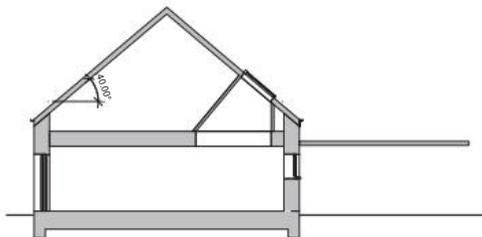
4 REAR ELEVATION
Scale: 1 : 100



5 GABLE ELEVATION
Scale: 1 : 100



6 GABLE ELEVATION
Scale: 1 : 100



7 CROSS SECTION
Scale: 1 : 100

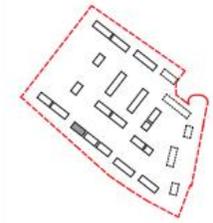
No.	Description	Date	Ch'd
	PLANNING APPLICATION	22.10.21	MWD/ES
A	BLOCKS UPDATED TO MATCH REVIEWED SITE PLAN	04.02.22	RM MVD
B	TYPE OF BRICK AMENDED & ELEVATIONS REVIEWED	16.02.22	RM MVD

NOTES

THIS DRAWING HAS BEEN PRODUCED FOR PLANNING APPLICATION PURPOSES ONLY. SIGNIFICANT DEVELOPMENT WILL BE REQUIRED FOR BUILDING WARRANT AND CONSTRUCTION FOR PURPOSES TO MEET THE REQUIREMENTS OF ANY EMPLOYERS REQUIREMENT DOCUMENT (E.R.D.)

EXTERNAL MATERIALS

1.	WHITE DRY DASH RENDER
2.	IBSTOCK BIRTLEY OLDE ENGLISH BUFF RED BRICK-TYPE 1 BRICK BOND
3.	IBSTOCK BIRTLEY OLDE ENGLISH BUFF RED BRICK-TYPE 2 BRICK BOND
4.	DARK GREY SLATE TILES PITCHED ROOF (40°)
5.	GREY ALUMINIUM WALL COPING
6.	GALVANISED STEEL JULIET BALUSTRADES
7.	750mm PROJECTION METAL CANOPY
8.	DARK GREY uPVC WINDOWS AND GLAZED DOORS
9.	PROJECTING PRECAST CONCRETE SARROUND TO GROUP OF WINDOWS



MIDLOTHIAN COUNCIL

NEWBATTLE HOUSING

BLOCK 11
PLANS, ELEVATIONS & SECTIONS (PLANNING)

Scale: As indicated @ A1

1839-SSM-B11-DR-AR-00118 REV B

msa@smith-scott-mullan.co.uk 578 Leith Walk
0131 552 1414 Edinburgh EH4 4PL

SMITH SCOTT MULLAN ASSOCIATES





APPLICATION FOR PLANNING PERMISSION 18/00099/DPP, FOR THE ERECTION OF 46 FLATTED DWELLINGS, 17 DWELLINGHOUSES AND 12 EXTRA CARE UNITS; FORMATION OF ACCESS ROADS AND CAR PARKING; SUDS FEATURES AND ASSOCIATED WORKS AT LAND AT GORE AVENUE AND NEWBYRES CRESCENT, GOREBRIDGE

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the erection of 46 flatted dwellings, 17 dwellinghouses and 12 extra care units (all affordable housing units); formation of access roads, car parking, a sustainable urban drainage system (SUDS) and associated works on land at Gore Avenue and Newbyres Crescent, Gorebridge.**
- 1.2 There has been one representation and consultation responses from the Coal Authority, the Scottish Environmental Protection Agency (SEPA), Scottish Water, NHS Lothian, The Wildlife Information Centre, the Council's Policy and Road Safety Manager and the Council's Senior Manager Protective Services.**
- 1.3 The relevant development plan policies are STRAT2, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN5, IT1, ENV9, ENV10, ENV16, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.4 The recommendation is to grant planning permission subject to conditions and securing developer contributions towards necessary infrastructure.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is situated to the north of the centre of Gorebridge. The site comprises three separate plots with a combined area of 1.9 hectares. The northernmost plot is situated to the north of Gore Avenue and measures 0.2 hectares. The main plot is situated to the south of Gore Avenue and extends as far as Lower Bonnybank Road. This plot measures 1.6 hectares in area. The final plot measures 0.1 hectares and is situated on the eastern side of Newbyres Crescent between numbers 99 and 101. The plots were formerly occupied by Council**

houses which were demolished in 2016 following concerns over gas emissions from former mine workings.

- 2.2 The northernmost plot is predominantly level. The main plot slopes gently down from north to south and sits at a lower level than the adjoining gardens on Newbyres Crescent to the east. The difference in levels between the application site and the gardens varies from approximately 2m to approximately 4.5m. The slopes separating the site from the gardens are retained by timber revetting and gabion baskets. The Newbyres Crescent plot slopes down from east to west with steeply sloping areas in the former rear garden spaces. The road surface and parking areas of the former development are still in place. The building plots are made ground that has been covered by self-seeded scrub vegetation.
- 2.3 The site is bounded to the north-west by Newbyres Care Village. The southern corner of the site is bounded to the west by Gorebridge Bowling and Social Club. The remaining boundaries of the site are with existing residential gardens.

3 PROPOSAL

- 3.1 The proposed development forms part of the Council's housing programme and seeks to provide affordable housing. It is proposed to utilise the existing road, car parking and drainage layout to provide a replacement development comprising the following:

Unit Type	Number of units
1 bed, 2 person flat	18
1 bed, 2 person cottage flat	14
2 bed, 4 person cottage flat	14
2 bed, 4 person house	8
3 bed, 4 person house	6
3 bed, 5 person house	2
4 bed, 6 person wheelchair accessible house	1
Total Social Housing	63
1 bed, 2 person extra care house	10
2 bed, 3 person extra care house	2
Total Extra Care Units	12
Total Number of units	75

For the sake of comparison the breakdown of the former (now demolished) development was as follows:

Unit Type	Number of units
2 bed, 3 person flat	20
2 bed, 4 person flat	8
3 bed, 4 person house	18

3 bed, 5 person house	6
4 bed, 6 person house	1
Wheelchair user house	1
Total Social Housing	54
1 bed, 2 person care house	4
2 bed, 3 person care house	6
Total Care Housing	10
Total number of units	64

- 3.2 The increase in unit numbers compared to the previous scheme is primarily accounted for by the replacement of 2 storey houses with 2 storey blocks of cottage flats. The proposed development is predominantly two storey with the exception of the extra care units which will be single storey, the wheelchair accessible house which will be a bungalow with additional accommodation within the roofspace and the 18 x 1 bed flats which will be accommodated in three storey blocks. All of the buildings will have conventionally pitched roofs.
- 3.3 The walls of the buildings will be finished with white dry dash render; red brick basecourses and feature panels; and grey/blue fibre cement feature panels. The roofs will be finished with grey concrete roof tiles. The windows will have white uPVC frames and the entrance doors will be grey or white composite doors.
- 3.4 The existing road layout will be retained with one exception. The previous layout allowed free movement of vehicles from Gore Avenue to Lower Bonnybank Road and this resulted in the road being used as a rat run to avoid congestion on Gorebridge Main Street and Hunterfield Road. The proposed layout incorporates a grassed bund to close off the through route creating a cul-de-sac accessed from Lower Bonnybank Road and a loop from Gore Avenue via Newbyres Crescent. A pedestrian through route will be maintained. The bund will be adjacent to the main landscaped open space within the development. Residents of the former development experienced problems of anti-social behaviour at the raised slopes, revetting and gabion baskets along the eastern edge of the site; the proposed landscaping layout will include dense low level shrubbery on the raised slopes and access will be restricted via fencing.

4 BACKGROUND

- 4.1 The site was first developed for residential purposes in the late 1950's. Around 1999 the housing had reached the end of its design life and it was demolished to facilitate a modern redevelopment of the site. Consent for the Council's redevelopment (64 housing units including 10 care units) of the site was granted via a Notice of Intention to Develop (reference 07/00209/NID) and the new housing was constructed with occupation taking place circa 2009.

- 4.2 In September 2013 members of two households within the former development reported symptoms consistent with carbon dioxide exposure. Further affected residents were subsequently identified and by September 2014 22 residents, out of a total of 165 in the affected development, had reported symptoms of carbon dioxide exposure. As the number of affected residents increased NHS Lothian established an Incident Management Team in April 2014. Initial investigations concluded that the source of the carbon dioxide was most likely to be ground gas from abandoned mine workings.
- 4.3 Residents of the former development were re-housed between June 2014 and September 2015. A prior notification (reference 16/00055/PNDEM) for the demolition of the buildings was submitted in January 2016 and the buildings were demolished later that year.
- 4.4 A Proposal of Application Notice (reference 17/00913/PAC) for the redevelopment of the site was submitted in November 2017 and reported to the Planning Committee at its meeting on 9 January 2018.
- 4.5 As part of the assessment of the current application the Planning Authority issued a screening opinion for the current proposals advising that an Environmental Impact Assessment (EIA) was not required.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application subject to conditions to secure a scheme of intrusive site investigations and, if necessary, remediation measures; a scheme of remediation to address the risk posed by the two mine entries (shafts) within the site; and a scheme of gas protection measures.
- 5.2 The **Scottish Environment Protection Agency (SEPA)** does not object to the application confirming that ground/mining gas is a matter for the Council to consider.
- 5.3 **Scottish Water** does not object to the application. They advise that there is currently sufficient capacity within the Rosebery Water Treatment Works for future water supply. However, it was noted that capacity of the Gorebridge Waste Water Treatment Works could not be confirmed and that a detailed Pre-Development Enquiry is required to be provided to consider future connection. They also note that future capacity cannot be reserved and that capacity will be reviewed upon any formal connection application being submitted to Scottish Water. The response advises that for reasons of sustainability Scottish Water do not accept surface water drainage connections into the combined sewer system. There may be limited exceptional circumstances where connection, for brownfield sites only, will be allowed. Significant justification will be required from the customer taking account of various factors including legal, physical and technical challenges.

- 5.4 The **NHS** – The Final Report of the NHS Lothian Incident Management Team (IMT) was published in November 2017. Although not included as a recommendation in the report, the Council's then Chief Executive committed to NHS Lothian being consulted on any future planning application on the site. The planning authority's standard approach for consulting NHS Lothian is to send a consultation to the Midlothian Health and Social Care Partnership (MHSCP). A consultation was sent to MHSCP on 23 March 2018. MHSCP requested that a consultation be sent directly to the Chair of the IMT. A consultation was issued direct to the Chair of the IMT on 27 March 2018. An initial draft of the Ground Gas Discussion & Remedial Measures Proposal was prepared in March 2019 - a notification was issued to the Chair of the IMT on 12 April 2019. The proposal was then amended in May 2019 so a further notification was sent to the Chair of the IMT on 7 May 2019. A consultation reminder email was sent 4 June 2019, following which the Chair of the IMT requested access to the file transfer system used by the Council. Access was granted to the file transfer system 25 June 2019. NHS Lothian has since offered no comment on the proposal and no objection to the application.
- 5.5 The **Wildlife Information Centre (TWIC – the Council's Biodiversity Advisor)** screening process confirmed that due to the nature of the application the proposal will not have any effect on biodiversity.
- 5.6 The Council's **Policy and Road Safety Manager** does not object to the application.
- 5.7 The Council's **Senior Manager, Protective Services** was consulted in February 2018. External peer review comments received in March 2021 confirmed that the scope of the proposed remediation statement was acceptable and that a remediation statement should be prepared. At the time of drafting this Committee report a remediation strategy was being prepared.

6 REPRESENTATIONS

- 6.1 The application has received one representations (an objection) which can be viewed in full on the online planning application case file. The primary reasons for objection are as follows:
- The bathroom windows in the gable end of Block 02 (a three storey block of flats) will overlook the representor's garden and result in a loss of privacy;
 - The height of the three storey block will be overbearing when viewed from the representor's property;
 - The height of the three storey block will result in a loss of daylight and sunlight to the representor's property; and
 - The occupants of the flats in the previous development were responsible for multiple incidents of anti-social behaviour. It is likely that similar incidents will occur and this is unacceptable in

close proximity to the existing care village, the proposed extra care housing and the existing amenity housing on Newbyres Crescent.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan June 2013 (SESplan1) and the Midlothian Local Plan 2017 (MLDP). The following policies are relevant to the proposal:

Midlothian Local Development Plan 2017 (MLDP)

- 7.2 Policy **STRAT2: Windfall Housing Sites** supports 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: 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.
- 7.4 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from windfall sites identified during the plan period. 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
- 7.5 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.6 Policy **DEV6: Layout and Design of New Development** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, and passive energy gain, positioning of buildings, open and private amenity space provision and parking.
- 7.7 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.
- 7.8 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.

- 7.9 Policy **TRAN5: Electric Vehicle Charging** seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals.
- 7.10 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals.
- 7.11 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.
- 7.12 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environment.
- 7.13 Policy **ENV16: Vacant, Derelict and Contaminated Land** supports the redevelopment of vacant and derelict land for uses compatible with their location. Developments will be required to demonstrate that the site is suitable for the proposed new use in terms of the risk posed by contamination and instability from historic uses.
- 7.14 Policy **IMP1: New Development** 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.
- 7.15 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.

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

National Policy

- 7.17 **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.
- 7.18 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.
- 7.19 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”*.
- 7.20 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.
- 7.21 SPP introduces a *‘presumption in favour of development that contributes to sustainable development’* but goes on to state that:

“The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost”.
- 7.22 Paragraph 29 of SPP then goes on to state that decisions on sustainable development should be guided by the following principles:
- giving due weight to net economic benefit;

- responding to economic issues, challenges and opportunities, as outlined in local economic strategies;
- supporting good design and the six qualities of successful places;
- making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities;
- supporting delivery of accessible housing, business, retailing and leisure development;
- supporting delivery of infrastructure, for example transport, education, energy, digital and water;
- supporting climate change mitigation and adaptation including taking account of flood risk;
- improving health and well-being by offering opportunities for social interaction and physical activity, including sport and recreation;
- having regard to the principles for sustainable land use set out in the Land Use Strategy;
- protecting, enhancing and promoting access to cultural heritage, including the historic environment;
- protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
- reducing waste, facilitating its management and promoting resource recovery; and
- avoiding over-development, protecting the amenity of new and existing development and considering the implications of development for water, air and soil quality.

- 7.23 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.
- 7.24 **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.
- 7.25 **The Scottish Government's Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.
- 7.26 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.'

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 representation and consultation responses received are material considerations.

Principle of Development

- 8.2 The application site is situated within the built-up area of Gorebridge where there is a presumption in favour of appropriate development. MLDP policies DEV2 and STRAT2 support the principle of development within the built-up area subject to the details of the proposal being acceptable. Furthermore, the site has intermittently accommodated residential development since the late 1950's – the last scheme built 2007-2009 and occupied in 2009 was demolished in 2016 because of concerns over gas. The principle of residential development on the site is acceptable.

Ground Conditions and Remediation Strategy

- 8.3 There remains an outstanding concern over carbon dioxide exposure and the absence of an acceptable remediation strategy to address the risk – the applicant has committed to preparing a remediation strategy, but has not been able to conclude this matter prior to the drafting of this Committee report. It is the current practice to attach contaminated land conditions to the majority of permissions for the erection of new buildings outwith the curtilage of existing dwellinghouses. The standard conditions secure site investigation works, remediation strategies (if required) and validation reports to confirm that remediation works have been satisfactorily carried out prior to the occupation of the building.
- 8.4 Whilst some of the information that would ordinarily be submitted to discharge such conditions has already been submitted, in the absence of a finalised remediation strategy it is still necessary to attach the full conditions. Information submitted to assess such conditions is assessed by the planning authority in consultation with the Council's Senior Manager, Protective Services and also by external peer reviewers with specialist knowledge of contaminated land issues and remediation strategies. In addition to the planning authority's role in assessing such information the building warrant process also assesses the safety and installation of remediation measures.

- 8.5 The planning authority has made it clear to the applicant since pre-application discussions that the issue of a remediation strategy would need to be considered at an earlier phase of the development process than ordinarily happens. Extensive negotiations have been carried out since early 2018 between the applicant and their specialist consultants and the Council's protective services officers and their external peer reviewers; a scope for the remediation strategy was agreed in March 2021 and work has been progressing on the preparation of the strategy since then.

Design and Layout

- 8.6 With the exception of a minor adjustment to close off the through road the street and landscape layout is the same as the previously constructed 2007-2009 scheme. The buildings scale, design, layout and finish materials are comparable to the previously constructed scheme and the proposed development will be in keeping with the character and appearance of the surrounding area.
- 8.7 The development layout provides 73 car parking spaces within the application site boundary, this is an increase of 19 spaces when compared to the previous built layout. The proposed spaces are broken down as follows: 22 courtyard spaces; 42 on street bays (comprising a mix of 9 parallel spaces and 33 end on spaces); and 9 spaces within the curtilage of dwellinghouses. In addition the extra care housing has access to 18 spaces that are situated immediately to the north of the site and are shared with Newbyres Care Village.

Amenity of Local Residents

- 8.8 The similarities (with the 2007-2009 scheme) in site layout and the size of the proposed buildings mean that the impact on the amenity of neighbouring residents is broadly the same as that for the previous layout which was considered to be acceptable. The most obvious difference is the Gore Avenue frontage where the gable elevation of a three storey block of flats faces towards the garden and rear elevation of a single storey semi-detached bungalow on Newbyres Crescent. The previous layout at this location on the site included a 2 ½ storey block of flats which stepped down to a two storey cottage flatted block closest to the Newbyres Crescent property.
- 8.9 There are significant level changes between the application site and the neighbouring property which mean that the finished floor level of ground floor of the flats will be 3m below that of the bungalow. This will mean that the impact of the gable elevation will be similar to that of a two storey property when viewed from a site where levels are uniform. The gable elevation will not appear as over-bearing when viewed from the neighbouring bungalow or its garden. The level changes, in conjunction with the layout of the proposed development, will also

ensure that the bungalow and its garden will continue to receive adequate levels of daylight and sunlight. There will be no windows in the gable elevation facing towards the bungalow and this will ensure that there will be no significant increase in overlooking when compared to the former situations.

- 8.10 The allocation of properties and any instances of regular anti-social behaviour by residents are matters for the Council as housing authority, but are not matters within the control of the planning authority and are not material considerations in the assessment of the application.

Developer Contributions

- 8.11 The site is in the A7/A68 Borders Rail Line Corridor and the site is specifically identified in the MLDP as being required to contribute towards Borders Rail - proportionate contribution will be sought from the additional nine houses (not the extra care units). A proportionate contribution will also be sought towards the Gorebridge Town Centre improvements and towards Gorebridge Community facilities.
- 8.12 The non-care elements of the 2007-2009 scheme comprised two, three and four bedroom units and contributions towards education provision were secured on the basis of the anticipated number of child bed spaces. The current scheme includes more units than the 2007-2009 scheme, however it also includes 32 x one bedroom units. Given the previous contribution towards education infrastructure and the proposed number of one bedroom units there is no requirement for further contributions towards education infrastructure.

9 RECOMMENDATION

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

The site is situated within the built-up area and has a long history of residential development of similar scale to the proposal. The proposed development will be in keeping with the scale and character of the surrounding area; will provide adequate open space and parking provision; and will not have a significant detrimental impact on the residential amenity of the area. The proposal therefore complies with policies STRAT2, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN5, IT1, ENV9, ENV10, ENV16, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.

Subject to:

- i) the completion of a planning obligation to secure:
- A financial contribution towards public transport (Borders Rail Line);
 - A financial contribution towards town centre improvements; and
 - A financial contribution towards community facilities.

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 a scheme to deal with any contamination of the site has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and shall include:
 - i. the nature, extent and types of contamination on the site;
 - ii. measures to treat or remove contamination to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination originating within the site;
 - iii. measures to deal with contamination encountered during construction work; and
 - iv. the condition of the site on completion of the specified decontamination measures.
2. On completion of any decontamination/ remediation works, referred to in Condition 1, and prior to any building on the site being occupied or brought into use, a validation report prepared by a suitably competent person shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No building on the site shall be occupied or brought into use unless or until the planning authority have approved the required validation.

Reason for conditions 1 and 2: To ensure that any contamination on the site is 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 a scheme to deal with the risks posed by the coal mining legacy within the surrounding area has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and shall include:
 - i. the undertaking of an appropriate scheme of intrusive site investigations;
 - ii. the submission of a report of findings arising from the intrusive site investigations;
 - iii. the submission of a scheme of remedial works for treatment to treat any areas of shallow mine workings; and

- iv. the submission of a scheme of remedial works for the mine entries within the site.
4. On completion of any remediation works, referred to in Condition 3, and prior to any building on the site being occupied or brought into use, a validation report prepared by a suitably competent person shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved schemes. No building on the site shall be occupied or brought into use unless or until the planning authority have approved the required validation.

Reason for conditions 3 and 4: To ensure that any risks posed by the coal mining history of the area are identified and addressed prior to further development commencing.

5. Development shall not begin until 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, roads, parking areas and paths in relation to a fixed datum;
 - ii existing trees, landscaping features and vegetation to be retained, removed, protected during development (to BS 5837:2012) and in the case of damage, restored;
 - iii proposed new planting including trees, shrubs, hedging 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. The landscaping shall be completed prior to the development being occupied. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August); unless a suitably qualified ecologist has carried out a walkover survey of the felling/removal area in the 48 hours prior to the commencement of felling/removal, and confirmed in writing that no breeding birds will be affected;
 - vii proposed car park configuration and surfacing;
 - viii details of the location, design, height and specification of proposed street lighting within the development;
 - ix proposed footpaths; and
 - x proposed cycle parking facilities.

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 policy DEV7 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

6. Development shall not begin until details and, if requested, 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: *In the interest of protecting the character and appearance of the area; the amenity of future residents or occupiers; and so as to comply with policy DEV2 of the Midlothian Local Development Plan 2017.*

7. Development shall not begin until details of the provision and use of electric vehicle charging stations 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.*

8. Development shall not begin until details, including a timetable of implementation, of superfast broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of superfast broadband prior to the occupation of the building. The delivery of superfast fibre broadband shall be implemented as per the approved details or such alternative as may be approved in writing by the planning authority.

Reason: *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure; and to comply with policy IT1 of the Midlothian Local Development Plan 2017*

9. Development shall not begin until details of a scheme to deal with surface water drainage 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 that the development is provided with adequate surface water drainage; and to ensure that development complies with policies ENV9 and ENV10 of the Midlothian Local Development Plan 2017.*

10. 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 and the provision of hedgehog friendly fencing 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 by the planning authority.

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

11. 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. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing by the planning authority.

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 Midlothian Local Development Plan 2017 and national planning guidance and advice.*

12. No development shall begin in 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/dwellinghouse/extra care housing built on the site are occupied in perpetuity only as affordable housing as defined in the Midlothian Local Development Plan 2017;
- b) The planning authority has approved the measures, submitted to discharge requirement 12 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.*

13. Development shall not begin until an application for approval of matters specified in conditions for a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:

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

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

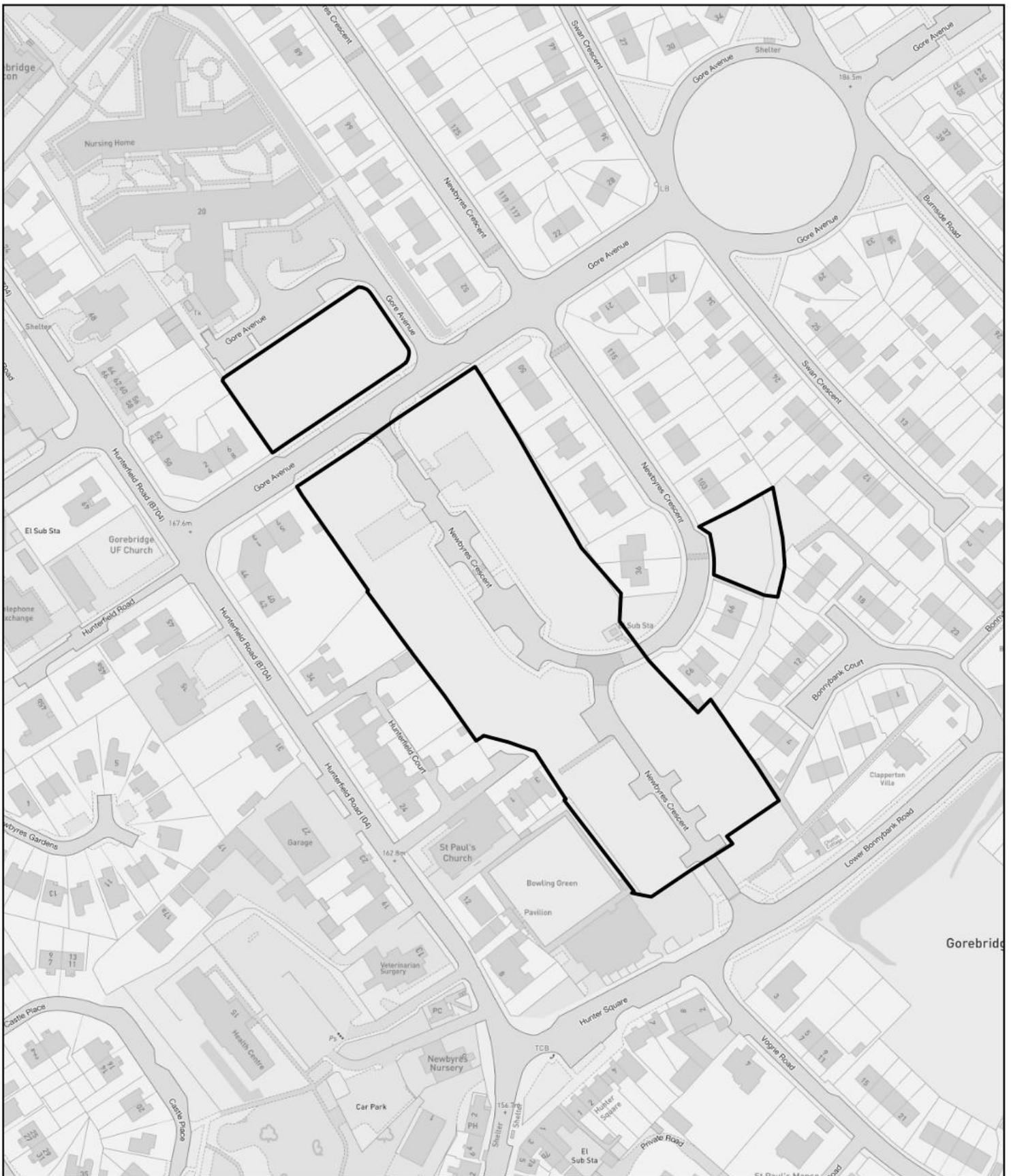
Reason: *In order to control the construction activity on the site, ensure environmental impact during the construction period is acceptable and to ensure appropriate mitigation is in place.*

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 or any subsequent order amending or superseding it, no extensions to the dwellinghouses, flats or Extra Care Housing nor the erection of any new buildings within the curtilage of the dwellinghouses, flats or Extra Care Housing shall be permitted without the submission of a planning application.

***Reason:** To ensure that any extensions or detached buildings are provided with adequate gas mitigation measures.*

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 4 March 2022
Application No: 18/00099/DPP
Applicant: Hart Builders
Agent: Hackland + Dore
Validation Date: 15 February 2018
Contact Person: Graeme King
Email: graeme.king@midlothian.gov.uk
Background Papers: 07/00209/NID, 17/00913/PAC



Planning Service
Place Directorate
 Midlothian Council
 Fairfield House
 8 Lothian Road
 Dalkeith
 EH22 3AA

Erection of 46 flatted dwellings; 17 dwellinghouses and 12 extra care units; formation of access roads and car parking; SUDS features and associated works at Land At Gore Avenue And Newbyres Crescent, Gorebridge,

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- 1 bed 2 person flats - type C1 x 18
 - 1 bed 2 person cottage flats - type C2 x 14
 - 2 bed 4 person cottage flats - type E x 14
 - 2 bed 4 person house - type G x 8
 - 3 bed 4 person house - type H x 6
 - 3 bed 5 person house - type J x 2
 - 4 bed 6 person wheelchair accessible house - type N x 1
- Total 63 units 66 car parking spaces**

Extra Care: 12no.
1 bed / 2 person 10no.
2 bed / 3 person 2no.

- Total 75no. dwellings**
- EC1 1 bed 2 person x 3
 - EC2 1 bed 2 person x 2
 - EC3 1 bed 2 person x 4
 - EC4 2 bed 3 person bariatric units x 2
 - EC5 2 bed 3 person bariatric units x 1
- Total 12 units 18 car parking spaces**

rev D lockable gates shown to access eastern boundary for landscape and maintenance to maintain shrubs. Block 08 footprint moved towards footpath for levels 18-03-20 JP
rev C planning application 18-03-20 JP
rev B amendments: 17-11-20 JP
1. turning head landscaping amended
2. footpath to Block 08 amended
rev A amendments: 17-11-20 JP
1. care units amended to include additional bariatric unit
2. fenced blocks moved to Gore avenue in line with planning comments
3. block 17 repositioned to face main street
4. turning head for refuse vehicles added

Headland Consultants Ltd 1017/PL/002 D	1017/PL/002 D	1017/PL/002 D	1017/PL/002 D
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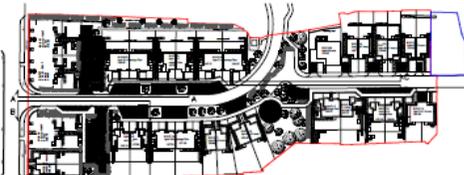
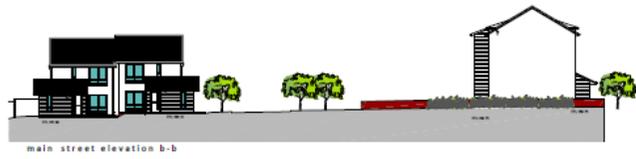
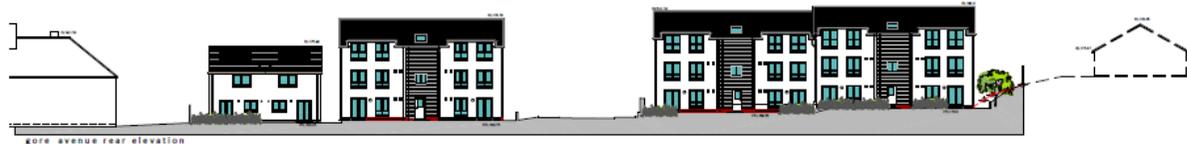
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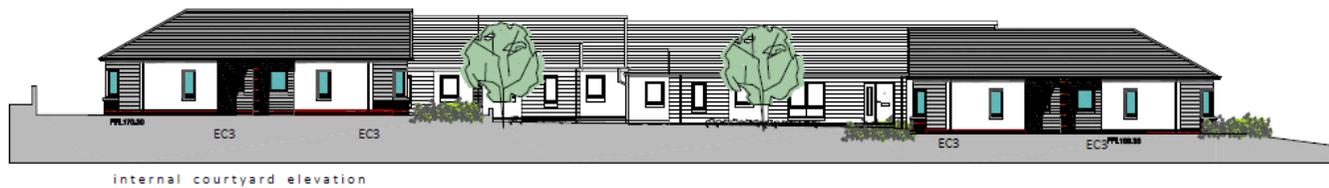
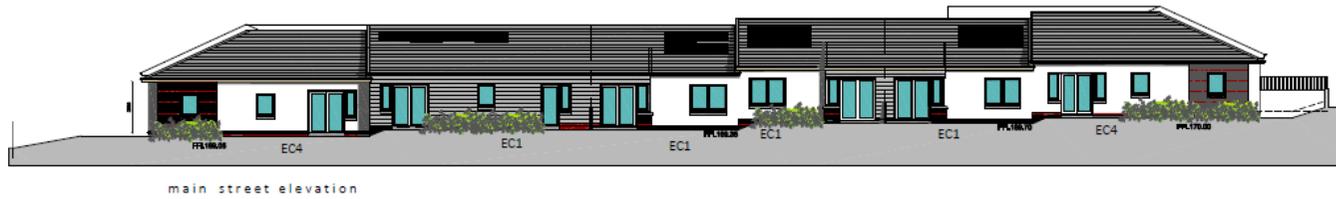
Hatchell Drew
 111 Ansonville Close
 Mablethorpe, Lincs
 Lincs LN11 8JG
 Tel: 01522 888772
 Email: info@hatchelldrew.com

Drawings and Plans Issued for Building Control	Proposed new build street elevations	10/11/17	1:100	10/11/17
Drawings and Plans Issued for Building Control	Proposed new build street elevations	10/11/17	1:100	10/11/17
Drawings and Plans Issued for Building Control	Proposed new build street elevations	10/11/17	1:100	10/11/17

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Not to Scale

scale at 1:100

15m



11 Ansonville Street
 Melbourne VIC 3004
 Telephone: (03) 9493 7122
 Fax: (03) 9493 7123
 email: info@bellgrove.com.au

proposed external materials

- external walls:
 3 course red brick base course
 white dry dash render
- feature panels:
 marley etemit natura - blue grey
 cladding to entrance porch red brick
- feature panels
- roof:
 concrete interlocking tiles
- windows:
 white UPVC windows
- Doors:
 Composite white doors

Extra Care: 12 no.
 1 bed / 2 person 10 no.
 2 bed / 3 person
 bariatric units 02 no.

Total 12 no. dwellings

Drawings and Data are the Property of Bellgrove Consulting	care unit elevations	11/03/18	1:100(04)	10/04/18
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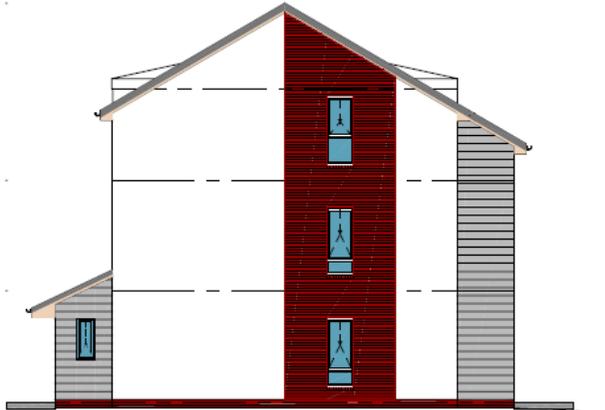
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block 02 front elevation to Gore Avenue

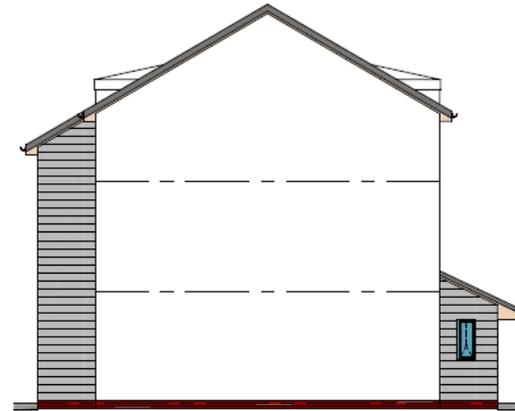
Type C1
1 Bed 2 person flats

- proposed external materials
- external walls:
 3 course red brick base course
 white dry dash render
 - feature panels
 marley steamit natura - blue grey
 cladding to entrance porch and
 communal stair
 red brick feature panels on gables
 - roof
 concrete interlocking tiles
 - windows
 white UPVC windows
 - Doors
 Composite grey doors



block 02 gable elevation

red brick feature panel to gables at entrance into site



block 02 gable elevation

Not to Scale

Hullhood Design
 10 Knowledge Drive
 HULLHOOD, HU14 4JN
 Telephone: 01482 710772
 Fax: 01482 710773
 info@hullhood-design.com

Block 02 - 1st Type C1 - 1 Bed 2 person front elevations	08/04/2022	10/04/2022	10/04/2022
Block 02 - 1st Type C1 - 1 Bed 2 person front elevations	PLANNING	10/04/2022	10/04/2022

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**Type C1
 1 Bed 2 person flats**



block 02 rear elevation

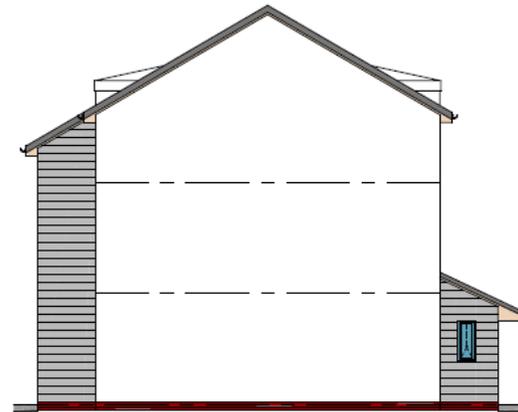
- marley etemit natura -
 blue grey cladding to entrance porch and communal stair
 - three course base red brick

- proposed external materials
- external walls:
 3 course red brick base course
 white dry dash render
 - feature panels
 marley etemit natura - blue grey
 cladding to entrance porch and
 communal stair
 red brick feature panels on gables
 - roof
 concrete interlocking tiles
 - windows
 white UPVC windows
 - Doors
 Composite white doors



block 02 gable elevation

- marley etemit natura -
 blue grey cladding to entrance porch and communal stair
 - three course base course red brick



Not to Scale

EdMud Draw
 10/10/2017 10:00:00
 10/10/2017 10:00:00
 10/10/2017 10:00:00
 10/10/2017 10:00:00

Block 02 - flat type C1 1 bed 2 person	10/10/2017 10:00:00
Block 02 - flat type C1 1 bed 2 person	10/10/2017 10:00:00
Block 02 - flat type C1 1 bed 2 person	10/10/2017 10:00:00
Block 02 - flat type C1 1 bed 2 person	10/10/2017 10:00:00

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Type C1
 1 Bed 2 person flats

proposed external materials

external walls:
 3 course red brick base course
 white dry dash render

feature panels
 marley element natura - blue grey
 cladding to entrance porch and
 communal stair
 red brick feature panels on gables

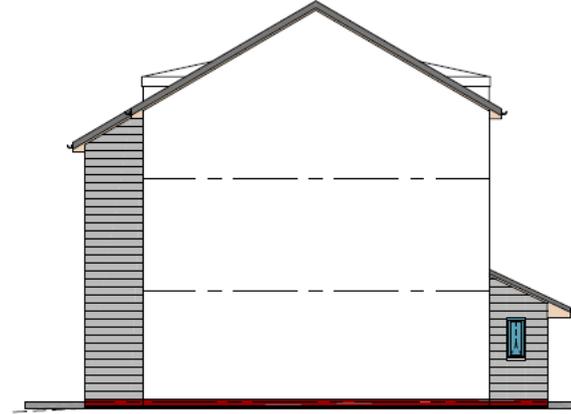
roof
 concrete interlocking tiles
 photovoltaics on main roof

windows
 white UPVC windows

Doors
 Composite white doors



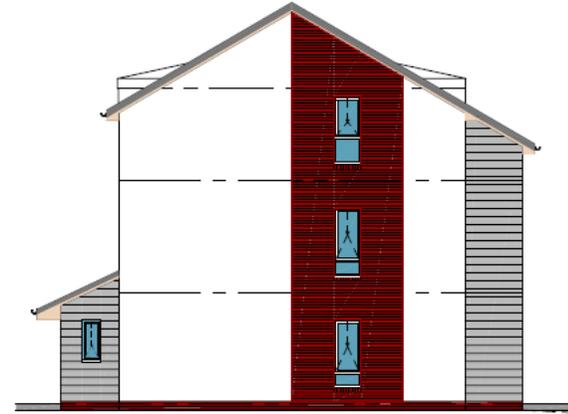
block 03 rear elevation



block 03 gable elevation



block 03 front elevation



block 03 gable elevation

Not to Scale

Hatchford Design
 11, Greenfield Street
 Colchester CO1 1AA
 0206 2000000
 0206 2000000
 info@hatchford-design.com

Approved by (Name and Position)	Block 03 - Flat type C1 1bed 2 person	Drawn by	John
Checked by (Name and Position)	Architecture	Issue No	001
Noted by (Name and Position)	Planning	Project No	1017(PL) 2018
Approved by (Name and Position)			

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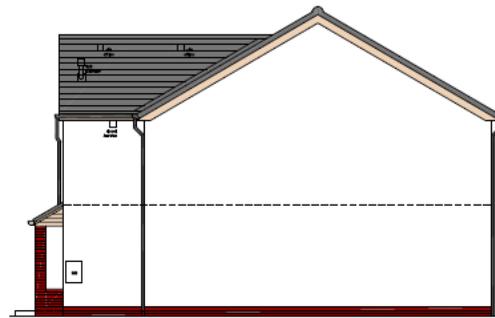
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Type G
 2 Bed 4 person house

- proposed external materials
- external walls:
 - 3 course red brick base course
 - white dry dash render
 - roof
 - concrete interlocking tiles
 - photovoltaics on main roof
 - windows
 - white UPVC windows
 - Doors
 - Composite grey doors
 - red brick piers to entrance canopies



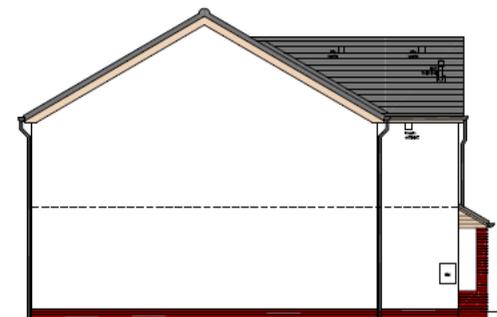
block 04 rear elevation



block 04 gable elevation



block 04 front elevation



block 04 gable elevation

Not to Scale


 11 Woodhill Street
 Glasgow G11 5AE
 Tel: 0141 204 1111
 www.hedderdesign.com

Architects
 Graham Stewart
 Gillian Stewart

Hedder Design Ltd 11 Woodhill Street Glasgow G11 5AE Tel: 0141 204 1111 www.hedderdesign.com	House Type G - 2 bed 4 person semi detached blocks 04, 11, 12 and 17 - elevations	Date: 18/04/2018 Drawn by: J	Scale: 1:50 Sheet: 1 of 1
Hedder Design Ltd 11 Woodhill Street Glasgow G11 5AE Tel: 0141 204 1111 www.hedderdesign.com	Address:	1017/PL1 204	

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Type E
 2 Bed 4 person
 cottage flats
 proposed external materials

external walls:
 3 course red brick base course
 white dry dash render

feature panels
 marley eternit natura - blue grey
 cladding to entrance porch

roof
 concrete interlocking tiles
 photovoltaics on main roof

windows
 white UPVC windows

Doors
 Composite white doors



block D7 front elevation stepped block



block D5 rear elevation



block D5 gable elevation



block D5 front elevation

Not to Scale

Harbour Design
 25 Woodside Road
 Edinburgh EH15 7JF
 Telephone: 0131 551 1122
 Website: www.harbourdesign.com
 info@harbourdesign.com

Drawing title: Drawing number: Drawing date: Drawing scale: Drawing status:	Type E - 2 bed 4 person cottage flats - blocks D5, D7 (stepped) and D8 - elevations 10/17/PL/205	Date: Drawn by: Checked by: Approved by:
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Type C1
1 Bed 2 person
cottage flats

- proposed external materials
- external walls:
3 course red brick base course
white dry dash render
- feature panels
marley elemerit natura - blue grey
cladding to entrance porch
- roof
concrete interlocking tiles
photovoltaics on main roof
- windows
white UPVC windows
- Doors
Composite white doors



block 06 rear elevation



blocks 14 and 19 stepped gable



block 06 front elevation



blocks 14 and 19 stepped

Not to Scale

Heddey Bay
10 Commercial Street
Glasgow G1 1JF
Tel: 0141 222 1111
www.heddeybay.com

rev A drawing reference amended to 208		18-02-14
Drawn and checked by: [Name]	Scale: Type C1 - 1 Bed 2 person flats - blocks 06, 14 and 19 - floor and roof plans (1:4 and 1:8 approx)	Date: 18/02/14
Not before (date) on site	Author: [Name]	1017(PL) - 08 A

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Type N
4 Bed 6 person house
wheelchair accessible

- proposed external materials
- external walls:
3 course red brick base course
white dry dash render
 - feature panels
marley etemit natura - blue grey
cladding to gable
 - roof
concrete interlocking tiles
photovoltaics on main roof
 - windows
white UPVC windows
 - Doors
Composite white doors
 - red brick piers to entrance canopies



block 09 rear elevation



block 09 gable elevation



block 09 front elevation



block 09 gable elevation

Not to Scale



HULLHOPEY COUNCIL Planning Department 100, Market Street Hull, East Yorkshire YO1 1QW	HULLHOPEY COUNCIL Planning Department 100, Market Street Hull, East Yorkshire YO1 1QW	HULLHOPEY COUNCIL Planning Department 100, Market Street Hull, East Yorkshire YO1 1QW	HULLHOPEY COUNCIL Planning Department 100, Market Street Hull, East Yorkshire YO1 1QW
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Type H
3 Bed 4 person house

proposed external materials

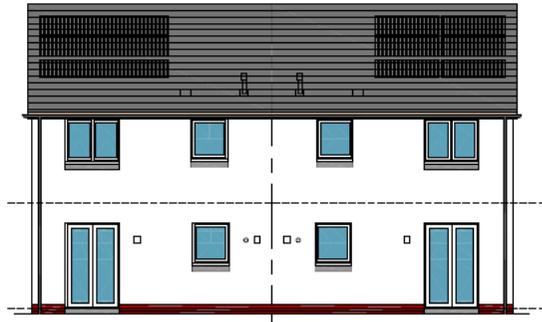
external walls:
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white dry dash render

feature panels
marley eternit natura - blue grey
cladding to porches

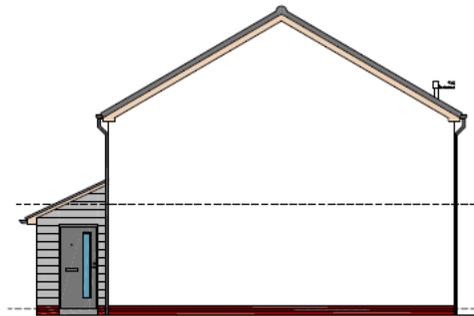
roof
concrete interlocking tiles
photovoltaics on main roof

windows
white UPVC windows

Doors
Composite grey doors



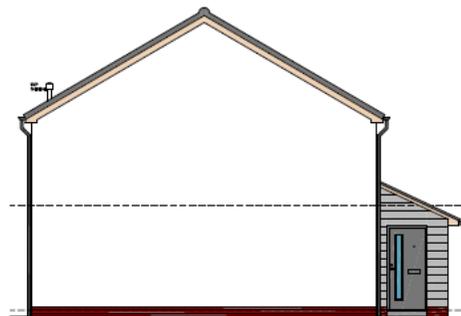
block 10 rear elevation



block 10 gable elevation



block 10 front elevation



block 10 gable elevation

Not to Scale

Heddon **Don**
101 Arundell Street
Edinburgh EH1 1AA
Tel: 0131 222 1100
www.heddon-don.com

<p>Approved and sealed under the Building Regulations Act 2004 Approved by Heddon Council Approved by Don Council</p>	<p>House Type H - 3 bed 4 person semi detached House - Blocks 10, 11 and 12 - floor and roof plans</p>	<p>Rev: 01 Date: 08.08.17 Drawn by: J. J. J.</p>
<p>PLANNING</p>	<p>1017/PL/110</p>	<p>1017/PL/110</p>

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Type C2 1bed 2 person
 and
 Type E 2bed 4 person
 cottage flats
 proposed external materials
 external walls:
 3 course red brick base course
 white dry dash render
 feature panels
 marley atermil natura - blue grey
 cladding to type C porch and bay
 window type E
 roof
 concrete interlocking tiles
 photovoltaics on main roof
 windows
 white UPVC windows
 Doors
 Composite grey and white doors
 brick piers to entrance type C2



Not to Scale



Drawn by: Checked by: Date: 12/08/17	Project Name: Type C2 and E - 1 bed 2 person and 2 bed 4 person cottage flats - Block 15 elevation	Drawing No: 10171PL1 015
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APPLICATION FOR PLANNING PERMISSION 21/00732/DPP FOR THE ERECTION OF 100 DWELLINGS (INCLUDING AMENDMENT TO PREVIOUSLY APPROVED SITE LAYOUT AND HOUSE TYPES); FORMATION OF ACCESS ROADS, CAR PARKING, OPEN SPACE, SUDS AND ASSOCIATED WORKS AT LAND BETWEEN ROSEWELL ROAD AND CARNETHIE STREET (DOCTOR'S FIELD) ROSEWELL

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 **The application is for the erection of 100 dwellinghouses, the formation of associated access roads and a sustainable urban drainage system (SUDS) on land between Rosewell Road and Carnethie Street, Rosewell.**
- 1.2 **There have been five representations and consultation responses from the Coal Authority, Scotland Environmental Protection Agency (SEPA), Scottish Water, NatureScot, Rosewell & District Community Council, the Council's Senior Manager Protective Services, the Council's Policy and Road Safety Manager and the Council's Land Resources Manager.**
- 1.3 **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, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.4 **The recommendation is to grant planning permission subject to conditions and the applicant entering into a planning obligation to secure contributions towards necessary infrastructure and the provision of affordable housing.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 **The site is mostly agricultural land to the immediate north east of the village of Rosewell and comprises allocated housing site Hs14 with an indicative capacity of 60-100 dwellings. The site includes: (i) a section of the south embankment of Core Path 3-7 to the immediate north west, which forms part of the Penicuik-Musselburgh footway and**

cycleway (NCR196); (ii) part of Cemetery Road along its south western edge; and, (ii) Rosewell Road along its south eastern edge. The site is the final area of land allocated for housing within the boundary formed by the Rosewell bypass.

2.2 The site is triangular in plan form, extending the existing allocated site of Rosewell North (Hs14). The site is at the gateway to the village from the north.

2.3 Core Path 3-7 which bounds the site to the north west provides an important link between Rosewell and Bonnyrigg. The core path itself lies in a cutting some 4.5 metres below the level of the application site. Beyond the core path is Rosewell Road (A6094) known as the Rosewell Bypass. Carnethie Street bounds the site to the east/south east. Cemetery Road with houses beyond bound the site to the south west. The commercial boarding dog kennels and cattery known as Candidacasa is located nearby to the north east of the site.

2.4 The existing housing in the settlement of Rosewell comprises a mixture of predominantly traditional single-storey terraced cottages and more modern two-storey detached, semi-detached and terraced houses. The character of the area comprises houses fronting onto streets with small front and rear gardens. The majority of the buildings are characterised by various forms of brick, rendered and reconstituted stone wall finish.

3 PROPOSAL

3.1 The proposed development comprises:

- 92 two-storey, pitched roof houses;
- 8 cottage flats;
- the formation of a vehicular access off Cemetery Road;
- the formation of internal roads;
- the formation of a SUDS basin in the eastern extremity of the site;
- the installation of an pumping station; and
- the erection of acoustic fencing along some of the rear gardens of the proposed new dwellings.

3.2 The housing mix, consists of seven different house types, comprising:

Cottage flats	8	one bed units	8
terraced houses	17	two bed units	0
semi-detached houses	0	three bed units	17
<u>detached houses</u>	<u>75</u>	<u>four bed units</u>	<u>75</u>
Total	100	Total	100

3.3 The applicant proposes 25 onsite affordable housing units comprising 8 one bed units and 17 three bed units.

- 3.4 The drainage strategy includes a dry SUDS basin in the north corner of the site with a surface water connection to the north via an unnamed ditch close to the northern boundary of the site which joins a burn via a culvert. The site is shown on the SEPA flood maps as being outside of the area which is at risk from extreme fluvial or tidal flooding and the site is therefore not at risk from flooding in the 1 in 200 year event.
- 3.5 The layout seeks to deliver a site dominated by detached properties, aside from those at the north and north east of the site that include cottage flats and terraced houses.
- 3.6 The eastern most buildings on the site comprising plots 81-100, which are nearest to the Candidacasa boarding kennels, are designed with noise mitigation to safeguard their future occupants from noise nuisance from barking dogs within the boarding kennels. The living areas, dining area and bedrooms within these units are located on the quiet (west) side with windows facing into rear gardens. The kitchens, bathrooms, stores and circulation space within those units are located on the noise vulnerable (east) side. These houses together with lengths of acoustic fencing linking them, form an unbroken acoustic barrier to mitigate noise nuisance to them and their rear (west) private gardens. Although the front entrance to these dwellings are located to the north/east side of the buildings no front gardens are proposed and thus no private outdoor amenity space. The applicant confirms that the open space and landscaping on the east side of these properties is to be factored. These proposed acoustic fences will mitigate noise nuisance from adjacent roads and commercial noise associated with the neighbouring commercial dog kennels.
- 3.7 The application is also accompanied by:
- a drainage statement;
 - a flood risk and drainage strategy;
 - a pre-application consultation (PAC) report;
 - a design and access statement (DAS);
 - a noise impact assessment;
 - an ecology assessment;
 - an archaeological evaluation;
 - an openreach high speed broadband report;
 - a geoenvironmental interpretive report;
 - a site investigation report;
 - a transport statement; and,
 - a tree report.

4 BACKGROUND

- 4.1 The applicant carried out a pre-application consultation (15/00774/PAC) for a residential development on the site, which was reported to Committee at its meeting of November 2015.

- 4.2 An environmental impact assessment (EIA) screening opinion request, 15/00810/SCR, for a proposed residential development on the site was submitted 8 October 2015. The applicant was advised that an EIA was not required under schedule 2 of the EIA Regulations.
- 4.3 Application ref: 18/00403/DPP for the erection of 100 dwellinghouses and associated works was reported to Committee on 8 October 2019 and subsequently approved subject to conditions and the conclusion of a planning obligation. The proposed development seeks to remix that planning consent. That application secured consent for 4 cottage flats, 12 terraced houses, 38 semi-detached houses and 46 detached houses.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application subject to the following conditions:
- No development shall commence until the remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as identified within the Geo-Environmental Interpretative Report (Ref: A089992, dated 5 January 2016) prepared by White Young Green, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. The remedial works shall be carried out in accordance with authoritative UK guidance.
 - Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the local planning authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.
- 5.2 The **Scottish Environment Protection Agency (SEPA)** does not object to the application and reiterate their comments to the previous application. With regard to previous mine workings it is recommend that if stabilisation works are required to facilitate the development then an appropriate risk assessment for the proposed stabilisation of the mine workings is produced prior to development works taking place. Such a risk assessment should primarily serve the developer, to ensure no pollution occurs as a result of the onsite activity. If the preliminary and simple risk assessment identified that the site is at a higher risk and conceptually complex, then a complex risk assessment is required. With regards to air quality SEPA state that due to the previous land use as a coal mine, ground gas (methane and carbon dioxide) risk has been assessed as part of the geo-environmental interpretative report submitted in support of the application. SEPA advises that this is better interpreted by the Council's contaminated

land specialist consultant (Protective Services) to form an opinion on whether the methodology used in the assessment is correct - no ground gas protection has been proposed. In terms of air quality management SEPA advise that there is no requirement for an assessment for methane or carbon dioxide. SEPA have considered the district and community heating options study prepared to review the feasibility of a district heating scheme as part of the proposed development and accept the conclusions put forward which are; a scheme is not feasible for this site.

- 5.3 **Scottish Water** does not object to the application. They advise that there is currently sufficient capacity within the Rosebery Water Treatment Works for future water supply. However, it was noted that capacity of the Rosewell Waste Water Treatment Works could not be confirmed and that a detailed Pre-Development Enquiry is required to be provided to consider future connection. They also note that future capacity cannot be reserved and that capacity will be reviewed upon any formal connection application being submitted to Scottish Water.
- 5.4 **NatureScot** does not object to the application.
- 5.5 **Rosewell and District Community Council** object to the application on the following grounds:
- The site is part of the countryside and is prime agricultural land and as such the development would not be appropriate in the context of the MLDP;
 - There is a lack of existing local facilities and public transport opportunities to serve the development;
 - The development of the site would erode the village's character where traditional materials are utilised;
 - HGV movements in the area are causing subsidence to existing properties. They request that HGV site traffic access be from the A6094 only;
 - The previous mineral workings on the site are of concern and agree with comments made by the Coal Authority;
 - The proposed drainage layout will not be sufficient to cater run off from the site and flooding at the old railway bridge to the west of the site;
 - Renewables should be used as part of the application;
 - The local highway network is not suitable to cater for the quantum of development;
 - Local bus services are insufficient to serve the development; and
 - There is insufficient education capacity.
- 5.6 The **Council's Senior Manager Protective Services** does not object to the application subject to the following conditions:
- Housing on plots 89-100 inclusive, as detailed on plan 18128(PL)001X, shall be of house type L, orientated with living apartments to the west elevation;

- Housing on plots 81-88 inclusive, as detailed on plan 18128(PL)001X, shall be of house types H/I, orientated with living apartments to the northwest elevation;
- There shall be no private amenity space other than car parking spaces to the east of the properties, i.e. facing the nearby kennels;
- The building line shall be no closer to the animal boarding kennels than that detailed in plan, ref 18128(PL)001X submitted in support of the application;
- Internal levels from road traffic noise shall meet Midlothian Council's design targets for daytime and night time noise sources without specific character (previously referred to as anonymous noise sources) in living accommodation, that is 30 dB(A) LAeq, 8 hour in bedrooms and 35 dB(A) LAeq, 16 hour in living rooms. It is further recommend that the internal levels are assessed post completion and before occupation to ensure that these levels have been achieved;
- The line of acoustic fencing shall be provided in accordance with the RMP technical report no. R-7365E-RGM-RRM report dated 24 January 2022 and plan reference 18128(PL)001X; and
- On completion of the decontamination/remediation works and prior to any part of the development 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.

5.7 The **Council's Policy and Road Safety Manager** does not object to the application subject to the following conditions:

- The existing road verge from the proposed 3m wide cycleway/footpath at plot 5, along the side of plot 6, should be converted to a public footway to provide access from the development to the existing cycleway/footpath which runs along the northern boundary of the site;
- Details of the proposed publicly available electric vehicle charging units to be located within the development should be submitted for approval; and
- Details of the proposed SUDS basin should be submitted for approval. The details should include cross-sections showing the 1:200 + CC water level and the relationship between the 1 in 4 side slopes and the cycleway/footpath which runs along one side of the basin. A 1m wide level grass verge will be required between the edge of the cycleway and the start of the basin side slopes.

5.8 The **Council's Land Resources Manager** does not object to the application but request that new paths should link into the existing Core Paths where practicable.

6 REPRESENTATIONS

6.1 There have been five representations received, which can be viewed in full on the online planning application case file. All of the five representations object to the proposed development. A summary of the main points raised are as follows:

- The development, in association with others taking place and planned in the area will compromise road safety - of particular concern is the junction between A6094 and Rosewell Road;
- The 30mph speed limit should be extended to the north east corner of the development;
- The layout is an improvement on the previous proposal;
- The housetypes are considered uninspiring;
- Failed opportunity for future proof the development, including the continued provision of gas boilers within the development. Solar panels and electric car charging points should be provided;
- Construction traffic running along the south east boundary of the site is of concern;
- Construction traffic entrances are too close to the Old Manse property located to the south east of the development;
- The proposed change of use would harm the amenity, outlook and value of existing residential properties;
- The proposed development would overlook the Old Manse property;
- The setting of the C Listed Old Manse would be harmed by the development;
- The density of the development is too high;
- Views available of the Pentland Hills looking west across the site should be maintained;
- The site is part of the countryside and is prime agricultural land and as such the development would not be appropriate in the context of the MLDP;
- There is a lack of investment into infrastructure and facilities in the local area; and
- Concern that the proposed development does not do enough to mitigate flooding.

7 PLANNING POLICY

7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the adopted Midlothian Local Development Plan 2017 (MLDP). 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 out with 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 60-100 housing units on the site (Hs14). The settlement statement in the MLDP states that: "The stability of the ground will have to be assessed given the history of mining in the area. In addition, the neighbouring dog kennels may cause some noise disturbance, which will have to be taken into account in the design of the development. This possible limitation has been considered in assessing site capacity."
- 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** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, and passive energy gain, positioning of buildings, open and private amenity space provision and parking.

- 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).
- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **TRAN5: Electric Vehicle Charging** seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals.
- 7.13 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.14 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.
- 7.15 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.
- 7.16 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.

- 7.17 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.
- 7.18 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.
- 7.19 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.20 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.
- 7.21 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.
- 7.22 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.23 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.
- 7.24 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.

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

National Policy

- 7.26 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.
- 7.27 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.
- 7.28 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.*
- 7.29 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.
- 7.30 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*".
- 7.31 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.
- 7.32 **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.

- 7.33 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 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 consultation responses and representations received are material considerations.

The Principle of Development

- 8.2 The site is allocated for housing (site Hs14) in the MLDP and is located within the built up area of Roswell where there is a presumption in favour of appropriate residential development. The indicative number of units allocated for site Hs14 in the MLDP is 60 -100.
- 8.3 The settlement statement in the MLDP states that the stability of the ground will have to be assessed given the history of mining in the area. In addition, the neighbouring Candidacasa dog kennels may cause some noise disturbance, which will have to be taken into account in the design and layout of the development. These two factors may have an impact on the site capacity, seeing a development at the low end of the unit range (60 units), however if these issues are successfully mitigated the site capacity could be at 100 residential units.
- 8.4 As highlighted in this report, extant planning permission (18/00403/DPP) exists for 100 dwellings at the site. Development has not commenced on the site, however the applicant has commenced submitting information pursuant of discharging conditions.
- 8.5 In light of the site's allocation and the extant planning permission the principle of a residential development is well established.

Layout and Form of Development

- 8.6 The proposed development is for 100 dwellinghouses with an average density of 20 dwellings per hectare. This amounts to an average/medium density development in a suburban area. The development has been designed primarily as a traditional street layout with the integration of open space and planting.
- 8.7 The general layout proposed reflects that approved under application 18/00403/DPP. The street hierarchy includes a central loop around dwellings and open space located centrally in the site which acts as primary road. Secondary streets continue to the east and north of the site and are differentiated with shared surfaces. At the peripheries of the site private driveways have also been proposed.

- 8.8 A central formal open space orientates the development. This formal space is addressed with buildings facing onto it from the north and east, with dwellings to the west side onto it, but screened through proposed walling and landscaping. A second open area is proposed in the south east corner of the site. The built development in this corner is positioned back from Rosewell Road to respect the built form created from the existing neighbouring housing development to the west, thus retaining views towards St Matthew's Church to the west.
- 8.9 The orientation of houses fronting the central open space, the secondary open space (in the south of the site) and the SUDS basin provide natural surveillance and delivers a good layout with character and interest.
- 8.10 The principle change from the approved layout are the housetypes proposed. The proposed scheme moves away from utilising smaller semi-detached properties and has sought to deliver larger detached dwellings. This approach does increase demand for space. 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 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. The majority of the proposed dwellings meet the requirements. There are a number of affordable terraced units that do not meet the standard. However, there appears to be an acceptable balance between delivery of generous garden areas and depth that would generally mean the proposed private amenity space within the development is acceptable.
- 8.11 This new development manages to deliver the spatial separation between the houses and falls only marginally short of the minimum standard where it does not meet the minimum. In the case of those that fall marginally short the shortfall would not result in significant harm to the amenity of those properties in terms of overlooking or intrusiveness and thus is not significant.
- 8.12 Whilst the number of detached properties is significantly greater than the approved layout, the general approach does reflect adjacent development recently completed to the south of the site which presents detached dwellings at its northern boundary. The approach can be seen to continue the detached theme, whilst the proposed affordable terraced reflect those delivered within the adjacent development.
- 8.13 The proposed Area of Improved Quality (AIQ) for this site has been altered from the approved to comprise dwellings primarily focussed at the entrance to the site, those dwellings around the central open

space, and those on the northern part of the site fronting onto the SUDS basin. In terms of the number of dwellings included, the locations and built form the proposed AIQ is acceptable.

- 8.14 The distribution of external materials and colours of the buildings both within and outwith the AIQ requires refinement but appear to be improved from the extant permission in that they deliver a simpler more sympathetic response to existing buildings at adjacent development. There is a clear dependence on render within the development with the provision of two colours. Samples of the materials utilised will be required. Some housetype elevations appear to include a material change on projecting gables. It is positive that this change is across the vertical emphasis of the housetypes in question. However additional detail will be required by condition to confirm this.
- 8.15 The proposed affordable housing has raised no objections from the Council and discussions have been progressed with a Registered Social Landlord (RSL) on this front. The quantum of affordable units is appropriate according to policy DEV3. The location of the affordable units reflects the extant planning permission.

Open Space, Play Areas

- 8.16 The proposed open spaces are similar in size compared to the extant planning permission. The open space in the south east corner has slightly reduced, as has the northern area. However, the central area has increased in size modestly. Some details of the proposed equipment have been proposed, but the final details of the equipped space will be required by condition. The presence of a shared surface route adjacent to the north open space is not considered to be an improvement as it delivers a physical barrier between dwellings and the open space. However, the removal of the pumping station from the central open space to sit adjacent to the SUDS basin is considered to be an improvement. The central open space has further been improved by the location of visitor parking on one side, rather than wrapping around three sides. On balance the changes are considered acceptable.

Foul Pumping Station and Electricity Substation

- 8.17 The foul pumping station and electricity substation have been relocated to the north of the SUDS basin and to the south boundary respectively. In general, these are considered more acceptable locations for this infrastructure as they are removed from a focal feature centrally in the development.
- 8.18 Details of the design and appearance of the electricity substation chamber and pumping station should be secured by a condition on a grant of planning permission. Subject to this the visual impact of the

foul pumping station and electricity substation would be adequately mitigated.

Landscaping and SUDS

- 8.19 The SUDS retention basin is located on the north corner of the site and does not include any heavy engineering works such as retaining walls. Thereby it would appear as a relatively naturalistic and soft feature which would not detract from the landscape character and visual amenity of the area. The combination of the basin and proposed landscaping would permit passive surveillance of it from windows of properties to the south.
- 8.20 Good landscaping will enhance the design, form and environmental credentials of the development. The landscape plan submitted with the application details trees planted along the proposed vehicular and pedestrian routes. Whilst this will provide an attractive outlook for dwellings there is some concern that the majority of the proposed trees along the roads are situated on house plots meaning that their removal is possible in the future. The establishment of these trees will be required through condition.
- 8.21 Existing hedges at the site's east and south boundaries have landscape value and should be incorporated into the development in line with the Midlothian Green Network Supplementary Guidance.
- 8.22 It is essential that the existing hedge or a replacement hedge screen the acoustic fencing on the site. The proposed landscape scheme is not comprehensive and thereby it should be made a condition on a grant of planning permission that a detailed landscaping scheme for the development be submitted for the prior approval of the planning authority. Any new landscape planting will need to provide:
- Hedging consistently along plot fronts of a native, broadleaf species (e.g. *Fagus*, *Carpinus*) rather than laurel, this includes plots 81-100;
 - Bulb planting should be incorporated at key open space locations;
 - A biodiverse lawn mix is to be specified for service strips and verges along the western boundary, this should be capable of being maintained under a relaxed mowing regime to allow flowering;
 - Proposed hedgerow and grass strip at the side of Plot 47 to be replaced with nectar rich shrub planting, to benefit wildlife and add seasonal interest;
 - In regards to the SUDS; A planting specification is required to be included for marginal/emergent planting, and maintenance notes are to be included for SUDS planting; and
 - Specification notes to be added to allow for mulch application to all shrub, hedgerow and tree planting. Maintenance notes to be added to allow for topping up of mulch, to suppress weed growth.

- 8.23 The above details will be assessed in the discharge of conditions.

Access and Transportation Issues

- 8.24 The proposed development remains acceptable in transportation terms. Subject to the recommended transportation conditions the road infrastructure will be of an adequate standard to cope with the additional traffic using it and the Council's Policy and Road Safety Manager raises no objection to the application. The proposed parking provision within the development is acceptable and meets the Council's standards.
- 8.25 In the interests of road safety and the amenity of the existing residents of Rosewell it should be made a condition on a grant of planning permission that construction, HGV and delivery vehicles associated with the development or visiting the site shall only access and egress the site via the A6094 Rosewell Bypass entrance onto Carnethie Street (the northern junction travelling towards Bonnyrigg). No construction, HGV and delivery vehicles associated with the development or visiting the site shall travel south through the village along Carnethie Street.

Green networks and pedestrian and cycle links

- 8.26 MLDP policy ENV2 (Midlothian Green networks) requires new development sites to fully incorporate green network opportunities into their design and implementation. This can potentially be delivered through a combination of path networks, open space and sustainable urban drainage systems. The principal road through the site comprises a tree lined avenue with a footpath/cycleway alongside it. There are adequate footpath/cycle links to/from the site and Cemetery Road to the west and Carnethie Street to the south.
- 8.27 The proposed cycle/footway connections are comparable to the extant permission. The settlement statement in the MLDP states that connections from and through the site to Core Path 3-7; which forms part of the Penicuik-Musselburgh footway and cycleway/NCR196, should be provided. The proposed development includes a connection to this route at the north of the site, and delivers a widened multi user surface along a short section of Cemetery Road (west of plot 6) to the north connecting to the aforementioned route. This responds to the Midlothian Green Network Supplementary Guidance, adopted in August 2018 which seeks to increase connectivity with the cycle route to the north west of the site.
- 8.28 It is noted that levels at the north of the site are a challenge. No details of the north connection to the Core Path have been provided at this time. These will be required by condition. The Council's position in relation to this has not changed from that expressed to Committee for application 18/00403/DPP. This was that "*there is significant justification for the Council to insist that the applicant/developer form*

the graded link path instead of a stepped path as proposed by the applicant. The provision of the graded link path can be secured by a condition imposed on a grant of planning permission.”

- 8.29 Considering these links the proposed development will comply with MLDP policy ENV2 and will meet the aspirations of the Scottish Government policy statement 'Designing Streets' which requires that a connected permeable network be provided for in new developments.

Ground Conditions

- 8.30 The control referred to by the Council's Senior Manager Protective Services in respect of ground contamination/previous mineral workings and the same control in respect of previous mineral workings recommended by the Coal Authority can be secured by a condition imposed on a grant of planning permission. A site investigation report, dated November 2021 prepared by David R Murray and Associates was latterly submitted. It was noted by the Coal Authority that the report author informs that *“no further discussion on mineral stability matters is therefore provided in this report, however, we can confirm that recommendations for a scheme of consolidation works have been made to treat both the workings and the abandoned mineshafts. These works will require to be carried out in advance of any future development works at this site”*. In light of the above, previous comments and required conditions remain valid and relevant to the decision making process.
- 8.31 As per the extant planning permission, whilst the MLDP identifies an indicative capacity of the site of 60 it has been established that a higher capacity can be accommodated reasonably on the site.
- 8.32 It is noted that grouting works associated with the extant permission have been agreed under condition 7 of that planning permission. As such, condition 7 of the extant permission will be reapplied in part to reflect the progress.

Feasibility of Communal Heating System

- 8.33 As part of the extant permission the planning authority and SEPA agree that the feasibility study submitted by the applicant into the provision of a community heating system for the new development satisfactorily demonstrates that such a system is not at this present time technically or financially viable for the development site.

Ecology

- 8.34 The submitted Ecology Report does not recommend against the development on grounds of impact on biodiversity. The submitted report included the core path along the north boundary as previously local sightings of badgers on this route have been reported.

- 8.35 No evidence of great crested newts, otter, badgers or water voles were identified on the site. The recommendations of the ecology assessment should be complied with. In order to secure this a condition requiring a biodiversity action plan should be added to any proposed grant of planning permission.
- 8.36 It is noted that as of the 21.02.2022 a bat and bird box plan (ref: 18128(PL)004 was added to the application. Considering the timeframes for Committee, the Council's ecological consultee has not been able to review this. It is noted that the submitted ecological report refers to bat boxes on dwellings which is not proposed on the aforementioned plan. This plan is therefore not approved and details should be included within the biodiversity action plan.

Developer Contributions

- 8.37 If the Council is minded to grant planning permission for the development it will be necessary for the applicant to modify the existing planning obligation in order that this new planning permission is also bound by it. The planning obligation provides for the following;
- A contribution towards primary (including nursery) and secondary education provision;
 - A contribution towards public transport (including Borders Rail);
 - A contribution towards community facilities;
 - A contribution towards off site play facilities;
 - Maintenance of open space including children's play areas/open space and SUDS; and
 - Provision of affordable housing (25%).
- 8.38 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:
- necessary to make the proposed development acceptable in planning terms (paragraph 15)
 - serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
 - relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)
 - fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)
 - be reasonable in all other respects.

The requirements set out for the proposed planning obligation meet the above tests.

Other Matters

- 8.39 Regarding matters raised by representors and consultees and not already addressed in this report:
- It is noted that information indicating progress in delivering broadband for the site is underway and has been submitted with the application – a condition is still recommended to secure superfast broadband infrastructure;
 - The proposed development is considered to be sufficient distance from the Old Manse to avoid overlooking and the development does not impinge on its setting;
 - Construction traffic will be limited in their direction so that they should not approach the site through Rosewell. This will be secured by condition.
 - The site is an allocated housing site in the MLDP and is not protected as countryside or prime agricultural land.
- 8.40 The following matters raised in the representations are not material considerations in the determination of the application:
- The effect of the proposed development on property values/prices;
 - Loss of view; and
 - Any damage to existing neighbouring properties as a result of construction traffic movements and liability for subsequent repairs.

9 RECOMMENDATION

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

The proposed development site is allocated for housing 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:

- a. the prior signing of a legal agreement to secure:
 - A contribution towards primary (including nursery) and secondary education provision;
 - A contribution towards public transport (including Borders Rail);
 - A contribution towards community facilities;
 - A contribution towards off site play facilities;
 - Maintenance of open space including children's play areas/open space and SUDS; and
 - Provision of affordable housing (25%).

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

b. the following conditions:

1. Development shall not begin until details of the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of 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. Notwithstanding that delineated/specified on application drawings the external finishing materials of the buildings hereby approved and the distribution of the external finishing materials of the buildings is not approved. Development shall not begin until the following have been submitted to and approved in writing by the planning authority:
(i) marked up housetypes elevations with details of proposed material finish (ii) samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. An enhanced quality of materials shall be used in the Area of Improved Quality which shall comprise the buildings and boundary walls on plots 1-2, 42, 51-52, 57-58, 62-63, 68-69, 70 and 89-96. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

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

3. Notwithstanding that delineated on 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; including hedges, 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. drainage details, watercourse diversions, flood prevention measures 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).

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.*

- 4. 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. 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:
- vi. proposed car parking arrangements; and
- vii. a programme for completion for the construction of access, roads, footpaths and cycle paths.

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

Reason: *To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

5. Notwithstanding the requirements of condition 1 of this planning permission, prior to the first occupation of any of the houses/flats on plots 2, 42, 51-52, 57 and 62, 63, 68 and 69, 59-63 and 86-91 an equipped neighbourhood children's play area and shall be formed/constructed on the central open space (adjacent to the south east of plots 51 and 52) and made available for use in accordance with detailed drawings and a written specification to be submitted to and approved in advance by the planning authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

Reason: *To ensure the timely provision of an acceptable quantity and quality of equipped children's play in the development in the interests of the residential amenity of the future occupants of the houses and flats.*

6. 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.*

7. Development shall not begin until details the condition of the site on completion of the specified decontamination measures are submitted to and approved by the planning authority. On completion of the decontamination/ remediation works referred to above and prior to any residence 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 residence on the site shall be occupied unless or until the planning authority have approved the required validation.

Reason: *To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

8. No building shall have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the planning authority.

Reason: *Under-building exceeding this height is likely to have a materially adverse effect on the appearance of a house.*

9. Development shall not begin until a programme of archaeological works (Trial Trench Evaluation) in accordance with a written scheme of investigation has been submitted to 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.*

10. 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, as well as mammal passage points in walls and fences, 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 Proposed Midlothian Local Development Plan 2017.*

11. Development shall not begin until details, including a timetable of implementation, of superfast 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.*

12. A detailed plan and elevation drawings and details of the finishing materials and colours of the electricity station 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.*

13. Notwithstanding that delineated on docketed drawings the development shall conform to the following constraints in accordance with detailed plans/drawings and design and technical details to be submitted for the prior written approval of the planning authority.
 - i. Before the first occupation of the 25th dwelling on the site a Zebra crossing shall be formed on Cemetery Road in a location to be approved in advance by the Planning Authority.

Reason: *To ensure the timeous provision of a safe pedestrian link from the site to the footway network within the existing neighbouring housing development to the south west in the interests of road and pedestrian safety.*

14. Unless otherwise agreed in writing with the planning authority, notwithstanding that delineated on docketed drawings, prior to the first occupation of the twenty-fifth dwelling on the site or by a different date to be agreed in advance with the planning authority, a 3 metre wide ramped/graded link cycleway/footway incorporating lighting along the length, shall be formed/erected from an adopted footway within the development and from a point to the south east of the proposed pumping station at the north of the site on plan ref. 18128(PL)001Z 1:500 (Proposed site layout) and connecting to Core Path 3-7 (Penicuik-Musselburgh footway and cycleway -NCR196). Detailed drawings and a written specification of the link footpath/cycleway, including section drawings at 4 metres intervals across it, details of any required retaining structures and details of a scheme of landscaping of the ground disturbed during its construction, shall be submitted to an approved in writing in advance by the planning authority. The cycleway/footway shall be surfaced in bitumen macadam/tarmac to the approval of the planning authority.

Reason: *To ensure the provision of a safe pedestrian and cycle route to/from the site and the adopted footways/cycleways in the adjacent development thus providing a continuous, safe pedestrian and cycle route to/from Core Path 3-7 in the interest of pedestrian*

and cyclist safety and the amenity of the future occupants of the dwellings hereby approved.

To ensure that the proposed development complies with policy ENV2 (Midlothian Green networks) of the MLDP and Scottish Government policy statement 'Designing Streets' that a connected permeable network be provided for in new developments.

15. Notwithstanding that delineated on docketed drawings, prior to the first occupation of the twenty-fifth dwelling on the site or by a different date to be agreed in advance with the planning authority, a 3 metre wide link cycleway/footway incorporating lighting along the length, shall be formed/erected from an adopted footway within the development and from a point on the proposed cycle/ pedestrian link to the south east of plot 6 along Cemetery Road to the north west connecting to Core Path 3-7 (Penicuik-Musselburgh footway and cycleway -NCR196). Detailed drawings and a written specification of the link footpath/cycleway, including section drawings and details of a scheme of landscaping of the ground disturbed during its construction, shall be submitted to an approved in writing in advance by the planning authority. The cycleway/footway shall be surfaced in bitumen macadam/tarmac to the approval of the planning authority.

Reason: *To ensure the provision of a safe pedestrian and cycle route to/from the site and cycle route to/from Core Path 3-7 in the interest of pedestrian and cyclist safety, to ensure that the proposed development complies with policy ENV2 (Midlothian Green networks) of the MLDP and Scottish Government policy statement 'Designing Streets' that a connected permeable network be provided for in new developments.*

16. 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.*

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 2011, or any subsequent Order amending, revoking or re-enacting that Order, no fence, gate, wall or other means of enclosure shall be erected within the confines of or around the perimeter of the electricity station and the foul pumping station unless a planning application for it with the necessary plans, has been submitted to and approved by the planning authority.

Reason: *To ensure that any fence, gate, wall or other means of enclosure erected within or around the perimeter of the electricity station and the foul pumping station does not detract from the character and amenity of the area.*

18. The internal room layout of the dwellings on plots 81-100 shall be as delineated on the approved house types for those plots.
19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 2011, or any subsequent Order amending, revoking or re-enacting that Order, no fence, gate, wall or other means of enclosure shall be erected around any part of the perimeter of the front (north east) garden / verge area of the dwellings on plots 89-100 or the front (south east) garden of the dwellings on plots 81-88.
20. The front (north east) building line of the dwellings 88-100 shall be no closer to the animal boarding kennels that that detailed in plan, ref 18128(PL)001X submitted in support of the application.
21. The design of the buildings hereby approved shall be such that internal noise levels within them meets Midlothian Council's design targets for daytime and night time noise without specific character (previously referred to as anonymous noise sources) in living accommodation, which is: (i) 30 dB(A) LAeq, 8 hour in bedrooms and 35 dB(A) LAeq, 16 hour in living rooms.
22. Internal noise levels within the buildings hereby approved shall be assessed by a suitably qualified noise consultant to the approval of the planning authority post completion of the dwellings and prior the first occupation of them. A report on the noise assessment(s) carried out shall be submitted to and approved in writing in advance by the planning authority. No dwelling shall be occupied unless and until the internal noise levels specified in condition 21 have been achieved.
23. Prior to the first occupation of the dwellings hereby approved, acoustic fencing delineated on docketed drawings ref: RMP technical report no. R-7365E-RGM-RRM report dated 24 January 2022 and plan reference 18128(PL)001X shall be erected in compliance with the approved plans. Thereafter they shall be retained in situ unless with the prior approval of the planning authority.

Reason for conditions 18-23: *In the interests of safeguarding the amenity of the future occupants of the dwellings hereby approved from undue noise nuisance from neighbouring roads and the neighbouring commercial boarding kennels.*

24. All construction, HGV and delivery vehicles associated with the development or visiting the site shall only access and egress the site via the A6094 Rosewell Bypass entrance onto Carnethie Street (the northern junction travelling towards Bonnyrigg). No construction, HGV and delivery vehicles associated with the development or visiting the site shall travel south through the village along Carnethie Street.

Reason: In the interests of road safety and the amenity of the existing residents of Rosewell

25. No development shall commence until the remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as identified within the Geo-Environmental Interpretative Report (Ref: A089992, dated 5 January 2016) prepared by White Young Green, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed. The remedial works shall be carried out in accordance with authoritative UK guidance.
26. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the local planning authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason for conditions 25 & 26: To ensure that appropriate measures have been taken to stabilise the site and that these are completed.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 4 March 2022

Application No: 21/00732/DPP

Applicant: Banks Property Dev Ltd, 2nd Floor, Block C,
Brandon Gate, Leechlee Road, Hamilton, ML3
6AU

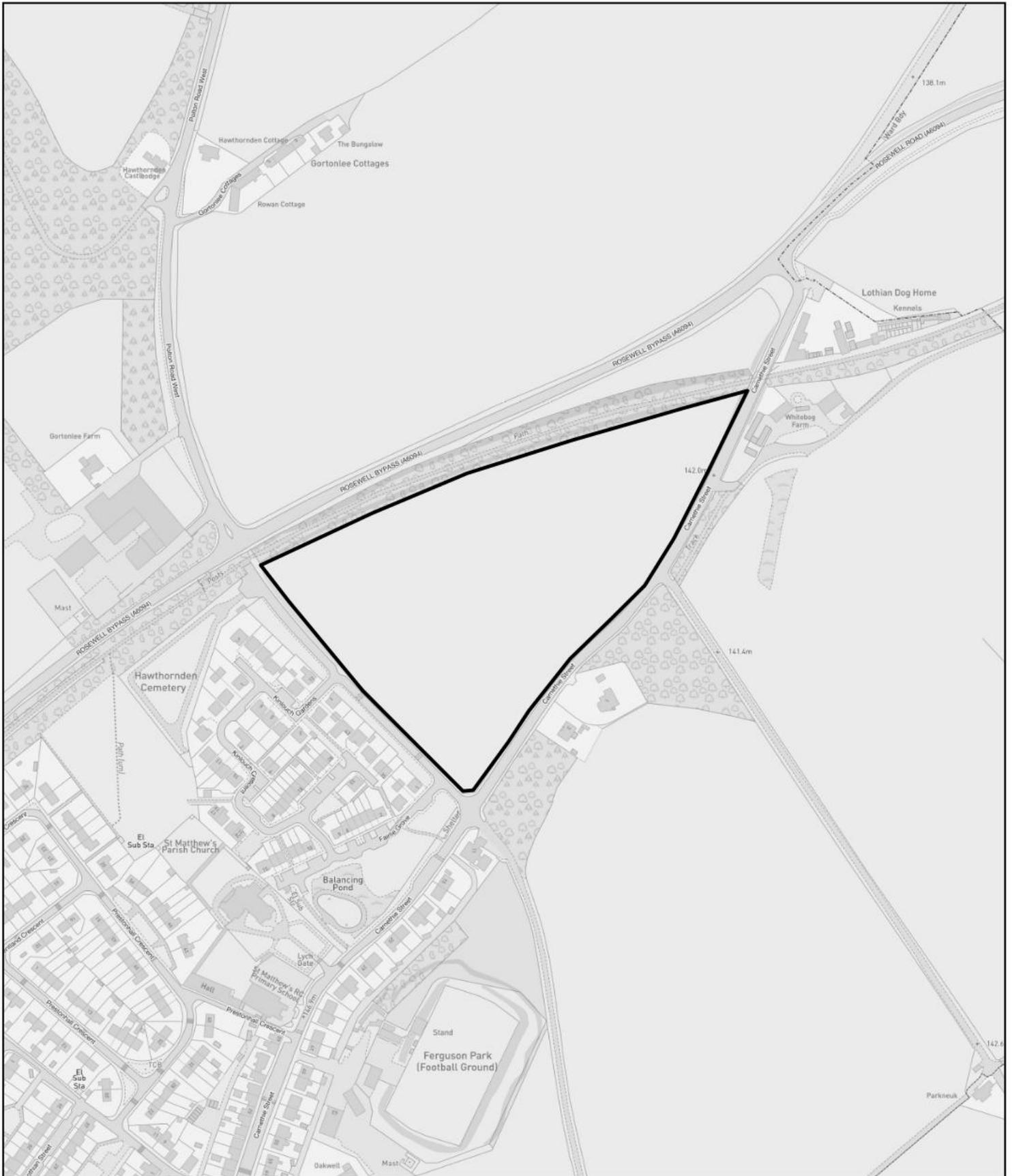
Agent: Andrew Rule, BDW Trading Ltd, Telford House, 3
Mid New Cultins, Edinburgh, EH11 4DH

Validation Date: 3 September 2021

Contact Person: Hugh Shepherd

Email: hugh.shepherd@midlothian.gov.uk

Background Papers: 18/00403/DPP



**Planning Service
Place Directorate**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Erection of 100 dwellings (including amendment to previously approved site layout and house types); formation of access roads, car parking, open space, SUDS and associated works at Land between Rosewell Road and, Carnethie Street (Doctor's Field), Rosewell,

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File No: 21/00732/DPP

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Scale: 1:4,000
Page 194 of 286



DATE	DESCRIPTION
18/12/2012	ISSUED FOR TENDERS
19/01/2013	REVISED
20/02/2013	REVISED
20/03/2013	REVISED
20/04/2013	REVISED
20/05/2013	REVISED
20/06/2013	REVISED
20/07/2013	REVISED
20/08/2013	REVISED
20/09/2013	REVISED
20/10/2013	REVISED
20/11/2013	REVISED
20/12/2013	REVISED



- SITE BOUNDARY
- AFFORDABLE AREA
- 1.5M HSB 3 BARRACKS HOUSE
- 2.5M HSB 4 BARRACKS HOUSE
- 3.5M HSB 5 BARRACKS HOUSE
- 4.5M HSB 6 BARRACKS HOUSE
- 5.5M HSB 7 BARRACKS HOUSE
- 6.5M HSB 8 BARRACKS HOUSE
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- 97.5M HSB 99 BARRACKS HOUSE
- 98.5M HSB 100 BARRACKS HOUSE



Proposed Residential Development, Rosewell
for DWH East Scotland
Schedule of Accommodation 1812BPL001

PRIVATE	DESCRIPTION	NOS
Type M	4 Bed Detached	4
Type N	4 Bed Detached	12
Type O	4 Bed Detached	10
Type P	4 Bed Detached	9
Type Q	4 Bed Detached	13
Type R	4 Bed Detached	12
TOTAL PRIVATE		75
AFFORDABLE (25%)		
Type S	3 Bed Terrace/Duplex	5
Type T	1 Bed Cottage Flat GF	4
Type U	1 Bed Cottage Flat LF	4
Type V	3 Bed Terrace	12
TOTAL AFFORDABLE		25
COMBINED TOTALS		100

ema
architects + masterplanners

BOW TRAINING LTD
RESIDENTIAL DEVELOPMENT
ROSEWELL

SITE LAYOUT

DATE	1812BPL001Z
SCALE	1:1000
PROJECT	ROSEWELL
CLIENT	BOW TRAINING LTD
DESIGNER	EMA



FRONT ELEVATION



SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION

TOTAL FLOOR AREA :

Sales Name:

House Type Code: Type D

Spec: A1

Drawing No: 12

Date: Aug 20

Drawn: GDT

Checked: GDT

Scale: N/A

WARNING TO CLIENTS AND PURCHASERS:
 All drawings are intended for use as a guide only. The layout, form, content and dimensions specified are intended for general guidance only. While we make every effort to ensure our drawings are up to date, they may from time to time be an incomplete or in updating process due to changes in the market. It is the responsibility of the client to ensure that the contents of this drawing do not constitute a contract part of any contract or agreement unless otherwise stated. All drawings are subject to change without notice for the purpose of entering into a contract to purchase any property.

Planning Layout 1 of 2

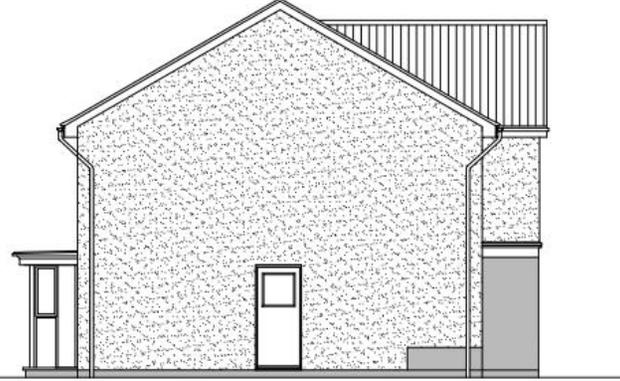
Please refer to Data Sheet for full revisions



DAVID WILSON HOMES
 WHERE QUALITY LIVES



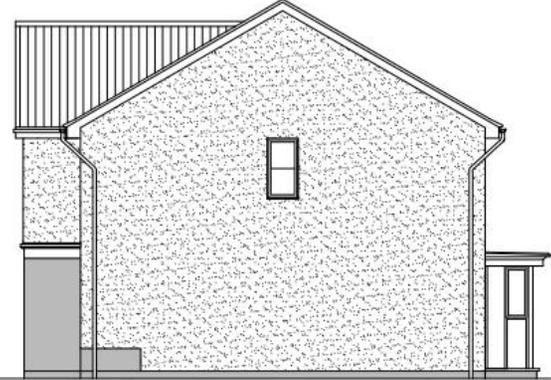
FRONT ELEVATION



SIDE ELEVATION



REAR ELEVATION



SIDE ELEVATION

TOTAL FLOOR AREA :

Sales Name:

House Type Code: Type E

Spec: A1

Drawing No: 12

Drawn: GDT

Checked: GDT

Date: Aug 20

Scale: N/A

WARNING: DO NOT CONSIDER THESE DRAWINGS AS CONTRACT DOCUMENTS.
 These drawings are preliminary and are subject to change during the progress of the build process. The layout, form, contents and dimensions specified are intended for general guidance only. While we make every effort to ensure our drawings are up to date, they are not intended to be used for construction purposes. We do not warrant the accuracy of these drawings and we do not accept any liability for any errors or omissions. The contents of these drawings do not constitute a contract and no contract or warranty arises from their use. Please refer to the contract documents for the full terms and conditions of sale.

Planning Layout 1 of 2

A Please refer to Data Sheet for full revisions

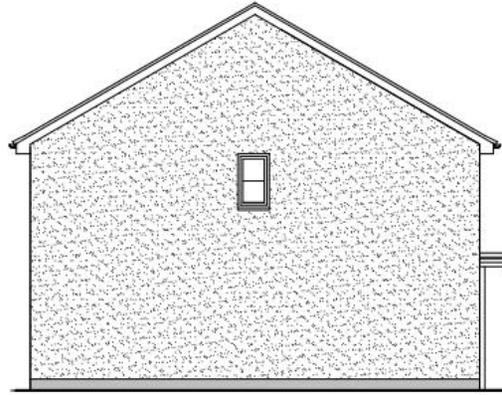
Feb 21



DAVID WILSON HOMES
 WHERE QUALITY LIVES



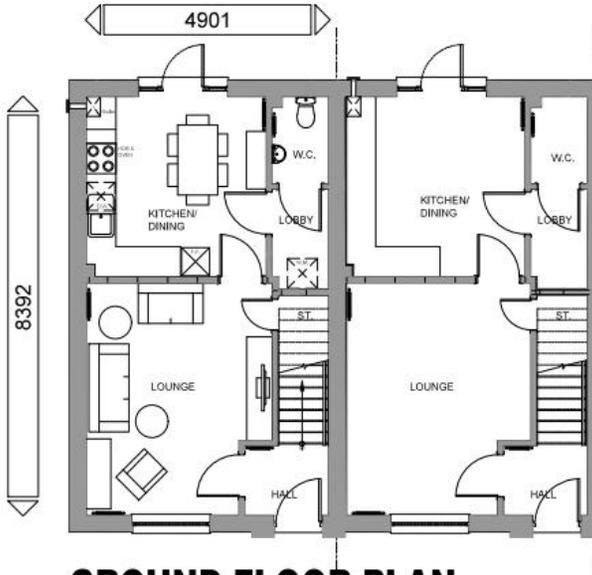
FRONT ELEVATION



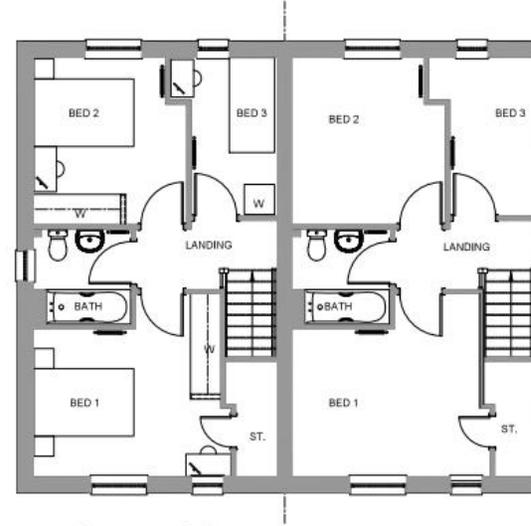
SIDE ELEVATION



REAR ELEVATION



GROUND FLOOR PLAN



FIRST FLOOR PLAN

Sales Name:

House Type Code: **Type G**

Spec: AMBASSADOR Drawing No:

Drawn: GDT Checked: GDT Scale: 1:100@A3 Date: Aug 20

WARNING TO HOUSE PURCHASERS

Buyers are warned that this is a working drawing and the contents of this drawing have not been checked against the actual site conditions. The drawings are issued for general guidance only and are not to be used for construction purposes. The drawings are issued on the basis of the information provided to the architect and are not to be used for construction purposes. The architect is not responsible for any errors or omissions in the drawings. The drawings are issued on the basis of the information provided to the architect and are not to be used for construction purposes. The architect is not responsible for any errors or omissions in the drawings.

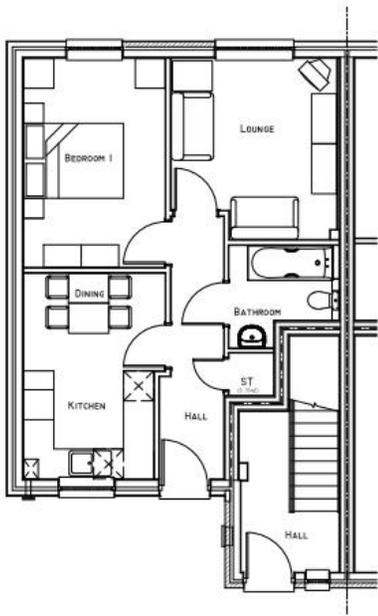
PLANNING DRAWING

Rev: .

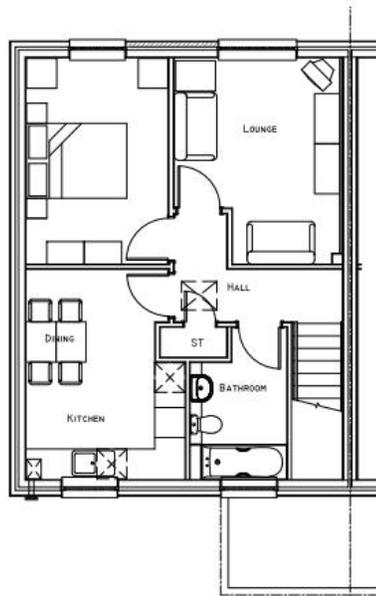
Date: .



BARRATT
DEVELOPMENTS PLC



**GROUND FLOOR PLAN
(Type H)**

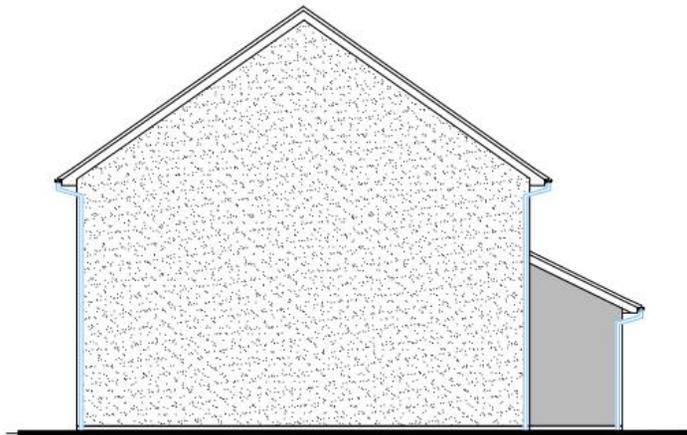


**FIRST FLOOR PLAN
(Type I)**



FRONT ELEVATION

REAR ELEVATION



SIDE ELEVATION



Barratt East Scotland
Telford House
3 Mid New Cullins
EDINBURGH
EH11 4DH
Tel: 0131 442 5700
Fax: 0131 442 5701

House Type Code

HVN COTTAGE FLATS

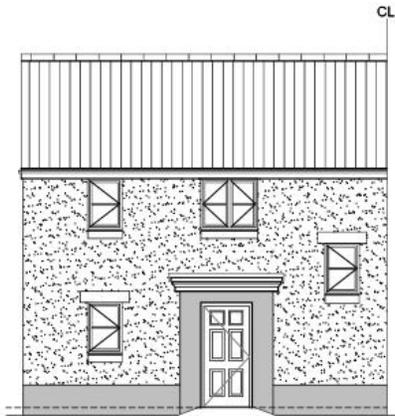
1 Bed Variation (Type H & I)

Cottage Flats - ROSEWELL

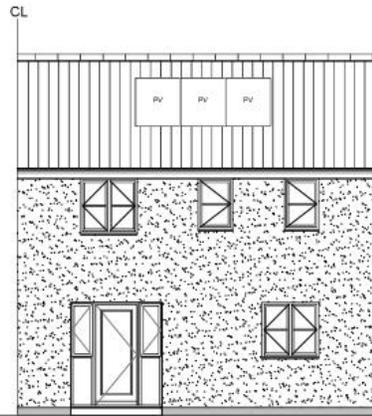
WARNING TO HOUSE-PURCHASERS, Property Misdescriptions Act 1991
It is to be noted that this is a working drawing and the contents of this drawing may be subject to change at any time and alterations and variations can occur during the progress of the build process. As such the layout, content and dimensions of the finished construction may differ materially from those shown. Whilst we make every effort to ensure our drawings are up to date there may from time to time be an unavoidable delay in updating these due to changes in regulations and/or re-planning. Purchasers are advised to check with the Sales Advisor whether any alterations have been made to this drawing. The contents of this drawing do not constitute a contract, part of any contract or warranty.

PLANNING DRAWING

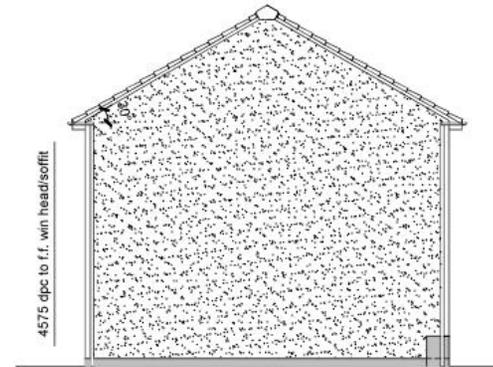
Date	May 2021	BIL/HVN-1BCF/01
Drawn by	BES	
Checked by		
Revision		Scale 1:100 @ A3



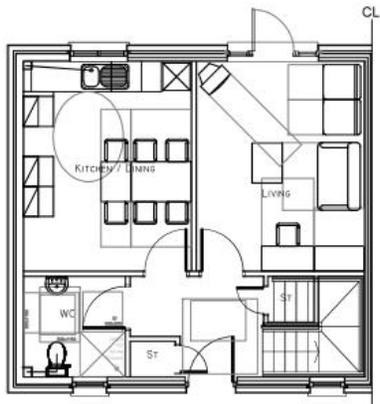
Front Elevation



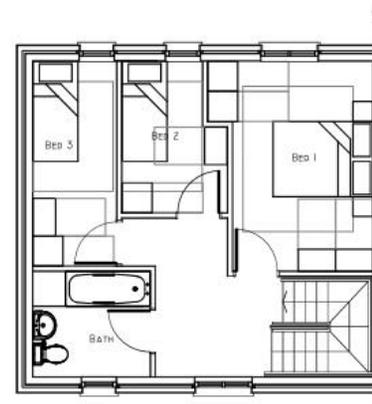
Rear Elevation



Side Elevation



Ground Floor Plan



First Floor Plan

Sales Name:

House Type Code: **3B4P (Type L)**

Spec: Drawing No:

Drawn: **RM** Checked: **AR** Scale: **1:100@A3** Date: **April 21**

PLANNING

Rev: Description:
Refer to data sheet

Date:

Thermal Spec:

BLUE (det)



BARRATT
DEVELOPMENTS PLC

WARNING TO HOUSE PURCHASER: The drawings are for information only and are not to be used for construction. The drawings are subject to change without notice. The drawings are for general guidance only. Some content and dimensions are subject to change. We will make every effort to ensure our drawings are up to date. However, from time to time we may make changes to the drawings. The contents of these drawings are not to be used for any purpose other than that intended. We do not accept any liability for any loss or damage, particularly incorporated into the contract. They should not be relied upon for the purpose of entering into a contract to purchase any property.



**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE
20/00774/PPP, FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED
WORKS AT LAND AT WELLINGTON FARM, OLD CRAIGHALL ROAD,
MILLERHILL, DALKEITH**

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

1.1 The application is for planning permission in principle for residential development and associated works on land at Wellington Farm, Old Craighall Road, Millerhill, Dalkeith. There has been one representation and consultation responses from The Coal Authority, Transport Scotland, Scottish Water, the Scottish Environment Protection Agency (SEPA), Historic Environment Scotland, East Lothian Council, the Danderhall and District Community Council, the Council's Archaeological Advisor, the Council's Policy and Road Safety Manager, the Council's Education Resource Manager and the Council's Environmental Health Manager.

1.2 The relevant development plan policies are Policy 5 and 7 of the South East of Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT3, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, ENV1, ENV2, ENV4, ENV7, ENV9, ENV10, ENV11, ENV14, ENV15, ENV16, ENV17, ENV18, ENV20, ENV23, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).

1.3 The recommendation is to grant planning permission in principle subject to conditions and securing developer contributions towards necessary infrastructure and affordable housing.

2 LOCATION AND SITE DESCRIPTION

2.1 The site of the proposed development is a triangular-shaped area of ground some 18.5 hectares in size. The site lies to the south of Old Craighall Road, Millerhill. To the north east, the site is bound by agricultural land allocated for residential development which is subject to two planning applications for a total of 620 residential units (17/00408/DPP and 17/00409/DPP –reported to Planning Committee at its meeting of January 2019 and January 2021). A track runs down

the length of the east boundary separating the application site with the adjacent development site. The south east boundary abuts the A720 Edinburgh City Bypass with the Dalkeith Country Park beyond. This boundary is marked by a post and wire fence. To the west, the site boundary follows the curve of a former railway line, now disused and overgrown - this boundary is marked by a chain-link fence at the foot of a steep embankment. The boundary is also marked by trees of varying species and age with scattered shrubs and other wild planting.

- 2.2 Crossing the site in an east to west alignment at its southern portion are two rows of high voltage electricity transmission lines. These are 275kV lines held by steel lattice towers. The north most line is held by two towers which fall within the site boundary whilst the south most line is held by one tower. The south most line crosses the A720 and enters the site at its south east extent. At the northern extent of the site, there is a double row of overhead wires crossing the site in an east to west alignment. These lines are a lower voltage (either 11kV or 33 kV) and held by wooden poles.
- 2.3 The site is generally flat with some variations in levels across long distances. The site sits at 43.23m AOD (above Ordnance Datum/mean sea level) at its northern point which rises to 51.96m AOD in the south west and 49.40m AOD in the south east. There is a low point approximately half-way along the eastern boundary, which does flood on occasion. The site is in active agricultural use.
- 2.4 The site is within a Coal Authority High Risk to Development Area. There are nine mine entries present within or adjacent to the site. Although the site has been in agricultural use for as long as historic maps show, the historic mine workings of the past present a risk of contamination and stability.
- 2.5 The site is identified in the Midlothian Local Development Plan 2017 (MLDP) as a site for future housing development and is safeguarded as such. It is the next phase of development following the delivery of new homes and other associated works on site Hs1: Newton Farm. This site is the subject of the aforementioned planning applications 17/00408/DPP and 17/00409/DPP. The settlement statement map for Danderhall/Shawfair notes the site's potential for future development as a subsequent phase of Hs1. But despite this indication of the potential for future development, the MLDP does not allocate the site for housing at this time and places it instead within the green belt. The MLDP also notes the classification of the site as prime agricultural land.

3 PROPOSAL

- 3.1 This application is for planning permission in principle to develop the site for residential use. The residential area would link to the adjacent developments of 17/00408/DPP and 17/00409/DPP and is seen as a next phase of this development. Details would be the subject of further

application/s, but the applicant has provided a Development Framework (Dwg No. 18238(PL)001_A, EMA, November 20) which sets out broad parameters for development in response to the site opportunities and constraints. To the north would be a sustainable urban drainage system (SUDS) basin/pond with two blocks of residential development separated by a belt of open space running east to west. To the south, the applicant proposes further open space which would be connected by a multi-user path through the site and beyond. They would also connect, through the landscape belt proposed along the west boundary, to the disused railway line route.

- 3.2 The proposal is supported by a transport assessment (TA) (Sweco, November 2020). It sets out the key connections the site currently benefits from, and those that are planned to be delivered in the area. This is arranged into a hierarchy starting with walking and cycling, then public transport and private vehicles. The TA finds that the site, despite its existing rural location, is close walking distance (1.6km or 20 minutes) to a wide range of planned amenities. A close cycling distance (c8km or 30 – 40 minutes) connects the site to a range of amenities and employment locations in the area. Existing bus services on Old Craighall Road will be enhanced by the planned new park and ride services within the neighbouring development. The Shawfair railway station provides rail services on a 30 minute frequency nearby (10 minute cycle). Public transport connections would connect the site to a wide catchment area of destinations within a 60 minute journey.
- 3.3 The adjacent development provides for north and south connections to the surrounding road network: Old Craighall Road to the north; and, to the A68/A720 City Bypass to the south. Vehicular access into the site is proposed to be a signalised junction with Old Craighall Road provided as part of the neighbouring developments (17/00408/DPP and 17/00409/DPP). The speed limit on Old Craighall Road would be reduced to 30mph as part of these works. The TA also notes the provision of a fourth arm to the A68/A720 roundabout which will provide a southern point of access into the neighbouring site. The applicant proposes to commence development after a construction access from phase 1 becomes available. No other details on phasing are provided. Two vehicular connections into the site would utilise proposed streets provided in the adjacent development. The TA goes on to discuss measures to promote sustainable modes of transport through the use of residential travel plans. But overall, with the delivery of the new link road in the neighbouring development, the development would contribute to the improvement of the road network.
- 3.4 The TA then undertakes modelling work to assess the impact of the trips generated by the development on the surrounding road network. The assessment assumes an opening year of 2024, models 400 homes and models the impact of these units in accumulation with planned (committed) developments. The MLDP requirements for Hs1

are for development to contribute towards mitigation of capacity issues at Sheriffhall roundabout.

- 3.5 The applicant has assessed the flood risk generated by the development (Kaya Consulting Ltd, November 2020). It does not consider the proposal to be at significant risk from fluvial sources of flooding. There is a risk of flooding from surface water entering the site from the north which should be addressed in the drainage strategy. There is a small risk that vehicular access points can act as flow pathways for flood waters - the detailed design of this part of the development should ensure that it mitigates this risk.
- 3.6 In terms of drainage, the applicant has presented a drainage strategy (Goodson Associates, May 2020) to address issues around water and waste connections as well as surface water treatment and attenuation. The strategy notes the presence of an existing sewer pipe within the site boundary. This will need to be relocated to facilitate development, but also provides a point of outfall for foul water. For surface water, a sustainable urban drainage system (SUDS) network is to be provided within the site which will attenuate flows to a 1:2 year green field runoff limit, during a 1:30 year storm event. This gives a maximum allowable flow rate of 81.3 litres per second. This volume would be held in a detention basin situated in the north portion of the site. Treatment would be provided as a sequential train comprising firstly road side swales providing a two-stage treatment before a further layer of treatment is provided by the basin prior to discharge.
- 3.7 The proposal is supported by an air quality impact assessment (The Airshed, October 2020) which examines the impact of development on local air quality. It adopts standard modelling methods to predict the rise in pollutants above existing baseline conditions and provides an assessment of significance of any change. Based on this approach, the report concludes that the development would not result in a significant loss of local air quality, nor would the residents of the development be subject to below-standard air quality.
- 3.8 The applicant has undertaken an archaeological assessment of the site (Written Scheme of Investigation, AOC Archaeology March 2020) comprising trial trench digs covering 8% of the site.

4 BACKGROUND

- 4.1 The proposal is classed as a Major Development, as defined by the Town and Country Planning (Scotland) (Hierarchy of Developments) Regulations 2009. Therefore, the applicant has certain obligations in relation to pre-application consultation with the community. In March 2020, the applicant submitted a Proposal of Application Notice to the Council (20/00231/PAC). The application is accompanied by a Pre-Application Consultation Report (Holder Planning, October 20) which

details the consultation methodology and the feedback gained from this process.

- 4.2 The applicant also submitted a request for a Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (20/00602/SCR). It is the adopted opinion of the Council that the proposal is not an EIA Development as defined by the said Regulations.
- 4.3 The site has not been the subject of any planning applications which would be material to the consideration of this current application. The Council received a prior notification of the installation of a 20m high telecommunication mast (19/00637/PNCOM). This is on land adjacent to, but beyond, the boundary of the northern tip of the site near to Old Craighall Road.
- 4.4 To the north east, the site is bound by agricultural land allocated for residential development which is subject to two planning applications for a total of 620 residential units (17/00408/DPP and 17/00409/DPP – reported to Planning Committee at its meeting of January 2019 and January 2021). The Council is minded to grant planning permission for the developments subject to the signing of a legal agreement to secure financial contributions towards infrastructure and the provision of affordable housing – the legal agreement is at an advanced stage of preparation.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application. They reviewed the applicant's desk based Coal Mining Risk Assessment (DAM Geotechnical Services, November 2019) and concur with the findings. The report advises that further investigations (including borehole investigations) are required along with remedial measures to ensure that the development is not at risk from stability and mine gas from the sites historical coal mining activities. Conditions are recommended to be attached to any grant of planning permission.
- 5.2 **Transport Scotland** does not object to the application, subject to conditions regulating the connection to the trunk road network at the A720/A68 interchange.
- 5.3 **Scottish Water** does not object to the application, but note the existence of a combined water sewer pipe within the site. This will require a stand-off distance of 6m with no buildings or other restrictions allowed within this stand-off zone. The location of the sewer pipe has been identified by the applicant in their utilities plans (Appendix 10, Preliminary Environmental Assessment Report, Goodsons Associates November 2019).

- 5.4 The **Scottish Environment Protection Agency (SEPA)** does not object to the application. Concern about the lack of information on a field drain/culvert through the site is noted, however SEPA are satisfied that further investigations into the location of the culvert and possible diversion options could be undertaken/considered at the detailed design stage if planning permission was granted.
- 5.5 **Historic Environment Scotland** does not object to the application.
- 5.6 **East Lothian Council** does not object to the application.
- 5.7 The **Danderhall and District Community Council (DDCC)** object to the application for the following reasons:
- Prematurity, as the site is not allocated for residential development in the MLDP. Development of the site for new homes should be held for the long-term;
 - the transport impacts of development and how these have been assessed by the applicant; and
 - the application should not be granted ahead of the development of new policy provisions that could secure more social, economic and environmental benefits for the community.
- 5.8 The **Council's Archaeological Advisor** does not object to the application. The site is located in an area containing at least two known archaeological sites and lies within an area of high archaeological potential. Therefore, a condition is recommended which requires a programme of archaeological works based on an agreed written scheme of investigation (WSI).
- 5.9 The **Council's Policy and Road Safety Manager** does not object to the application.
- 5.10 The **Council's Education Resources Manager** does not object to the application. The application has been reviewed in the context of the expansion plans for the education estate in the area, primarily in response to the Shawfair developments. The expanded school estate would be able to accommodate the expected pupils generated by the development subject to developer contributions being secured.
- 5.11 The **Council's Environment Health Manager** does not object to the application. In reviewing the proposal it is noted that there is a risk to the development/future occupants from noise from the A720. There is also a risk to the development from air quality and contaminated land. In terms of noise, the conclusions of the noise assessment are noted and conditions are suggested to control the detailed design of new development. These aim to avoid any significant detrimental impacts on the amenity of future residents. In terms of air quality, the development would have no impact on air quality in and around the site. Control measures for the construction phase can be secured by conditions. For contaminated land, the Phase 1 Site Investigation

recommends further investigative work. This conclusion is agreed and any follow up work can be secured by conditions.

6 REPRESENTATIONS

- 6.1 There has been one representation received, which can be viewed in full on the online planning application case file. A summary of the main points raised are as follows:
- active travel options within and around the site boundary should be considered;
 - detailed proposals should include provision for cycle parking.

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 Development Plan 2017 (MLDP). The following policies are relevant to the proposal:
- 7.2 SESplan June 2013 is older than five years. A replacement SESplan was prepared but rejected by Scottish Ministers in May 2019. The Planning etc. (Scotland) Act 2019 removed the duty to prepare Strategic Development Plans, placing strategic planning matters within a National Planning Framework (NPF) to be prepared by Scottish Ministers. Once approved, the NPF (which is currently subject to consultation) will form part of the development plan alongside local development plans. Until NPF is approved, SESplan remains part of the development plan albeit increasing out of date.
- 7.3 The following policies are relevant to the proposal:
- [Edinburgh South East Scotland Strategic Development Plan 2013 \(SESPlan\)](#)
- 7.4 **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.
- 7.5 **Policy 6 (HOUSING LAND FLEXIBILITY)** - each planning authority in the SESplan area shall maintain a five years' effective housing land supply at all times. The scale of this supply shall derive from the housing requirements for each local development plan area identified through the supplementary guidance provided for by SESplan policy 5. For this purpose planning authorities may grant planning permission for the earlier development of sites which are allocated or phased for a later period in the local development plan.

- 7.6 **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)

- 7.7 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 safeguarding of the site for housing (220 units) for the longer term (beyond 2024) and provides scope for the early support of development if the site contributes to the five-year effective land supply.
- 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** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, and passive energy gain, positioning of buildings, open and private amenity space provision and parking.
- 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 **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area.
- 7.15 Policy **TRAN5: Electric Vehicle Charging** seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals.
- 7.16 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.17 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.
- 7.18 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.
- 7.19 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.
- 7.20 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.

- 7.21 Policy **ENV4: Prime Agricultural Land** does not permit development that would lead to the permanent loss of prime agricultural land unless there is appropriate justification to do so.
- 7.22 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.
- 7.23 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 drainage systems (SUDS) 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.
- 7.24 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.
- 7.25 Policy **ENV11: Woodland, Trees and Hedges** protects against 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.
- 7.26 Policy **ENV14: Regionally and Locally Important Nature Conservation Sites** states that development will not be permitted where it could adversely affect the nature conservation interest of such sites, unless it can be demonstrated that appropriate mitigation measures are in place.
- 7.27 Policy **ENV15: Species and Habitat Protection and Enhancement** provides a presumption against development that would affect a species protected by European or UK law.
- 7.28 Policy **ENV16: Vacant, Derelict and Contaminated Land** supports the redevelopment of vacant and derelict land for uses compatible with their location. Developments will be required to demonstrate that the

site is suitable for the proposed new use in terms of the risk posed by contamination and instability from historic uses.

- 7.29 Policy **ENV17: Air Quality** states that the Council may require further assessments to identify air quality impacts where considered requisite. It will refuse planning permission, or seek effective mitigation, where development proposals cause unacceptable air quality or dust impacts
- 7.30 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.
- 7.31 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.
- 7.32 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.
- 7.33 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.
- 7.34 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.
- 7.35 Policy **NRG6: Community Heating** requires that, wherever reasonable, community heating should be supported in connection with buildings and operations requiring heat.
- 7.36 Policy **IMP1: New Development** ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; 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.

- 7.37 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.
- 7.38 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

National Policy

- 7.39 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.
- 7.40 SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to contribute towards good place-making. These qualities are places that are: 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.
- 7.41 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.
- 7.42 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.
- 7.43 SPP introduces a presumption in favour of development that contributes to sustainable development, but states:

The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.

- 7.44 SPP promotes a plan-led system and the starting point for any assessment of an application for planning permission, unless material considerations justify a departure. SPP requires planning authorities to maintain a five year supply of effective housing land at all times. Where a shortfall emerges, specific provisions within SPP allow for the assessment of additional sites not allocated for housing to be considered to make up the shortfall. Sustainable development can be defined by the 13 principles of sustainable development set out in paragraph 29 of SPP.
- 7.45 The Planning etc (Scotland) Act 2019 places a duty on Scottish Ministers to prepare a new National Planning Framework. This will replace the existing National Planning Framework (NPF3) and SPP. A draft NPF4 has been published for consultation. The content of NPF4 in the consultation draft underlines the continued support for a plan-led system in Scotland where the economic aspirations of the country are met in a way that is balanced by the needs of communities and the environment.
- 7.46 **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.
- 7.47 **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 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.

The Principle of Development

- 8.2 The site is not allocated for residential development in the MLDP, but is safeguarded for potential future housing development, if deemed required through the review of the MLDP and/or depending on Midlothian's future housing targets to be set by Scottish Government through National Planning Framework 4 (NPF4) which is currently subject to consultation and scheduled for adoption in spring/summer 2022. But until then, in planning terms and for the purposes of this assessment, the site is located within the green belt and is prime agricultural land. The proposal does not comply with the acceptable forms and scale of development allowed for in the green belt, as defined by MLDP policies ENV1 and ENV4 and therefore the proposal is contrary to the development plan – unless there is an identified shortfall in the five year housing land supply (this point is discussed in

detail later in the report). The safeguarding of the site for possible future development is a material consideration in the assessment of the application and is also a matter which will be the subject of due process in the formation of the next MLDP (if not granted planning permission in advance of MLDP2) and could be used to meet any additional housing targets set by NPF4 (it will also contribute towards NPF4 targets if granted permission by way of this application).

- 8.3 The assessment must then turn to any material considerations which could potentially justify a departure from the development plan. The relevant material considerations are: 1) the supply of effective housing land; 2) site effectiveness; 3) prematurity; 4) infrastructure delivery; 5) sustainable development; and 6) other matters. Once these are set out, they are then balanced against the development plan to determine if they are of sufficient weight to overcome the presumption against development.

The Supply of Effective Housing Land

- 8.4 The Council is required to maintain a five year supply of effective housing land at all times (SPP paragraph 125). The number of homes required in a local authority area is identified through the Strategic Development Plan (SESplan) (to be replaced by NPF4) and is met by the development strategy and policies of the MLDP. Where a shortfall in the supply of effective housing land emerges, sites that are not allocated for residential development should be considered as possible additional sites to make up the shortfall. Sites accepted in this way are presumed in favour (in principle) subject to the applicant demonstrating that:

- they are effective;
- they contribute towards sustainable development;
- avoid any significant impacts on their locality in relation to amenity and environmental concerns; and
- the impact on local infrastructure can be mitigated.

- 8.5 The supply of effective housing land in Midlothian is subject to annual review in the Housing Land Audit (HLA). The HLA is reviewed and endorsed by Homes for Scotland, the umbrella body which represents the housebuilding industry. The effectiveness of the housing land supply is also reviewed in the MLDP Action Programme. This will identify the trigger for introducing actions to make up any shortfall, if one is identified. These actions will be set out in the latest Action Programme approved by Council. Similarly, the MLDP also sets out policies to address a shortfall in the housing land supply where this arises during the lifetime of the plan. One such action would be the support for early delivery of safeguarded sites, provided that a proposal can demonstrate it can/will contribute to new homes to make up the shortfall – this approach is supported by MLDP policy STRAT3. The Committee has previously approved housing development on

safeguarded sites for urban design and sustainability reasons – Hopefield Farm 2, Bonnyrigg (20/00151/PPP) considered by Committee at its meeting of April 2021 and land at Cauldcoats (20/00312/S42) also considered by Committee at its meeting of April 2021.

- 8.6 The most recent Housing Land Audit (HLA21) covers the period up to 31 March 2021. It identifies land for housing which can deliver 11,938 new homes in Midlothian. The five year supply of effective housing land equates to 4,500 homes due to be delivered between 2021 and 2026. Calculated against housing supply targets, this is a 5.1 year supply of effective housing land, meaning there is a small surplus of effective housing land in Midlothian (although it is acknowledged there are alternative ways to calculate an effective housing land supply). The application site is not part of this supply as it is not allocated for housing in the MLDP, but if supported would contribute to the housing land supply, buffering the Council against non-safeguarded sites if it's supply drops below set targets in future years.
- 8.7 The latest MLDP Action Programme was presented to the Committee in June 2021. It reviews the performance of policies of the MLDP and provides an update on development progress within Midlothian. The Action Programme reiterates the position that there is an effective five-year land supply in Midlothian (para 6.15).
- 8.8 This position confirms the assessment of Midlothian's Housing Land Supply in the Department of Planning and Environmental Appeals (DPEA) Examination of the MLDP. Paragraph 40 of the Reporter's Examination Report confirms that the "proposed plan would be sufficient to ensure the maintenance of a 5-year effective housing supply". Therefore, there is a surplus of housing land in Midlothian and the policies relating to housing land within the MLDP remain as the primary determining policies in the assessment of this application. This means that there is no need to allocate more land for housing and that the protective MLDP policies ENV1 and ENV4 cannot be easily set aside. It is however important to acknowledge that the Reporter's statement predates the adoption of the MLDP in 2017 and since this time there have been appeal decisions (not in Midlothian) which have taken an alternate approach to working out housing land supply.
- 8.9 A complication has recently emerged which must be considered as part of this assessment. SESplan was approved in 2013, with Supplementary Guidance on Housing Land Supply approved a year later. These documents are both more than five years old and are, therefore considered out of date under the terms of SPP 2014. SESplan was due to be replaced by SESplan2. However, Scottish Ministers rejected SESplan2 as its spatial strategy did not fully consider transport implications. The result of this is that the strategic plan is out of date with no new targets approved against which to measure the current supply. However, despite this position SESplan still forms part

of the development plan and is a material consideration. The other part of the development plan, the MLDP, allocates sufficient land to meet the Council's housing targets (set by SESplan) although they are increasingly becoming outdated and vulnerable to challenge at appeal. Also, they will be superseded by NPF4 which in draft sets an annual housing supply target for Midlothian of approximately 800 units (8,050 units for the period 2026-2036 and 805 units per year between the adoption of NPF4 and the adoption of MLDP2). Supporting this development would contribute towards NPF4 targets in a location already identified as suitable for housing in the MLDP.

- 8.10 For planning authorities in the SESplan area, and the Reporters for the DPEA, this situation has led to unique challenges. This is because the approach to determining an application for residential development that is not allocated in the development plan for housing differs significantly if there is a shortfall in housing land or not. The Reporters in these circumstances have taken slightly different approaches in each case. But, in general, they have adopted a presumption in favour of development, with the assessment focussing on the impacts of development. Where these impacts are demonstrably significant and adverse, then consent has been refused. But in the absence of these impacts, and where the proposal has been proven to be sustainable and effective, approval has generally been granted.
- 8.11 It is important to highlight two points at this stage. The first is that there have not been any appeals in Midlothian where this type of issue has been central to the consideration of the case. The second is that the appeal decisions that have emerged are in local authority areas like Fife and the City of Edinburgh Council. In both of these planning authority areas, the adopted local development plans (LDPs) acknowledge a shortfall in the five year supply of effective housing land after this was identified during the Examination of these LDPs. By contrast, the MLDP was adopted following the Examination by the DPEA which concluded the plan provided a surplus of effective housing land. So there are limitations in how applicable the approach taken in other planning authorities is to Midlothian.
- 8.12 The applicant's case in support of the proposal takes the Reporters approach in other locations, notably the Garden District appeal in the City of Edinburgh, and applies it to this case. The approach can be summarised as: it is impossible to determine if there is a shortfall or surplus, therefore we should presume there is a shortfall and approve a proposal that is sustainable development and effective, as this is what is directed by SPP. The applicant then provides evidence to show the proposal meets the definition of sustainable development provided by SPP. This is in part based on the position that SESplan is out of date and therefore it's policies are out of date; although this is the case SESplan1 still forms part of the development plan (until NPF4 is adopted) and therefore is material to the assessment of planning

applications – the dispute is with regard how material and how much weight the decision maker should give SESplan1 policies.

- 8.13 The applicant has provided analysis which, in their opinion, demonstrates that the Council is not maintaining a five-year supply of effective housing land (this is at odds with the HLA21 and the Council’s Action Programme). The applicant then argues that more land is required to meet unmet need and this site should be brought forward early to bolster the supply.
- 8.14 As previously stated, adopting the approach taken in other planning authority areas is not the complete picture. Not least because each application must be determined on its own merits. But more pertinently, greater care must be taken by the Council to determine if there is a need for additional housing land to meet the demands of their area. This is because development places a burden on the natural capital of an area, a burden on supporting services provided by the Council and others and a burden on communities. These burdens can be offset by the benefits of well-designed, well-situated development that supports investment and economic growth of the area. But the purpose of housing need and demand assessments, strategic planning and local planning is intended to ensure that the benefits outweigh the burdens and that we only use the land that we need. It is intended to prevent unfettered growth at the expense of the environment and communities. Therefore, it is worth investigating the need for development more closely, in order to answer the basic question facing this application: do we need more land for housing?
- 8.15 The below table provides some analysis which measures the current supply audited in HLA21 against a variety of housing supply targets from different sources. The table shows, in the right hand column, the length of housing land supply depends on the method of calculation:

Source of Housing Supply Targets (HST)	Annual HST	5 x Annual HST	Supply of 4,500 (in years)
Strategic Development Plan (SDP1) 2019 – 2024	882	4,410	5.1
SDP1 2019 – 2024 + generosity allowance +20%	882 + 20%	5292	4.3
SDP1 2019 – 2024 + shortfall from previous plan period	882 + [8080 – 5601 / 5 (496)] = 1378	6,890	3.3
As above + 20%	1058 + 496 + 20% of 496) = 1,653	8,265	2.7
SDP2 (rejected SESplan2)	534	2,670	8.4
HNDA2 (lowest growth scenario)	411	2,055	10.9

HNDA2 (highest growth)	467	2,335	9.6
SDP2 + 20%	641	3,205	7.0
HNDA2 (lowest growth scenario) + 20%	493	2,465	9.1
HNDA2 (highest growth) + 20%	560	2,800	8.0
Draft NPF4 (November 2021)	805	4,025	5.6

- 8.16 The second column shows a series of potential annual housing supply targets which are then multiplied by five to derive a 5-year housing supply target against which the current supply can be measured (column 4). The first four rows are variations of targets taken from SESplan1's Housing Need and Demand Assessment (HNDA). The remaining rows are taken from SESplan2's more up-to-date assessment. In some scenarios, an additional 20% is added which represents the generosity allowance promoted in SPP, but which was predated by SESplan1.
- 8.17 It is not the intention for this assessment to provide a definitive answer as to which method of calculation is correct. This question has been the subject of rigorous debate within the development industry, the Scottish Government and the courts. The Scottish Government had published a draft Planning Advice Note PAN 1/2020 which provided a definitive calculation methodology. However, the public consultation process involving this document and an amendment to SPP to remove the tilted balance in favour of sustainable development from national policy were deemed unlawful by the courts in the summer of 2021 and the guidance has been withdrawn. This leaves the question around methods to determine supply vs demand unresolved, albeit the courts appear to favour a compound/residual method as promoted by the applicant in this case. On the other hand, the updated assessments provided by SESplan2 and NPF4 supersede a compound method based on SESplan1 and by capturing unmet demand.
- 8.18 To guide the decision-making process through this uncertainty, it is instructive to note that in all but three scenarios, the Council's supply of housing land meets the five-year demand. The three scenarios where a shortfall emerges are based on: 1) the out-of-date SESplan HNDA with a 20% generosity allowance; 2) the out-of-date SESplan HNDA with the additional inflation of unmet shortfall from previous years; and, 3) the out-of-date SESplan HNDA with both the 20% generosity allowance plus the unmet shortfall added. These scenarios are considered to be unrealistic measures of demand in Midlothian in 2021. This unmet demand from previous years is captured by the more up-to-date SESplan2 targets. Furthermore, the recently published draft NPF4 sets a target of 8,050 homes over ten years in Midlothian. This equates to

an annual target of 805 homes or 4,025 over five years. The current supply of 4,500 homes is sufficient to cover these updated requirements if all the sites allocated and planned come forward and deliver.

- 8.19 The applicant's approach to analysing the supply of effective housing land is set out in their assessment dated July 2021. It takes the SESplan plan-period (2009 – 2024) requirement for Midlothian of 12,490 homes and takes away the total completions from 2009 to 2020, leaving an unmet requirement of 6,245 homes. As the current supply of effective housing land is merely 4,343 homes programmed from 2020 – 2024, then there is a shortfall of 2,002 homes. The applicant then updates this to include audit year 2025 in terms of supply, assuming a zero requirement for 2025 (beyond the SESplan plan period). These calculations are variations of the scenarios presented in the table above. The applicant's analysis is considered to be an inflation of requirement which presents an inaccurate representation of supply vs need.
- 8.20 The key message that an analysis of housing land supply provides is that, although we cannot say for certain if the Council is maintaining a five-year supply of effective housing land, it most likely is. SESplan2 provides a more up-to-date assessment of need than SESplan1. But, as the Plan was not approved, it cannot be solely relied upon to provide a definitive measure of demand. Nevertheless, the SESplan2 measure of demand suggests that a lower target would have been required of Midlothian than in SESplan1. This suggests that the Council's supply would remain in surplus if SESplan2 was approved. NPF4 updates the targets further and keeps the requirement below the current supply. However, this document is only in preparation stage and is indicative only. It is acknowledge also that NPF4 considers the targets to be minimum requirements which should not, in of themselves, be used as inhibitors to otherwise sustainable development proposals.
- 8.21 The analysis in the table above adds weight to the Council's position set out in HLA21, and the Reporter's conclusions in the Examination of the LDP, that there is no shortfall in the supply of effective housing land. To go back to the original question of do we need more land for housing, the answer is probably not. But no certainty can be provided without clear supply targets provided at strategic/ national level.
- 8.22 The effect that this position has is to maintain the primacy of the development plan in the determination of applications for residential development. Whilst part of the development plan, the SDP, is out-of-date, the LDP is less than five years old and is promoting a development strategy that meets the substantial needs of the county. If a shortfall were identified, then the protective policies in the plan (ENV1 and ENV4) would fall and there would be presumption in favour of the principle of development. But, there is likely to be a surplus of housing land within the plan area. This means that a proposal must identify

significant material considerations that would be afforded sufficient material weight to overcome the primacy of the development plan.

- 8.23 In brief the methodology for calculating the adequacy of the five year housing land supply in the SESplan region and elsewhere has been a very contentious matter over recent years, being the subject of many appeals and court judgements. The applicant uses what has been termed as the “residual” methodology, which takes into account the number of housing completions over the two SESplan periods for which housing requirements are set, from 2009 – 2019 and 2019 – 2024. It claims that this approach accords with SESplan policy 6, and that this approach is supported by appeal decisions. On this basis the applicant concludes that there is a five year housing land supply shortfall of approximately 750 homes, when one compares the supply of homes (completed and predicted) over the period 2009 – 2024 with the housing requirements for that period. Midlothian Council officer’s use what is known as the “average” methodology, which does not take into account the shortfall in house completions in Midlothian which occurred in the period 2009 – 2019. Instead consider the period 2019 – 2024, which is the current plan period and on this basis there is a surplus in the five year housing land supply of 90 homes (5.1 years supply). The use of the “average” methodology is consistent with that used by other SESplan Councils and continues to be the Council’s preferred approach. However, in the absence of a prescribed methodology for calculating the five year housing land supply in current national planning policy or guidance, it is accepted that the position is not clear-cut.

Site Effectiveness

- 8.24 Related to the above topic is the question of site effectiveness. This refers to the potential of a site to deliver housing in the short term in a way that is free from constraints to development. PAN 2/2010: Affordable Housing and Housing Land Audits provides a criteria for assessing the effectiveness of a site. The criteria comprises:
- Ownership: the land is in control of a party who can develop it or release it for development;
 - Physical: the site, or relevant part of it, is free from physical constraints such as topography, flood risk and access which would otherwise preclude its development;
 - Contamination: the site is either not contaminated, or commitments are secured to remediate a site for its proposed use;
 - Deficit Funding: relates to the security of any required public funds;
 - Marketability: the site, or a relevant part of it, can be developed in the period under consideration;
 - Infrastructure: the site is either free of infrastructure constraints or can be secured from the developer to allow development; and,
 - Land Use: housing is the sole preferred use of the land in planning terms, or is one of a range of possible uses.

The applicant has not provided an assessment of the site in terms of its effectiveness against the above criteria. But, from the information provided in the application, an assessment of site effectiveness can be made to corroborate the assertions of the applicant.

- 8.25 In terms of the ownership, physical and land use criteria, it is accepted that the site can be made available for residential development, is free from physical constraints, and that housing is a possible use for the land. The issue of contamination is addressed in latter sections of this report; but for the purposes here it is accepted that remediation of the site can be secured from the developer. There is no deficit funding required for market housing, and housing services have given no indication that the affordable homes could not be delivered in this location too.
- 8.26 The criteria of marketability and infrastructure relates to the requirement in paragraph 55 of PAN 2/2010, namely “To assess a site or a portion of a site as being effective, it must be demonstrated that within the five-year period beyond the date of the (housing land) audit the site can be developed for housing (i.e. residential units can be completed and available for occupation)”. To be considered effective, a site must demonstrate it has a reasonable prospect of having (some, not all) homes on it ready for sale and occupation within five years.
- 8.27 Further information from the applicant was sought in relation to this issue. The particular situation of the site is that there is no direct vehicular access connecting to the public road network. The site must take access through the adjacent land. This neighbouring site benefits from a minded to grant detail planning consent for residential development and associated works. The two applications at Newton Farm (17/00408/DPP) and Wellington Farm (17/00409/DPP) would provide a total of 620 homes (504 and 116 homes respectively). The Council is minded to grant subject to the signing of a legal agreement and a number of conditions. Condition 1 relates to the phasing of the development and the supporting infrastructure. As the consent has not been released, no further details of phasing have been formally submitted and agreed with the Council. However, the house builder seeking to develop the neighbouring site has advised that discussions with the applicant have taken place and there is an intention to deliver access to the site timeously to enable units to be delivered. Furthermore, the site can positively contribute to local infrastructure (in particular contributions towards road connections) to enable the delivery of needed housing and will be designed as the latter phase of the wider development area.
- 8.28 In the absence of an agreed phasing plan, the application documents can be examined to gain an understanding of where the application site could be phased in relation to the approved development at Newton and Wellington. This phasing only relates to vehicular access and does not consider any other factors which may alter the sequencing of

elements of Newton and Wellington. The Transport Assessment submitted in support of the application (SWECO, Sept 2018) assesses the development in two phases. Phase 1 would complete up to 500 homes with phase 2 the remainder up to c.600. A new priority junction/roundabout is proposed on Old Craighall Road to allow the first phase of development. Thereafter, the Newton Farm Link Road connecting Old Craighall Road to the A68/ A720 interchange via a fourth arm to the roundabout would be provided.

- 8.29 HLA21 programmes the Newton and Wellington Farm sites from 2023/24 onwards. By 2027/28, the development would be expected to deliver 450 homes. If the rate of completions is extrapolated out, then 540 homes would be delivered by the audit year 2028/29. The applicant was invited to provide information which would demonstrate that the grant of additional land for housing would bring the delivery of the Newton Farm Link Road forward. However, understandably the applicant has no control over the phasing of the adjacent development which is a matter for that applicant (CALA Homes). A letter (dated 24 May 2021) from CALA Homes was submitted to the Council in relation to the application which provides broad commitment to collaborative working once the planning obligation/S75 legal agreement negotiations are concluded. A further letter was received (dated 23 July 2021) which indicates that a vehicular connection to the site boundary from the adjacent land could be made within two years and therefore enabling development to commence and residential units to be delivered within five years of any grant of planning permission. However, these assurances are contradicted by the technical assessments of the two proposals provided in the transport assessments. The letters from CALA Homes provide no update on this information which justifies setting their conclusions aside.
- 8.30 Attempts to “phase” the application in sequence with Newton Farm and Wellington Farm are complicated by the lack of an agreed phasing plan and firm agreement on infrastructure contributions through a planning obligation. Based on vehicular access alone, it would appear to the Council that 500 homes would be delivered on site whilst accessing the Old Craighall Road junction. Scottish Government policies such as Designing Streets promote permeability within the block structure of new development where larger developments have multiple points of access based on the desire lines to destinations in the area. To deliver any more than 500 homes on a single point of access would conflict with these well-established national design principles. It is also noted that Transport Scotland recommend a condition that would prohibit development of the site until the link road from the Old Craighall Road to the A720/ A68 interchange is installed.
- 8.31 Therefore, the site is not considered effective as defined by Scottish Government PAN 2/2010. This means that the site is not capable of delivering homes within five years. This does not mean that the proposal should be refused, it just means that the proposal cannot be

justified as a departure from the development plan to make help up a shortfall in the supply of housing land.

Prematurity

- 8.32 SPP paragraph 34 discusses the concept of prematurity, where the decision making on individual proposals prejudices the outcome of a plan-making process. This issue was raised by the Danderhall and District Community Council in their objection to the proposal. However, SPP warns that this would apply only where the scale of development is substantial enough (either individually or cumulatively) to undermine the plan-making process by predetermining decisions about the scale, location or phasing of new developments that are central to the emerging plan.
- 8.33 The latest Development Plan Scheme published by the Council (DPS 13) timetables the production of a replacement MLDP for adoption by 2026, with a proposed plan published in 2024. It is noted then that MLDP2 is in an early stage of production. The proposal in this application is limited in scale to around 360 homes. This does not breach the substantial test set by SPP in relation to prematurity. A decision can be taken on the application without undermining the plan-making process.
- 8.34 Furthermore, it is worth noting again that the Committee has previously approved housing development on safeguarded sites for urban design and sustainability reasons – Hopefield Farm 2, Bonnyrigg (20/00151/PPP) considered by Committee at its meeting of April 2021 and land at Cauldcoats (20/00312/S42) also considered by Committee at its meeting of April 2021. This site is safeguarded for residential development, seen as the next phase of the Newton and Wellington Farm development and is in a sustainable location.
- 8.35 Whilst a decision would not be premature in terms of plan-making, it may be better to wait for MLDP2 to consider this site as part of the development strategy for Midlothian in response to the updated housing requirement set by NPF4 – but this approach is a process based argument rather than a place-making decision. It is anticipated that NPF4 will be adopted later in 2022 at which point it and the housing targets it sets will form part of the development plan. Regardless, the issue of prematurity does not weigh against the proposal in this case.

Infrastructure Coordination

- 8.36 Key to determining whether a site is an appropriate location for new residential development is infrastructure. A focus on infrastructure is required in the assessment of non-allocated sites as site-specific requirements of allocated sites is typically expressed in the settlement statements of the MLDP. SESplan Policy 7 has traditionally been used

to bring this consideration into the assessment of non-allocated housing sites and should be applied in this case.

- 8.37 If infrastructure constraints suggest a site cannot be developed then permission should not be granted. Conversely, if developing a site would release development value that could help fund shared infrastructure then this could weigh in favour of granting planning permission. Relevant infrastructure required to support residential development includes vehicular access, education, drainage, strategic landscaping, open space and play facilities, green networks and active travel routes and other utilities.
- 8.38 These issues will be examined in more detail in subsequent sections of this report. This section will focus on shared or external infrastructure provision with the understanding that landscaping, open space/play and utilities can be provided solely by the developer within the boundary of the site.
- 8.39 In relation to education, the catchment non-denominational primary school is Danderhall Primary School. The neighbouring development of Shawfair (MLDP proposal h43 and 17/00650/S42) gives rise to new pupils which necessitate an expansion of the school estate in three locations. The first of these is an expansion of Danderhall Primary School. The second is part of the education campus described in application 19/00112/PPP which is due to be delivered by 2026 (secondary and primary school provision). The third is a separate school site within the new town. In addition, the site at Newton Farm includes land safeguarded for an additional non-denomination primary school should this need emerge. Analysis by the Council's Education Services confirms that the addition of new homes on the application site could be accommodated within the expanded school estate planned for the area. Developer contributions would be sought from the development to assist in the delivery of this expansion strategy if planning permission was granted.
- 8.40 This is a significant point. The Council is required to expand the school estate in this location to match the increase in homes that are coming forward. This expansion represents a significant capital investment in the area by the Council. Whilst contributions from developments in the area have been secured, it makes sense to locate more homes around new schools to ensure there is a viable pupil population to use the new facilities. This factor weighs in favour of an early release of the land for housing.
- 8.41 The issue of site access has been touched on previously in relation to site effectiveness. Access to the site is entirely dependent on the development of land to the east at Newton Farm. As part of the neighbouring development, a link road will connect Old Craighall Road in the north to the A68/A720 interchange to the south. It would also provide land for a park and ride facility to the south of the site, for the

benefit of promoting sustainable modes of transport. This new link has the potential to significantly reduce queues and delays expected to arise in the local road network generated by existing and new development. Early delivery of this link road as a result of additional development on the application site would be of significant benefit to the local area. It would also benefit the development strategy of the MLDP by sharing the burden of infrastructure delivery with the neighbouring allocated site.

- 8.42 Although there is no certainty that this application would bring forward this link road earlier than is currently committed, it is accepted that connecting more homes to new roads is an efficient use of investment in transport infrastructure. This supports the sustainable credentials of the proposal.
- 8.43 Another factor to consider is the issue of displacement. This is the idea common to economic impact analysis, whereby development in one location displaces economic gain from somewhere else instead of providing net economic gain. But the concept is also true of infrastructure delivery as spare available capacity within infrastructure is simply displaced from one location to another. For residential development in addition to a development strategy where a shortfall has been identified, displacement is not an issue as there is unmet need which allows the additional development to come forward in concert with MLDP sites. However, this situation does not apply to the circumstances in this assessment as we have indicated that a shortfall in housing land is unlikely to exist, although it is marginal.
- 8.44 In the scenario where the application site represents a surplus of housing land, as is the case at this point in time but maybe not in the future, care needs to be taken to ensure that approval of this site would not undermine the delivery of sites within the development strategy by displacing spare capacity in infrastructure. In this location, significant expansion is planned in the area through the neighbouring site and the Shawfair allocation. Infrastructure provision is planned to step in and support the occupation of new homes, specifically in relation to transport and education provision as well as other amenities to be located in the town centre and in Millerhill. Approval of the site is not considered to be of sufficient scale to affect the planned provision of infrastructure in a significant way that would justify a refusal of the application on this basis alone. The application would make financial contributions proportionate to the scale of development and impact generated. But these would neither undermine the expansion plans, nor accelerate their delivery. The issue of displacement does not weigh against the proposal in terms of infrastructure investment and delivery.
- 8.45 Therefore, in considering infrastructure coordination as a whole, this assessment finds that this consideration provides weight that could justify a departure from the development plan.

Sustainable Development

- 8.46 SPP promotes sustainable development as a key policy feature cutting across a range of central government concerns. Planning has a role to play in determining the right development in the right place, where the economic benefits of development are balanced with the protection of the environment and neighbouring communities. The presumption in favour of sustainable development is a nationally applied policy tool that ensures the planning system places a central focus on promoting economic growth. At times where the development plan fails to allocate enough land for housing then SPP provides 13 principles which can be used to assess additional sites. If a proposal meets these tests, then we can presume in favour. If not, then other sites should be sought.
- 8.47 The application of this provision of Scottish Planning Policy (SPP) has been the subject of recent judicial review cases. The most recent case quashed the Scottish Government's update of SPP and a Planning Advice Note concerned with the calculation of the five-year supply of effective housing land. The Government's update of SPP was made in response to the decision of the Inner House, Court of Session 3 June 2020. It attempted to remove the "tilted balance" from decision making. However, the Courts found the update of SPP2020 was unlawful and so the approach to determining residential applications where there is a shortfall in the supply of effective housing land is as Lord Carloway sets out. In short, the presence of a shortfall is a significant determining factor in an application for residential development. The decision maker must then take into account any adverse impacts in their assessment of the proposal as sustainable development, and balance this assessment against the presence of a shortfall.
- 8.48 In practical terms, where there is a shortfall in housing land, the planning authority must presume in favour of all residential developments unless there are demonstrable and significant adverse impacts that would result from development. The applicant has argued that this approach should be adopted in this application. However, this assessment considers this to be unreasonable. The Council is most likely maintaining a surplus of housing land and the site in this application is not effective. Therefore, the site does not benefit from the sort of tilted balance in favour which the courts have interpreted that SPP provides.
- 8.49 SPP's presumption in favour of sustainable development does not only apply to housing developments where there are doubts over the supply of effective housing land. It is a catch all policy designed to ensure that those investment proposals that avoid significant impacts on the environment or amenity of local communities can be given due consideration, even where these were not anticipated by the plan-making process. It provides the necessary flexibility to planning

authorities to react to opportunities in times when the development plan has failed to keep pace with wider circumstances.

8.50 SPP paragraph 33 requires proposal not in accord with the development plan to be assessed against the principles of paragraph 29. These are set out in turn below:

- Giving due weight to economic benefit – all development has an economic benefit. But, as described above, the development is not able to confirm net economic benefit as in instances of a housing land surplus, the degree that displacement reduces net benefit cannot be assumed;
- Responding to economic issues etc. – again, all development has an economic benefit in providing jobs through investment;
- Supporting good design – the application is in principle and design is a matter to be secured by conditions. Notwithstanding the assessment in latter sections of this report, the applicant's Development Framework provides an acceptable framework for the design of detailed matters to follow;
- Supporting the delivery of accessible housing etc. – the proposal would inherently meet this principle;
- Supporting delivery of infrastructure etc. – as discussed in previous sections, the development would provide its own infrastructure whilst contributions sought for off-site infrastructure;
- Supporting climate change mitigation and adaption/flood risk – again, this is examined in detail below but there are no issues in relation to this principle that the detailed application(s) could not overcome;
- Improving health and well-being etc. – this principle is also a matter of detailed design;
- Accord with the principles of the Land Use Strategy – the third Land Use Strategy for Scotland (2021 – 2026) aligns with NPF4 which is currently in production. It is a high level document which draws together a wide variety of policy concerns. It recognises the competing demands on land and advocates balance in decisions taken on land use. The site is prime agricultural land and in the green belt and is not planned for nor needed for development to satisfy unmet demand for housing as part of the MLDP, but as it is safeguarded it is clearly the long term intention to see housing being brought forward on the site as the site is within a sustainable location;
- Protecting the historic environment – the proposal should be able to comply with this, subject to conditions relating to archaeology;
- Protecting natural heritage – the proposal should be able to comply with this, subject to conditions relating to ecology, landscaping, open space and active travel arrangements;
- Reducing waste etc. – the proposal should be able to comply with this, subject to conditions relating to construction works and domestic waste provision; and

- Avoiding over-development and protecting amenity, particularly water, air and soil – the proposal should be able to comply with this, subject to conditions relating to noise, air quality and the detailed design of new development.

8.51 Therefore, the proposal is broadly compliant with the principles of sustainable development. The one area of concern relates to the Land Use Strategy and the site's designation as prime agricultural land. SPP paragraph 80 states that "where it is necessary to use good quality land for development, the layout and design should minimise the amount of such land that is required. However, the Council has already determined that the site can be released in the future for development. The proposal in this application would be long-term prospect, sequenced behind developments on neighbouring land. Therefore, there is no direct conflict with the development plan in this regard as the release of green belt and prime agricultural land has already been accepted to a degree. Deciding whether or not a proposal is sustainable development under the direction of SPP must balance competing demands on land across all factors. It should not be used as a checklist which requires complete compliance with all 13 principles.

8.52 One further point on sustainable development should be added to the definition of the term provided by SPP. The spatial strategy of the MLDP is derived from the out of date SESplan. The updated spatial strategy of SESplan2 was not approved by Scottish Ministers and so limited material weight can be applied to these policies. However, a balanced view of sustainable development can be adopted based on general principles of planning policy found at national, regional and local plans. These principles could be summarised as locations for development that are: well-connected in terms of transport and infrastructure; can be accommodated within the capacity of the natural environment; and, would protect the amenity of existing communities. If this view is taken, then this site has potential to come forward in the future to meet updated growth requirements. According to MLDP, the site is within the Shawfair Strategic Development Area on the basis that it meets these high-level principles for the location of new development and in safeguarding the site the Council has accepted that in principle the site should be used for housing at the right time if there is a need.

8.53 Therefore, based on the above, it is concluded that the proposal can be considered sustainable development and appropriate for housing development. The Council has a duty to meet the county's growth needs by identifying sufficient land for housing, in sustainable locations. The site is in a sustainable location and can be designed and developed in a way that will reduce reliance on the private car, support the development of new infrastructure and provide a decent standard of amenity within its boundaries, whilst protecting the amenity of existing residents. The development would also avoid significant impacts on the environment, subject to the assessment of detailed matters required by further application(s).

Other Matters

- 8.54 Representations and consultation responses made are material consideration in the determination of an application. The DDCC points are noted and summarised as prematurity, transport concerns and prejudicing future policy initiatives required of future developments. Prematurity has been addressed, whilst transport issues are discussed below. The final point is not sustained as the Planning Act requires the assessment to be based on the policy position at the time the application is determined. It is unreasonable to expect applicants or decision makers to anticipate future policy content and requirements.
- 8.55 It is noted that the application did not attract a significant number of objections. However, this cannot be given any weight in this assessment as it is the content of representations that are important, rather than volume.
- 8.56 The applicant's case is summarised in paragraph 7.4 of their planning statement submitted with the application. They cite support in the following matters:
- The proposal allows for development to come forward in this and the adjacent site in a coordinated manner;
 - It allows the Council to effectively plan for education infrastructure requirements;
 - It enables coordination of strategic landscaping between the allocated and safeguarded site;
 - It allows for an integrated road network across both the allocated and safeguarded site;
 - It delivers Green Network/open space requirements on both the allocated and safeguarded site; and
 - It accords with the 13 principles of sustainable development and wider provisions of SPP.
- 8.57 These points are noted and have formed the basis of extensive discussions between the applicant and Council officers. In addition to this, the applicant has provided a letter of comfort from the developer of Newton Farm to support these points. This reflects decisions taken by the Committee on other safeguarded sites in Midlothian – Hopefield Farm 2, Bonnyrigg (20/00151/PPP) considered by Committee at its meeting of April 2021 and land at Cauldcoats (20/00312/S42) also considered by Committee at its meeting of April 2021.
- 8.58 It is acknowledged that there is merit in coordinating development in the interests of good place-making and promoting sustainable development. The process of developing land across multiple landowners is not generally considered to be a significant material consideration, in terms of adopted planning policy. However, in practice it can be a significant and costly barrier to development and an inhibitor to the proper and coordinated planning of an area. To grant planning permission in principle for this site at this stage, whilst the neighbouring

site is gearing towards site preparation works, would be to give the developers/ landowners of the area comfort to proceed. This has implications for phasing and infrastructure development which could increase the effectiveness of both sites. These matters are of significant weight and the planning authority must acknowledge these commercial realities if development is to be managed in an effective and efficient way.

Balanced Assessment

- 8.59 The above discussion is a comprehensive examination of the pertinent matters in this assessment. It is a complex discussion because the facts of the case are not straight forward. The policy position in the absence of an up to date strategic development plan is a significant contributor to this complexity. The safeguarding of the site for future development also demands careful examination. The underlying support the planning system must give to sustainable development is another key factor. To navigate this complexity, it is important to focus on the material weight of competing factors which lead to a decision. The material weight given to a particular factor is for the decision maker.
- 8.60 This assessment finds that the MLDP presumes against the development in favour of protecting rural areas from unplanned development protecting areas within the Edinburgh Green Belt (ENV1) and avoiding the loss of prime agricultural land from sites not allocated for development (ENV4). The weight that these policies are given is dependent on whether or not the development strategy provides enough land for housing to meet demand. This is complicated in the absence of firm targets from the strategic development plan and ahead of the adoption of NPF4. The applicant asks the Council to accept that it cannot determine whether there is a surplus and therefore assume there isn't for the reasons set out elsewhere in this report. As the safeguarding designation indicates potential for future development, there is sufficient reason to approve the application to allow for the coordination of supporting infrastructure.
- 8.61 The applicant's arguments are noted and this assessment agrees that the situation in relation to planning for housing is in a policy vacuum whilst we await updated national policy coming out of new legislation. However, this assessment does not accept the applicant's arguments on several key issues. This assessment finds that it is likely the adopted MLDP is providing enough land for housing and the site is not effective.
- 8.62 That being said, this assessment does agree that, if approved at this stage, then the joint infrastructure requirements and costs could be better coordinated with the neighbouring site. The site would take its place within the phasing of the larger development and become part of the supply of housing land for the county. The developers in the area

have confirmed that an early grant of planning permission in principle will assist in the coordinated delivery of the long term development strategy of these sites and assist in securing the required infrastructure. Locating new homes where there is a planned expansion of infrastructure will help to secure the viability of this investment, for both the developer and the Council. This pragmatic approach is good placemaking, supports the delivery of new homes and responds positively to new investment opportunities, which are all values at the core of the planning system in Scotland and, therefore, given significant material weight.

- 8.63 In addition to this, draft NPF4 indicates there is a continued demand for housing in the period up to 2036 which this site could help meet. SESplan allocated the area within the South East Edinburgh Strategic Development Area and the adopted MLDP allocates the site for future growth. This assessment also finds that the development is consistent with the criteria of sustainable development provided by SPP paragraph 29. The development would also avoid any significant adverse impacts on the amenity and environment of the area, subject to mitigation secured through detailed design. Again, the status of the site as “sustainable development” with no clear conflicts with amenity or environmental protections, is a factor which weighs significantly in favour of the proposal.
- 8.64 Refusing the application over *timing* (on the presumption the safeguarding allocation will change to a full allocation in time) does not outweigh the benefits of good place making and a coordinated approach to infrastructure. On balance, although the proposal is contrary to the development plan, there are sufficient material considerations to justify a departure in this instance and accept the principle of development in this instance.

Indicative Layout, Form and Density

- 8.65 The application is for planning permission in principle which, if granted, would be subject to conditions requiring the submission of details relating to layout, form and density. Nevertheless, it is appropriate at the planning permission in principle stage to examine the constraints and opportunities of a site and capture these so that they can inform the design of detailed matters.
- 8.66 The applications design and access statement identifies the design constraints to development and makes provision to incorporate mitigation by avoidance. Development parcels are located at a suitable buffer distance from the A720, the overhead power lines to the north and south of the site and the railway embankment to the west. The design and access statement also makes suitable provision for detailed design to follow which could secure a high quality of built environment. These measures include an appropriate landscape framework, with strong frontages to open space areas to strengthen the relationship

between the new homes and green spaces. Other design parameters are provided relative to form and materiality, access and active travel and community growing provision.

- 8.67 These principles are carried forward in to the development framework. It sets out how the site could be developed with restricted development areas set back from constraints. The framework and design process set out in the design and access statement would protect the amenity of neighbouring properties whilst providing a high quality development within the site. Detailed design matters would be subject to further assessment as required by conditions. Therefore, the proposal is in accordance with MLDP policies DEV5, DEV6, DEV7 and ENV2.
- 8.68 The applicant makes the case that the principle of development should be supported on the basis that this will allow for the coordination of design with the neighbouring site. This argument is accepted and conditions imposed which will require the details of the development to be submitted through further applications.

Access and Transportation Issues

- 8.69 The MLDP prioritises sustainable modes of transport over trips by private car, whilst acknowledging that the impacts on the local road network from new development must be considered. The applicant's transport assessment provides an overview of the connections available to the site, and mitigation measures to address impacts on the road network. The applicant's submission discusses active travel options and connections to active travel and public transport routes in the area.
- 8.70 Transport Scotland has no objection to the application and suggests conditions to be applied if planning permission is granted. The Council's Policy and Road Safety Manager also do not have any objection, subject to conditions. The access requirements of this site are entirely reliant on the neighbouring development to provide the necessary road network capacity to serve the site. These are committed improvements secured from Newton Farm and Wellington Farm and are programmed to be delivered in a phased manner within these sites. The design of these two sites makes provision to access the application site to allow for future development.
- 8.71 The application is in accordance with MLDP policies relative to transport, by encouraging sustainable travel, by contributing to network interventions in the area and by avoiding significant detrimental impacts on the road network.

Landscape and Visual Impact

- 8.72 Policy ENV7 protects local landscape character whilst ENV1 (Green Belt) seeks to protect the landscape setting of Edinburgh and

Midlothian's towns. The applicant's landscape and visual impact assessment appraises the landscape character around the site and notes the key objectives for maintaining this setting. These features include a mix of agricultural and industrial uses with development set within extensive woodland. The electricity transmission cables and major roads also contribute to the character of the area. It notes too that the character of the area will change as substantial new development around the site is brought forward. It then provides for landscape design measures which are brought forward into the development framework, specifically enhancing the woodland planting to the south to soften views from the A720.

- 8.73 The applicant's analysis is accepted. The site and its surroundings are appropriately appraised and the mitigation measures appropriate to provide a landscape setting for new development that ties in with the area. It is accepted that the MLDP allocates land that will alter the green belt in this location. The site is well-contained and could also be developed in a way that maintains the setting of Edinburgh and Midlothian's towns.

Ground Conditions

- 8.74 The application is in principle and so a phase 1 site investigation has been submitted. The report's conclusions are accepted and the further investigations required to assess the contamination and stability risks to development can be secured by conditions.

Flood Risk and Drainage

- 8.75 The site is distant from watercourses and the coast which typically present the greatest flood risk. A review of the SEPA flood risk maps confirms the lack of flood risk from these sources. SPP and MLDP policies require applicants to assess all potential sources of flooding. The information provided suggests there is a field drain, in a culvert, running through the site. Culverts present a constraint to development, as there needs to be a setback provided to allow for maintenance or emergency works to clear a blockage. Despite the flood risk in terms of volumes of water being low, the inability of the applicant to locate and plan for this constraint meant that the proposal initially conflicted with policies relating to flood risk.
- 8.76 Further information submitted by the applicant reported on attempts to locate the field drain culvert within the site. This was unsuccessful. However, further discussions with SEPA have led to a pragmatic solution, whereby a condition would secure further analysis of the field drain and its potential re-routing through the site within landscaped areas so that it avoids development areas. It is expected that the drain would be uncovered during site preparation works (if not before) at which time further information can be submitted to secure the mitigation of risk.

- 8.77 In terms of drainage, the applicant's strategy is to attenuate surface water to 1 in 2 year greenfield rates in accordance with Midlothian Council requirements. A new SUDS basin to the north of the site will provide one stage of treatment and attenuation. Discharge thereafter is to the existing site drainage system.
- 8.78 In principle, the applicant's SUDS basin is appropriately sized and located to receive the surface water run-off from the development. Further details on the system, including arrangements for discharge to the nearest watercourse (North Esk) can be secured by conditions. The proposal therefore meets the requirements of MLDP policy ENV10.

Cultural Heritage

- 8.79 There are no historic environment statutory designated assets within the site. The closest sites are Newton House (Category B listed), Newton Manse (Category B) Newton Church remains (Scheduled Ancient Monument) and Dalkeith House & Park Conservation Area and Garden and Designed Landscape. Whilst these sites are close to the application site, there is sufficient distance and intervening development (including planned) which would reduce any effects on their setting.
- 8.80 The site has significant potential for archaeological sub-surface deposits which would be impacted by development. Therefore conditions should be applied to secure a programme of archaeological works to further investigate this potential. A Written Scheme of Investigation has been submitted and accepted by the Council's archaeological consultants. Overall, the proposal could come forward without any significant negative impacts on the cultural heritage of the area.

Natural Heritage

- 8.81 The site is not subject to any natural heritage designations which would inhibit development. The nearest site is in Dalkeith County Park. The site is likely to contain habitats of protected species, such as badgers, hedgehogs and breeding birds. Further surveys/ watching briefs are proposed to maintain the information on these habitats through the development cycle of the site. Mitigation measures are proposed for the construction phase whilst mitigation and enhancement measures are matters for detailed design. Overall, the natural heritage properties of the site do not present a barrier to the principle of development in this case.

Amenity

- 8.82 The development itself is not a type or scale that is likely to significantly impact on the amenity of existing sensitive receptors in a negative

sense. There could be impacts during the construction phase relating to dust, noise and construction vehicle movements. However, appropriate measures to mitigate can be secured by condition.

- 8.83 The question then is the level of amenity the site could provide for future occupants. The applicant has submitted a noise report which is based on field recordings within the site. The clear noise source is from the A720 to the south which is a heavily trafficked arterial route through the area. The assessment then plots the noise levels from this source north through the site and predicts likely internal noise levels of proposed building types using accepted methodology. This analysis has informed the setback distances adopted in the development framework.
- 8.84 The analysis also examines external noise in proposed gardens within the site. Guidance suggests that a 50dB – 55dB LAeq is an acceptable upper limit. There are some instances, however, where this upper limit would be breached. The guidance quoted in the noise assessment discusses balancing this with a range of factors so that an overly noisy environment does not preclude development that would otherwise be a desirable location. The same principle applies to internal noise levels experienced which would breach acceptable limits if windows were kept open for ventilation. Therefore, the applicant applies a closed window assessment to demonstrate a suitable level of amenity for future residents. This would require some homes needing acoustic attenuation treatment and/ or mechanic ventilation so that facades reduce internal noise levels.
- 8.85 In both circumstances, the balance of judgement relates to the overall planning assessment. Developments on sites subject to increased environmental noise can be accepted if there are compelling reasons to allow this. These include the reuse of brownfield land and and/ or well-connected sites that are typically found in larger urban areas.
- 8.86 The Council's Environmental Health Manager has stated their concerns in relation to the noise environment the site would be subject to. However, they rightly highlight that a standard has been set on the neighbouring development (17/00408/DPP & 17/00409/DPP) which could be applied in this case, if planning considered the site to be otherwise acceptable.
- 8.87 On this basis, the proposal is acceptable in principle but the issue of environmental noise and the amenity provided to future residents will be a key determining matter in the assessment of detailed design. The mitigation of anonymous noise may require specific built structures or landscaping interventions which should be the subject of detailed assessment. Further noise assessments of detailed layouts should also be secured by conditions to demonstrate the ways in which amenity for future residents has been designed-in to the development.

Infrastructure and Developer Contributions

- 8.88 The infrastructure requirements of new residential development have been discussed in the previous section of this report, as it pertains to the principle of development. This section will examine the specifics in more detail.
- 8.89 In terms of transport infrastructure, the MLDP sets out a series of measures which all developments in the area must contribute towards in order to make them acceptable in planning terms. Each individual proposal's contribution would be by way of a financial contribution towards improvements to the Sheriffhall Junction and the Borders Railway. The site also relies on access infrastructure provided within the adjacent Newton Farm site. This includes junction improvements to the A720/ A68 interchange by way of a fourth arm to the roundabout. The link road connecting this to Old Craighall Road will be provided entirely within the site of Newton Farm. But it would be expected that the application site would make a contribution to the cost of this. Further to this and in the interests of supporting sustainable travel choices, the site is expected to make a contribution towards public transport provision in the area.
- 8.90 In terms of education infrastructure, the application site is expected to make a contribution towards the planned increase in education provision for both primary and secondary and both denominational and non-denominational capacity. Again, Newton Farm is expected to safeguard land for a non-denominational primary school should this be required by the Council. If this school were built, then the catchment area would likely include the application site. Therefore, a contribution towards the land costs is expected to be made by the applicant.
- 8.91 The development would also generate a requirement for an affordable housing contribution. The applicant has anticipated this and proposes a 25% affordable housing contribution within the site in accordance with MLP policy DEV3. This would be secured within a legal agreement.
- 8.92 The applicant has considered the green network opportunities relative to development of the site. These include linkages south to Dalkeith Country Park (via the adjacent site), a perimeter path to the south and footpath connections to the planned route to the west and east. The provision also includes community growing space within the site, landscaping to the south and west and open space between development parcels. These proposals accord with the requirements set out in the Council's Green Networks Supplementary Guidance, to be secured by conditions.
- 8.93 In terms of community facilities, there is a requirement to contribute towards the provision/ enhancement of sports pitches within the area. These would be provided within the Shawfair new town within close proximity to the application site. Therefore, a contribution towards these

facilities proportionate to the scale of development proposed should also be secured.

- 8.94 The infrastructure requirements of the site can either be secured on-site through detailed proposals, or financial contributions made to off-site provision. Matters such as car parking, cycling provision, electric vehicle charging, high-speed broadband and public art contributions can be secured by conditions. Therefore, the proposal is in accordance with MLDP policy IMP1.
- 8.95 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:
- necessary to make the proposed development acceptable in planning terms (paragraph 15)
 - serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
 - relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)
 - fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)
 - be reasonable in all other respects
- 8.92 In relation to Midlothian Council, policies relevant to the use of Section 75 agreements are set out in the 2017 Midlothian Local Development Plan and Midlothian Council Developer Contributions Guidelines (Supplementary Planning Guidance) and Supplementary Planning Guidance on Affordable Housing both approved in March 2012.
- 8.93 The proposed development has been assessed in relation to the above guidance and it is considered that a planning obligation is required in respect of the following matters:
- A contribution towards primary (including nursery) and secondary education provision (both the construction of buildings and securing land);
 - A contribution towards public transport (including Borders Rail);
 - A contribution towards road infrastructure (including the Sheriffhall Roundabout and the A720/A68 interchange);
 - A contribution towards community facilities;
 - Maintenance of open space including children's play areas/open space, allotments and SUDS; and
 - Provision of affordable housing (25%).

9 RECOMMENDATION

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

The site is: safeguarded for housing within the Midlothian Local Development Plan 2017 (MLDP); has the potential of contributing towards the Council's housing land supply; will help to facilitate local infrastructure identified in the MLDP, including the A720/A68 interchange; and can be seen as the next phase of the wider Newton and Wellington Farm development to the benefit of good place-making in the area. These reasons justify supporting the development ahead of its future allocation when the MLDP is reviewed and support for the scheme for the stated reasons is consistent with the Council's approach taken with regard other safeguarded sites in the district.

Subject to:

- a. the prior signing of a legal agreement to secure:
 - A contribution towards primary (including nursery) and secondary education provision (both the construction of buildings and securing land);
 - A contribution towards public transport (including Borders Rail);
 - A contribution towards road infrastructure (including the Sheriffhall Roundabout and the A720/A68 interchange);
 - A contribution towards community facilities;
 - Maintenance of open space including children's play areas/open space, allotments and SUDS; and
 - Provision of affordable housing (25%).

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

- b. the following conditions:
 1. The proposed indicative layout submitted with the application is not approved.

Reasons: *To ensure the development is implemented in a manner which mitigates the impact of the development on existing land users, future occupants and addresses potential landscape and visual impacts. This requires consideration of separate Matters Specified in Conditions Planning Application(s) once a detailed design has been progressed.*

2. No more than 360 residential units shall be erected on the site unless otherwise agreed by way of a planning application. The housing mix, densities across the site and the detailed layout is

not approved and is subject to matters specified in conditions application/s, which will determine the final number of dwellinghouses on the site.

Reason: *The application has been assessed on the basis of a maximum of 360 dwellings being built on the site. Any additional dwellings would have a further impact on local infrastructure, in particular education provision and local transport routes, and additional mitigation measures may be required. Any such measures would need further assessment by way of a planning application.*

3. Development shall not begin until an application for approval of matters specified in conditions regarding 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, allotments and/or community growing space, structural landscaping, SUDS provision, transportation infrastructure and other utilities. The said transportation infrastructure shall include, but not be limited to, the proposed Link Road connection between Old Craighall Road and the A720/A68 interchange as illustrated on Dwg No P12644/701 (Goodson Associates) and the proposed upgrade to signalised control of the eastern roundabout of the A720/A68 interchange, generally as illustrated on Dwg No 115688-DG-APP (SWECO). Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

Reasons: *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.*

4. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for 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, footways and cycle ways in relation to a fixed datum;
 - ii. the proposed vehicular, cycle and pedestrian accesses into the site;
 - iii. the proposed roads, footways and turning facilities (designed to an adoptable standard) and cycle ways including suitable walking and cycling routes;

- iv. proposed visibility splays, traffic calming measures, external lighting and signage;
- v. proposed car parking arrangements, including details of electric vehicle charging stations;
- vi. proposed cycle parking/storage facilities;
- vii. details of a 3m wide cycling/ pedestrian link to Old Craighall Road to the north and the adjacent development to the east; and,
- viii. proposed alignment, surface materials and widths (3m wide cycleway/footpaths) for Core Path upgrades.

All transport infrastructure works shall be undertaken in accord with the relevant Midlothian Council guidance and to the satisfaction of the planning authority and trunk roads authority where appropriate. 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 have safe and convenient access to and from the site.*

- 5. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works 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 and roads in relation to a fixed datum;
 - ii. a tree and hedgerow survey (in accord with BS5837) and (where appropriate) root protection plan showing existing trees, landscaping features and vegetation to be retained; removed, protected during development (including details of this protection) and in the case of damage, restored;
 - iii. proposed new planting in communal areas and open space, including trees, shrubs, hedging 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. details of the frontage landscaping treatment, including any fencing/ barrier proposals, along the trunk road boundary;
 - vi. schedule of plants to comprise species, plant sizes and proposed numbers/density;
 - vii. programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses on adjoining plots are occupied and the planting along the northern boundary shall be carried out in the first planting season following commencement of development on the site;

- viii. proposed car park configuration and surfacing;
- ix. proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
- x. proposed play areas and equipment;
- xi. allotments and/or community growing space;
- xii. proposed cycle parking facilities;
- xiii. proposed area of improved quality (minimum of 20% of the proposed dwellings); and,
- xiv. a public art strategy detailing the proposals and budget.

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 (vii).

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, to be undertaken by the developer.

All landscaping shall be located such that it can be installed and maintained from within the development without requiring access to the trunk road.

Reason: *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies DEV2, DEV5, DEV6, DEV7 and DEV9 of the Midlothian Local Development Plan 2017 and national planning guidance and advice. Also to ensure planting is carried out timeously to improve the amenity and setting of the development and to help to reduce CO2 emissions as part of a response to the Climate Change Emergency.*

6. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential units and other structures has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. These materials will also include those proposed in the area of improved quality (20% of the proposed dwellings). 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, DEV5 and DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.

7. Prior to the commencement of development (with the exception of site investigation works), the developer shall submit a report that confirms or otherwise the existence and location of the field drain (in culvert), referred to in Section 4.1 of the approved Flood Risk Assessment (KAYA Consulting Ltd, November 2020), all for the written approval of the planning authority, in consultation with SEPA. Thereafter, the developer shall demonstrate that the detailed design of new residential development required by Conditions 3, 4 and 5 avoids co-locating new homes on the route of the said field drain.

Reason: *In the interests of flood risk mitigation; to allow for the location of the field drain to be established and incorporated in to new development.*

8. Development shall not begin until an application for approval of matters specified in conditions for a scheme of effective drainage and flood management for the site has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
 - i. drainage details and sustainable urban drainage systems to treat and attenuate surface water runoff;
 - ii. existing and proposed levels across the site using at least 1m contours and cross sections, where applicable;
 - iii. finished floor levels of dwellings; and,
 - iv. details of the replacement field drain channel as directed by the site investigation report required by condition 7.

For the avoidance of doubt, no drainage connections shall be made with the trunk road drainage system.

Reason: *The planning application is in principle and the details required are to ensure the surface water from the whole site can be appropriately treated and to ensure that levels on the site are appropriate in relation to flood risk.*

9. Prior to the submission of any application for approval of matters required by Conditions 3, 4 and 5 above, intrusive investigations shall be carried out in accord with the recommendations contained in the approved Preliminary Environmental Assessment Report (Goodson Associates, November 2019) and the Coal Mining Risk Assessment report (DAM Geotechnical Services, November 2019). Thereafter, a report on the aforementioned intrusive investigations shall be submitted for the written approval of the planning authority, the said report shall include the following:

- i. the nature, extent and types of contamination and/ or previous mineral workings on the site;
- ii. indicate the exact situation in respect of coal mining legacy at the site, including but not limited to the location, dimension and general characteristics of former mine entries and/ or shallow mine workings within and around the site;
- iii. 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;
- iv. measures to deal with contamination and/ or previous mineral workings encountered during construction work; and,
- v. the condition of site on completion of the specified decontamination measures.

The intrusive site investigations shall be carried out in accord with all relevant authoritative UK guidance.

- 10. Any application submitted to gain approval of matters reserved by conditions 3, 4 and 5 shall include a remediation strategy to address the risk to development from coal mining legacy and other sources of contamination identified in the approved Preliminary Environmental Assessment Report (Goodson Associates, November 2019). The approved remediation strategy shall be based on the findings of the report approved in Condition 8 and the approved Preliminary Environmental Assessment Report, and include a proposed layout plan at an appropriate scale identifying the positions of recorded mine entries, their zones of influence over surface stability and defined “no build” zones around these features. The development
- 11. No later than three months following completion of the decontamination/remediation works within Condition 8 and 9 above, a validation report confirming that the works have been carried out in accordance with the approved scheme shall be submitted for the written approval of the planning authority, prior to the occupation of any residential home subject to the said remediation works.

Reason for conditions 8, 9 and 10: To ensure that any contamination on the site is 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.

12. Development shall not begin until an application for approval of matters specified in conditions setting out details, including a timetable of implementation, of high speed fibre broadband has 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. The provision of appropriate digital infrastructure allows some residents to work from home more often. Homeworking helps to reduce travel, reducing CO2 emissions, important in terms of the Climate Change Emergency.*

13. Development shall not begin until an application for approval of matters specified in conditions for a biodiversity enhancement plan for the site, including but not limited to, the provision of house bricks and boxes for bats and birds throughout the development, a programme of ecological surveys (repeat survey work no more than 12 months in advance of the commencement of development on the site) and management proposals for any Invasive Non Native Species 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 Midlothian Local Development Plan 2017.*

14. Development shall not begin until an application for approval of matters specified in conditions for a scheme setting out the scope and feasibility of a community heating scheme for the development hereby approved and, if practicable, other neighbouring developments/sites, in accordance with policy NRG6 of the Midlothian Local Development Plan, shall be submitted for the prior written approval of the planning authority.

15. No dwellinghouse on the site shall be occupied until a community heating scheme for the site, if practicable and feasible (as determined by condition 14), is approved in writing by the planning authority. An approved scheme shall be implemented in accordance with a phasing scheme also to be agreed in writing in advance by the planning authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

Reason for conditions 14 and 15: *To ensure the provision of a community heating system for the site to accord with the requirements of policy NRG6 of Midlothian Local Development Plan 2017 and in order to promote sustainable development.*

16. Development shall not begin until an application for approval of matters specified in conditions for a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:
- i. details of a construction access, the approved route shall minimise disruption to residential properties in the vicinity of the site;
 - ii. signage for construction traffic, pedestrians and other users of the site;
 - iii. controls on the arrival and departure times for construction vehicles, delivery vehicles and for site workers (to avoid school arrival/departure times);
 - iv. details of piling methods (where appropriate);
 - v. details of any earthworks, including significant re-profiling of the site and temporary soil storage where relevant;
 - vi. control of emissions strategy;
 - vii. a dust management plan strategy in accord with Appendix 4 of the approved Air Quality Impact Assessment (The Airshed, October 2020);
 - viii. material and hazardous material storage and removal, waste management and disposal of material strategy;
 - ix. a community liaison representative will be identified to deal with the provision of information on the development to the local community and to deal with any complaints regarding construction on the site;
 - x. prevention of mud/debris being deposited on the public highway;
 - xi. controls on construction, engineering or any other operations or the delivery of plant, machinery and materials (to take place between 0700 to 1900hrs Monday to Friday and 0800 to 1300hrs on Saturdays).

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

Reason: *In order to control the construction activity on the site, ensure environmental impact during the construction period is appropriately mitigated.*

17. Any application submitted for approval of matters reserved by conditions 3, 4 and 5 shall be supported by a noise impact assessment for the written approval of the planning authority. The approved noise impact assessment shall adopt established methods and assumptions to model the expected noise levels

that would be experienced on site, including details of the effects of any mitigation measures required to reduce the environmental noise levels. For the avoidance of doubt, the planning authority expects any home approved in a detailed layout to be able to demonstrate the following noise standards:

- 55 dB Laeq(16hr) for daytime external garden amenity
- 35 dB Laeq(16hr) for daytime internal living apartment
- 30 dB Laeq(8hr) for night time internal living apartment
- 42 dB Lamax (fast) (internal) night time living apartment

The details of any mitigations, including plans, elevations, layout, specifications, shall also be included where these are deemed to be necessary to reduce environmental noise to within the above tolerances, all for the written approval. Thereafter, the development shall be undertaken in accord with the approved details, unless otherwise varied with the written agreement of the planning authority.

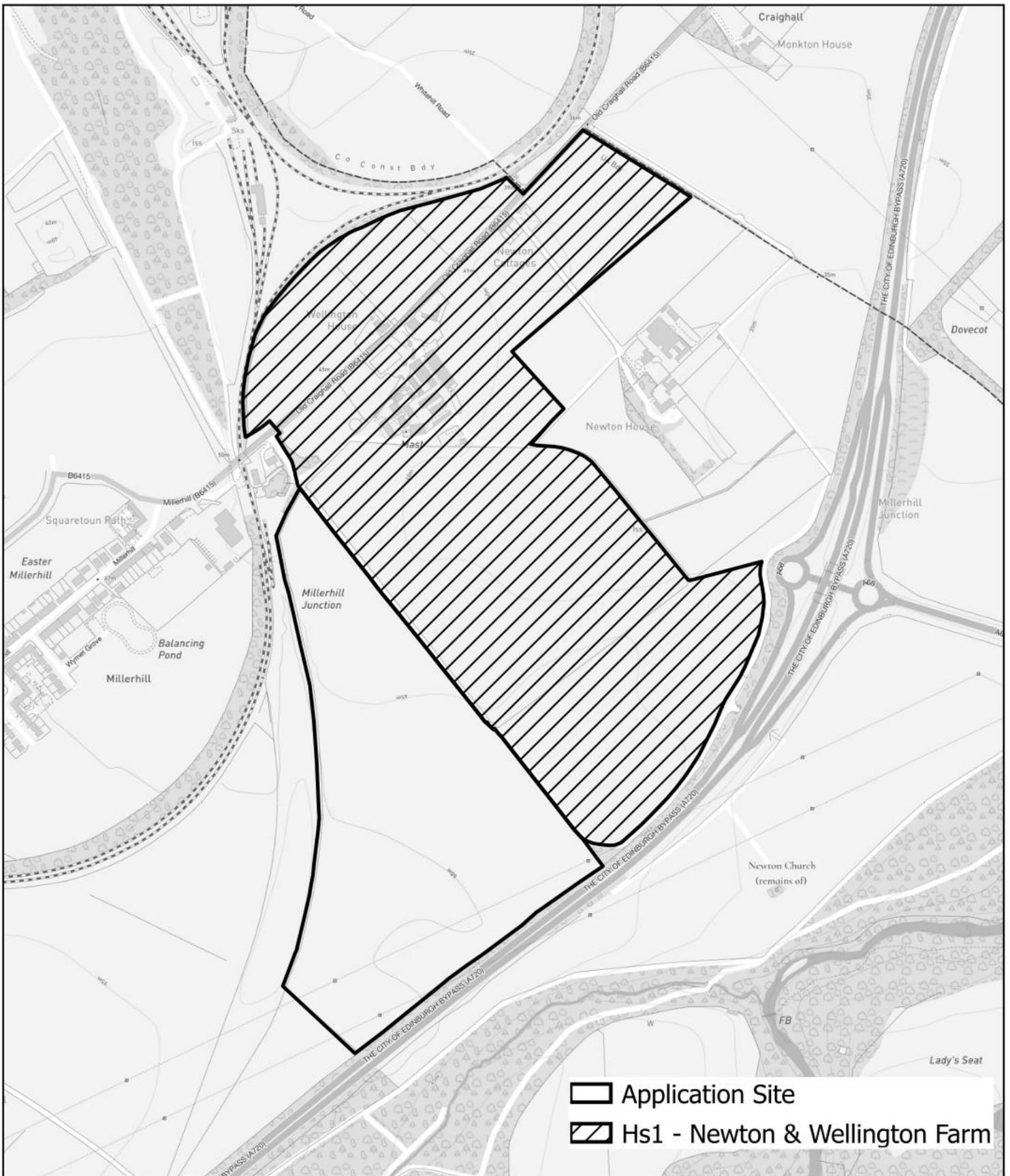
Reason: *There is concern that the A720 may impact negatively on the residents of the proposed development.*

18. Development shall not begin until an application for approval of matters specified in conditions for a programme of archaeological works (Trial Trench Evaluation) in accordance with a written scheme of investigation has been submitted to and approved 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.*

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 4 March 2022
Application No: 20/00774/PPP
Applicant: Wellington Farms Ltd
Agent: Holder Planning Ltd
Validation Date: 10 November 2020
Contact Person: Martin Patrick
Email: Martin.Patrick@midlothian.gov.uk
Background Papers:



-  Application Site
-  Hs1 - Newton & Wellington Farm



Planning Service
Place Directorate
 Midlothian Council
 Fairfield House
 8 Lothian Road
 Dalkeith
 EH22 3AA

Application for planning permission in principle for residential development and associated works | Land At Wellington Farm
 Old Craighall Road Millerhill Dalkeith

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File Number: 20/00774/PPP



Scale: 1:7 500
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**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE
21/00252/PPP, FOR RESIDENTIAL DEVELOPMENT, FORMATION OF
ACCESS ROADS AND CAR PARKING, A SUSTAINABLE URBAN
DRAINAGE SYSTEM AND ASSOCIATED WORKS AT LAND AT STOBS
FARM, LADY BRAE, GOREBRIDGE.**

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 **The application is for planning permission in principle for residential development, formation of access roads and car parking, a sustainable urban drainage system (SUDS) and associated works on land at Stobs Farm, Lady Brae, Gorebridge and it is subject to an appeal for non-determination as it has not been determined by the local planning authority within the statutory period of time.**
- 1.2 **There have been 56 representations and consultation responses from the Coal Authority, Scottish Water, NatureScot, the Gorebridge Community Council, the Council's Archaeological Advisor, the Council's Policy and Road Safety Manager, the Council's Flooding Officer, the Council's Education Resource Manager, the Council's Senior Manager Protective Services and the Council's Land and Countryside Manager.**
- 1.3 **The relevant development plan policies are Policy 5 and 7 of the South East of Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT2, STRAT3, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, RD1, ENV2, ENV4, ENV7, ENV9, ENV10, ENV11, ENV15, ENV17, ENV18, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).**
- 1.4 **The recommendation is to propose to the Scottish Government Reporter determining the appeal to refuse planning permission.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 **The site is approximately 15.53ha of agricultural land to the south east of Gorebridge. The site is within land defined as countryside (under MLDP policy RD1) and is not within the built up area of Gorebridge.**

- 2.2 The site is bound; to the north/north west by Lady Brae (two way/30mph); to the east/north east by Mossend (two way/60mph) separated from the site by a circa 60m wide strip of agricultural land and with Millstone Brow Cottages and land associated with the former Sawmill further to the east; to the west by an unnamed single track road (60mph) and Stobs Farm buildings; and to the south/south east by agricultural land and a path (MID/8-35/4) and field boundary.
- 2.3 The site extends circa 586m to the south west of the existing built limits of Gorebridge. The site presents a circa 188m frontage to Lady Brae to the north and to the south the site is circa 400m in width.
- 2.4 Further to the north of the site is development comprising the south east limits of Gorebridge and committed housing site h39 at Vogrie Road. Further to the west, east and south is agricultural land (predominantly identified as prime agricultural land).
- 2.5 Trees and hedging are found predominantly at the south west and east boundaries. Other trees are identified more sporadically along Lady Brae. Internally within the site there are no landscape features of note and the land is characterised as being open land.
- 2.6 Within the wider landscape the site is elevated to the east of the South Esk and Gore Water river valleys. The elevated nature of the site allows uninterrupted views across Midlothian to the Scottish Borders to the south west and the Pentland Hills to the west.
- 2.7 The site is characterised by a notable incline from the unnamed road to the west of the site up to the east boundaries. The incline is most dramatic at the south of the site where the terrain rises by circa 39m. At the north of the site the gradient is less dramatic and rises by circa 10m to the east.
- 2.8 Bus stops are located on Lady Brae and Barleyknowe Road in close proximity to the site. Stobhill Primary School is located circa 400m to the northwest of the site boundary with Gorebridge Primary circa 450m beyond. Local facilities and services are mainly centred on Hunterfield Road circa 700m (as the crow flies) or a 10 minute walk from the northwest boundary of the site.

3 PROPOSAL

- 3.1 Whilst proposals are indicative at this stage the proposed development identifies the following:
- Residential Development (indicatively 308 units) including 25% affordable housing;
 - Two new vehicular access points from Lady Brae and one from the unnamed road to the west;
 - Internal road and pedestrian network;

- Active travel route (3m wide) from Lady Brae through the site to Mossend at the southeast of the site;
- Areas of open/play space including natural play space;
- Sustainable urban drainage system (SUDS) including dry basin and wet pond;
- New planting including structured landscaping, orchard and pollinator corridor; and
- Removal of trees and hedging from the site.

3.2 The application is accompanied by:

- A pre-application consultation report (PAC);
- An air quality impact assessment (AQIA);
- A design and access statement (DAS);
- An archaeological desk-based assessment;
- An ecological assessment with great crested newt addendum;
- An education statement;
- An environmental noise impact assessment;
- A flood risk and drainage assessment (FRA);
- A housing land supply statement;
- A landscape and visual appraisal;
- A planning statement;
- A site investigations report;
- A site effectiveness statement;
- A sustainability statement;
- A transport assessment;
- A tree survey; and
- A natural play document.

4 BACKGROUND

4.1 The proposal is classed as a Major Development, as defined by the Town and Country Planning (Scotland) (Hierarchy of Developments) Regulations 2009. Therefore, the applicant has certain obligations in relation to pre-application consultation with the community. The applicant submitted a proposal of application notice to the Council (20/00128/PAC) which was reported to the Committee at its meeting in June 2020. The application is accompanied by a pre-application consultation report which details the consultation methodology and the feedback gained from this process.

4.2 The applicant also submitted a request for a Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 (20/00129/SCR). It is the adopted opinion of the Council that the proposal is not an EIA Development as defined by the said Regulations.

Appeal Position

- 4.3 This report of handling setting out the details of the proposed development, the relevant development plan policies and material considerations, a planning assessment and officer recommendation is here presented to the Committee for consideration.
- 4.4 The extended statutory time period to determine the planning application expired on the 11 January 2022. Rather than waiting until the outcome of this Committee meeting applicants have exercised their right of appeal against non-determination and have requested Scottish Ministers determine the application. A Scottish Government Planning Reporter will be appointed to determine the appeal on behalf of Scottish Ministers.
- 4.5 The Council received notification of the appeal from the Scottish Government's Planning and Environmental Appeals Division on 22 February 2022 and have been given until 9 March 2022 to make a submission setting out their position on the application. Any request for an extension of time to this can only be made at the Reporter's discretion. The appellant has requested that either a hearing or inquiry be undertaken to aid the determination of the appeal.
- 4.6 The Committee needs to reach a position on the application to enable officers to represent the Council's case at the appeal.

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application, but states that in order to mitigate the risk and to design the required remedial and/or mitigation measures to ensure that the development will be safe and stable, recommendations have been made that intrusive ground investigation works are required in order to determine the geological and mine setting beneath/within the site. The following stipulations were recommended:
- Prior to the submission of the detailed design - the applicant shall undertake a scheme of intrusive site investigations, designed by a competent person and adequate to properly assess the ground conditions on the site and establish the risks posed to the development by past coal mining activity (shallow mining / mine entries);
 - As part of the detailed design the applicant shall submit a report of findings arising from the intrusive site investigations and any remedial and/ or measures necessary, including the submission of the proposed layout plan which identifies the location of any on-site mine entries (if found present) including appropriate zones of influence for all mine entries, and the definition of suitable 'no-build' zones;
 - Prior to the commencement of development the agreed remedial works shall have been undertaken.

- 5.2 **Scottish Water** does not object to the application. They advise that there is currently sufficient capacity within the Rosebery Water Treatment Works for future water supply. However, it was noted that capacity of the Gorebridge Waste Water Treatment Works could not be confirmed and that a detailed Pre-Development Enquiry is required to be provided to consider future connection. They also note that future capacity cannot be reserved and that capacity will be reviewed upon any formal connection application being submitted to Scottish Water.
- 5.3 **NatureScot** does not object to the application, but note that the submitted ecology report seeks to recommend a number of positive actions to enhance biodiversity on the site.
- 5.4 The **Gorebridge and District Community Council** object to the proposed development for the following reasons:
- The site is not allocated for housing;
 - Part of the site is designated prime agricultural land;
 - Lady Brae is described in the transport assessment as “typically 5.5 – 6m in width” - once parked cars are taken into account, the road is essentially single-lane and has a very narrow pavement;
 - This development is likely to push Stobhill Primary School, a six minute walk away, over-capacity. The distance to Gorebridge Primary School is such that young children are likely to be dropped off by car;
 - The GP surgery will not have capacity and a solution to this constraint is not resolvable through the planning process or developer contributions; and
 - The new jobs referenced in the application will only be temporary and so the economic benefit of the development is limited.
- 5.5 The **Council’s Archaeology Advisor** does not object to the application but advises that a condition requiring a programme of archaeological works, including trial trench evaluation, to mitigate the impacts of the proposed development upon the historic environment should be included on any grant of planning permission.
- 5.6 The **Council’s Policy and Road Safety Manager** does not object to the application in principle, but highlights some concerns regarding the impact of the development on the local road network – the concerns are as follows:
- The site is poorly served by public transport with only a single bus service providing an hourly service at present;
 - While the northern section of Lady Brae, over the site frontage, can be improved the southern section, south of Vogrie Road is narrow with sections of on-street residential parking which restrict traffic flows to single carriageway; and
 - A development of this scale with direct vehicle access onto Lady Brae would intensify the number of vehicles using the route and may result in additional traffic congestion at peak times.

It is noted that if the application is to be recommended for approval the following conditions should be applied:

- Details of the proposed vehicle access points onto Lady Brae should be submitted for consideration and approval;
- Details of the new bus stops and shelter on the site frontage should be submitted for consideration and approval;
- Details of the new pedestrian crossing on Lady Brae should be submitted for consideration and approval; and
- The new traffic signals required at the A7/Stobhill Road junction (TA section 7.13) should be operational prior to the first house being occupied.

- 5.7 The **Council's Flooding Officer** does not object to the application subject to the following conditions:

Details of the proposed surface water management scheme and outfall for the development should be submitted for approval.

- 5.8 The Council's **Education Resource Manager** has stated that:

"The capacity at the schools within the Gorebridge catchment will be retained for developments that have been included in the Midlothian Council Local Development Plan.

Any windfall developments will be require a roll projection to assess whether the pupil product from these development(s) could be accommodated. A full, realistic phasing plan, detailing completions by year would be required. There would have to be no detrimental impact on the allocated sites within the LDP for any windfall application to be considered"

- 5.9 The Council's **Senior Manager Protective Services** has set out concerns regarding the planning application due to its proximity to a nearby dog day care centre, scaffolding yard, former sawmill and historic coal mining and the potential impact of noise, air quality and contaminated land on the development site.

Noise

It was noted that the submitted environmental noise impact assessment (2021) sets out that adverse impact from neighbouring uses may result and set out that further assessment at a full detailed application stage would be required. The following condition is recommended, should the application be approved:

- At the detailed design stage, a further noise assessment be submitted to demonstrate, through the use of appropriate site layout, mitigation measures, etc. that no external garden or amenity area will be subjected to a noise level in excess of 50dB LAeq(16hr) and that the internal daytime and night time noise

levels can be achieved as well as the WHO sleep disturbance criteria. This additional assessment should also include, once detailed site plans are available, further consideration of the impact of dog barking from the dog day care facility on the nearest housing.

Air Quality

Whilst the air quality impact assessment states that no significant impact would result from the development, it does refer to the impacts of dust during construction. The following condition is recommended:

- A detailed construction management plan should be submitted to and approved by the planning authority prior to any construction activity taking place on site. This management plan should include all the measures discussed in Appendix 4 of the The Airshed Ref No. AS0734 Air Quality Impact Assessment.

Contaminated Land

The applicant has submitted a report on site investigations, but it is noted that there is a lack of information in the report. The following conditions are recommended:

- 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.
- On completion of the decontamination/ remediation works referred to in Condition (x) above and prior to any dwelling house 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 dwelling house on the site shall be occupied unless or until the planning authority have approved the required validation.

- 5.10 The Council's **Land and Countryside Manager** does not object to the application as the proposed masterplan seeks to accommodate existing routes into the development.

6 REPRESENTATIONS

- 6.1 There have been 56 representations received, which can be viewed in full on the online planning application case file. All of the 56 representations object to the proposed development. A summary of the main points raised are as follows:
- There is a lack of infrastructure to service the development;
 - The existing road network is not sufficient to cope with the resulting increase in traffic. Local roads are already under strain;
 - Development would mean to loss of land used by the local community for walking and dog walking;
 - Stobhill Primary school experiences issues with car parking and pupil safety that the proposed development would exacerbate;
 - Previous development proposing access onto Lady Brae was amended to remove this access due to safety grounds;
 - Hagbrae is a small rural track not suitable for a main entrance into the new development;
 - Concern that the transport assessment underestimates the quantum of car movements resulting from the site;
 - The proposed toucan crossing would create noise disturbance to existing residents;
 - The proposed highway changes would result in the loss of landscaping beyond the site boundaries;
 - There is no speed limit sign on Lady Brae resulting in increased vehicle speeds;
 - The proposed development and traffic generation would result in harm to air quality and produce air pollution;
 - The construction traffic would harm Lady Brae and Barley knowe Road as they are unsuitable for such traffic;
 - The proposed development appears to remove trees along Lady Brae only to propose replacement planting in their place. Existing trees and landscaping should be retained;
 - New residents using the Gorebridge Station would in some instances drive to the station due to the gradient of the walk from the site to the station (particularly on return). The existing car parking at the Station is insufficient;
 - Concern that the Borders Railway will not have capacity for the new demand;
 - Local services and facilities do not have capacity for the new development. There is no large scale retail in Gorebridge to cater for demand;
 - Local scale development (19/00928/PPP) was refused by Midlothian Council in the local area due to lack of school places;
 - Whilst the site has access to public transport the journey times on the bus are much longer than car;

- Developing on prime agricultural land when other sites are coming forward not appropriate;
- Dependence on private cars for commuting would generate further CO2 emissions;
- The development at Redheugh including the provision of a new school and a potential new railway halt is a better site;
- The development does not address unsightly brownfield land to the east of the site;
- The development would have an impact on the Borthwick and Crichton Conservation Area;
- There would be a loss of habitat and open greenspace;
- The site is in the green belt;
- Concern that bus routes 39 and 33 no longer serve Gorebridge;
- The land is not designated for housing within the MLDP 2017; and
- The noise impact assessment was undertaken when COVID-19 restrictions meant noise generating activities (dog day care centre in particular) was not being operated at full capacity.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan June 2013 (SESplan1) and the Midlothian Local Development Plan 2017 (MLDP). 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 **STRAT2: Windfall Housing Sites** supports 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.

- 7.5 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 (Hs0) to 2024, with a further 200 units safeguarded for the longer term up (beyond 2024).
- 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** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, and passive energy gain, positioning of buildings, open and private amenity space provision and parking.
- 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).
- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area.

- 7.13 Policy **TRAN5: Electric Vehicle Charging** seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals.
- 7.14 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.15 Policy **RD1: Development in 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 or tourism; it accords with policies RD2, MIN1, NRG1 or NRG2; or it accords with the Council's Supplementary Guidance on Development in the Countryside and Green Belt . For housing, this is limited to homes required to support an established countryside activity.
- 7.16 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.
- 7.17 Policy **ENV4: Prime Agricultural Land** does not permit development that would lead to the permanent loss of prime agricultural land unless there is appropriate justification to do so.
- 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 environment.

- 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 **ENV17: Air Quality** states that the Council may require further assessments to identify air quality impacts where considered requisite. It will refuse planning permission, or seek effective mitigation, where development proposals cause unacceptable air quality or dust impacts.
- 7.24 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.
- 7.25 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** 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.
- 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
- 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 good places.

- 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 In particular reference to the SEPA objection and comments made in objections the following contents of SPP are important. In relation to Flood Risk SPP states at paragraph 256 the planning system should prevent development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere. Piecemeal reduction of the functional floodplain should be avoided given the cumulative effects of reducing storage capacity.
- 7.40 **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.

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.

The Principle of Development

- 8.2 The site is not allocated for residential development in the MLDP and is not identified as safeguarded land for future development within the MLDP. The site is identified as being countryside beyond the built up area of Gorebridge where there is a presumption against large speculative housing developments such as the one proposed. MLDP policy RD1 seeks to control development within the countryside – in countryside locations limited residential development will be only support if it:
- supports the furtherance of an existing agricultural, horticultural, forestry, countryside recreation or tourism operation;
 - comprises the conversion of a redundant rural building, or the redevelopment of a site occupied by a redundant rural building which cannot be converted; or
 - comprises a single dwellinghouse which supplements an existing small cluster of five or more dwellinghouses.

The details of which are set out in the Council's Supplementary Guidance on Development in the Countryside and Green Belt (adopted by the Committee at its meeting of May 2019).

- 8.3 The proposed indicative 308 residential unit development is outwith the scope of MLDP policy RD1.
- 8.4 The site is further identified as being part covered by a spatial designation as prime agricultural land. Development influencing prime agricultural land is controlled by policy ENV4. The policy sets out that development on prime agricultural land would only be permissible in three circumstances, which are:
- A. the site is allocated as part of the development strategy of this Plan (MLDP); or
 - B. the development is necessary to meet an established need (such as essential infrastructure); where there is no alternative site available; and where the need for the development outweighs the environmental or economic interests in retaining the farmland for productive use; or
 - C. it is a small-scale development directly linked to an existing rural business.
- 8.5 In response to the above criteria, the proposed development does not form part of the MLDP and is not small-scale. In response to point B above the applicant has set out a housing land supply argument that could result in the need for the development to outweigh the environmental or economic interests in retaining the farmland for productive use. It is considered that the Council can currently deliver a sufficient supply of housing land and that the environmental and infrastructure impact of the development would outweigh any benefit achieved through granting planning permission for a major development on an unallocated site. The housing land supply matter is considered in more detail below.
- 8.6 The principle of development is not established through the MLDP, which as set out above, would seek to resist such development at this location. It therefore needs to be assessed as to whether any material considerations exist that would outweigh the above policy position. These material considerations include:
- the supply of effective housing land;
 - site effectiveness;
 - infrastructure delivery; and
 - sustainable development.

The Supply of Effective Housing Land

- 8.7 The Council is required to maintain a five year supply of effective housing land at all times (SPP paragraph 125). The number of homes required in a local authority area is identified through the Strategic Development Plan (SESplan) (to be replaced by NPF4) and is met by the development strategy and policies of the MLDP. Where a shortfall in the supply of effective housing land emerges, sites that are not

allocated for residential development should be considered as possible additional sites to make up the shortfall. Sites accepted in this way are presumed in favour (in principle) subject to the applicant demonstrating that:

- they are effective;
- they contribute towards sustainable development;
- avoid any significant impacts on their locality in relation to amenity and environmental concerns; and
- their impact on local infrastructure can be mitigated.

- 8.8 The supply of effective housing land in Midlothian is subject to annual review in the Housing Land Audit (HLA21). The HLA is reviewed and endorsed by Homes for Scotland, the umbrella body which represents the housebuilding industry. The effectiveness of the housing land supply is also reviewed in the MLDP Action Programme. This will identify the trigger for introducing actions to make up any shortfall, if one is identified. These actions will be set out in the latest Action Programme approved by Council. Similarly, the MLDP also sets out policies to address a shortfall in the housing land supply where this arises during the lifetime of the plan. One such action would be the support for early delivery of safeguarded sites, provided that a proposal can demonstrate it can/will contribute to new homes to make up the shortfall – this approach is supported by MLDP policy STRAT3. Whilst the Committee has previously approved housing development on safeguarded sites it is reiterated that the proposed development is not a safeguarded site.
- 8.9 The most recent Housing Land Audit (HLA21) covers the period up to 31 March 2021. It identifies land for housing which can deliver 11,938 new homes in Midlothian. The five year supply of effective housing land equates to 4,500 homes due to be delivered between 2021 and 2026. Calculated against housing supply targets, this is a 5.1 year supply of effective housing land, meaning there is a small surplus of effective housing land in Midlothian.
- 8.10 The latest MLDP Action Programme was presented to the Committee in June 2021. It reviews the performance of policies of the MLDP and provides an update on development progress within Midlothian. The Action Programme reiterates the position that there is an effective five-year land supply in Midlothian (para 6.15).
- 8.11 This position confirms the assessment of Midlothian's Housing Land Supply in the Department of Planning and Environmental Appeals (DPEA) Examination of the MLDP. Paragraph 40 of the Reporter's Examination Report confirms that the "*proposed plan would be sufficient to ensure the maintenance of a 5-year effective housing supply*". Therefore, there is a surplus of housing land in Midlothian and the policies relating to housing land within the MLDP remain as the primary determining policies in the assessment of this application. This

means that there is no need to allocate more land for housing and that the protective MLDP policies RD1 and ENV4 cannot be easily set aside.

- 8.12 A complication has recently emerged which must be considered as part of this assessment. SESplan was approved in 2013, with Supplementary Guidance on Housing Land Supply approved a year later. These documents are both more than five years old and are, therefore considered out of date under the terms of SPP 2014. SESplan was due to be replaced by SESplan2. However, Scottish Ministers rejected SESplan2 as its spatial strategy did not fully consider transport implications. The result of this is that the strategic plan is out of date with no new targets approved against which to measure the current supply. However, despite this position SESplan still forms part of the development plan and is a material consideration. The other part of the development plan, the MLDP, allocates sufficient land to meet the Council's housing targets (set by SESplan) although they are increasingly becoming outdated and vulnerable to challenge at appeal and will be superseded by NPF4. The consultation draft of the NPF4 set out an annual housing supply target for Midlothian of approximately 800 units (8,050 units for the period 2026-2036 and 805 units per year between the adoption of NPF4 and the adoption of MLDP2). Although supporting this development would contribute towards any future housing land supply needs, it is not certain at this stage if additional sites are required, and if they were, if this site is appropriate.
- 8.13 For planning authorities in the SESplan area, and the Reporters for the DPEA, this situation has led to unique challenges. This is because the approach to determining an application for residential development that is not allocated in the development plan for housing differs significantly if there is a shortfall in housing land or not. The Reporters in these circumstances have taken slightly different approaches in each case, but, in general, they have adopted a presumption in favour of development, with the assessment focussing on the impacts of development. Where these impacts are demonstrably significant and adverse, then consent has been refused. But in the absence of these impacts, and where the proposal has been proven to be sustainable and effective, approval has generally been granted.
- 8.14 It is important to highlight two points at this stage. The first is that there have not been any appeals in Midlothian where this type of issue has been central to the consideration of the case. The second is that the appeal decisions that have emerged are in local authority areas like Fife and the City of Edinburgh Council. In both of these planning authority areas, the adopted local development plans (LDPs) acknowledge a shortfall in the five year supply of effective housing land after this was identified during the Examination of these LDPs. By contrast, the MLDP was adopted following the Examination by the DPEA which concluded the plan provided a surplus of effective housing

land. So there are limitations in how applicable the approach taken in other planning authorities is to Midlothian.

- 8.15 The applicant's case seeks to address the approach taken by the Reporter in assessing the MLDP 2017. It is set out in their arguments that housing land supply requirements as set by the SPP should include a "generosity buffer". It is their opinion that the MLDP Reporter's interpretation in this matter is incorrect and that an additional 10% buffer should be applied to the Council's HLS requirement. The assessment of Midlothian's HLS is based on the Council's 2020 Housing Land Audit and their assessment sets out the Council can only demonstrate a 2.3 year effective land supply.
- 8.16 It should be noted that the report of inquiry into the MLDP (held in 2017) found that the 'housing requirement' in SDP1 was the housing land requirement, and there was no case made to retrospectively add a generosity allowance to it. The previous SPP did have a requirement to allocate a generous supply of housing and the SDP1 was prepared in that context.
- 8.17 Were a shortfall to be identified, actions to meet a shortfall (as set out in paragraph 2.3.9 of the LDP), should it arise could include (amongst other things) support for the early development of land identified in the plan for longer term growth (safeguarded sites). There are 5 of these longer term safeguards, including one at Redheugh in close proximity to Gorebridge.
- 8.18 The applicant has provided analysis which, in their opinion, demonstrates that the Council is not maintaining a five-year supply of effective housing land (this is at odds with the HLA21 and the Council's Action Programme). The applicant then argues that more land is required to meet unmet need and this site should be brought forward early to bolster the supply.
- 8.19 Care must be taken by the Council to determine if there is a need for additional housing land to meet the demands of their area. This is because development places a burden on the natural capital of an area, a burden on supporting services provided by the Council and others and a burden on communities. These burdens can be offset by the benefits of well-designed, well-situated development that supports investment and economic growth of the area. But the purpose of housing need and demand assessments, strategic planning and local planning is intended to ensure that the benefits outweigh the burdens and that we only use the land that we need. It is intended to prevent unfettered growth at the expense of the environment and communities.
- 8.20 The below table provides some analysis which measures the current supply audited in HLA21 against a variety of housing supply targets derived from different sources. The table shows that, in the right hand

column, the length of housing land supply depends on the method of calculation:

Source of Housing Supply Targets (HST)	Annual HST	5 x Annual HST	Supply of 4,500 (in years)
Strategic Development Plan (SDP1) 2019 – 2024	882	4,410	5.1
SDP1 2019 – 2024 + generosity allowance +20%	882 + 20%	5292	4.3
SDP1 2019 – 2024 + shortfall from previous plan period	882 + [8080 – 5601 / 5 (496)] = 1378	6,890	3.3
As above + 20%	1058 + 496 + 20% of 496 = 1,653	8,265	2.7
SDP2 (rejected SESplan2)	534	2,670	8.4
HNDA2 (lowest growth scenario)	411	2,055	10.9
HNDA2 (highest growth)	467	2,335	9.6
SDP2 + 20%	641	3,205	7.0
HNDA2 (lowest growth scenario) + 20%	493	2,465	9.1
HNDA2 (highest growth) + 20%	560	2,800	8.0
Draft NPF4 (November 2021)	805	4,025	5.6

- 8.21 The second column shows a series of potential annual housing supply targets which are then multiplied by five to derive a 5-year housing supply target against which the current supply can be measured (column 4). The first four rows are variations of targets taken from SESplan1's Housing Need and Demand Assessment (HNDA). The remaining rows are taken from SESplan2's more up-to-date assessment. In some scenarios, an additional 20% is added which represents the generosity allowance promoted in SPP, but which was predated by SESplan1.
- 8.22 It is not the intention for this assessment to provide a definitive answer as to which method of calculation is correct. This question has been the subject of rigorous debate within the development industry, the Scottish Government and the courts. The Scottish Government had published a draft Planning Advice Note PAN 1/2020 which provided a definitive calculation methodology. However, the public consultation process involving this document and an amendment to SPP to remove the tilted balance in favour of sustainable development from national policy were

deemed unlawful by the courts in the summer of 2021 and the guidance has been withdrawn. This leaves the question around methods to determine supply vs demand unresolved, albeit the courts appear to favour a compound/residual method as promoted by the applicant in this case. On the other hand, the updated assessments provided by SESplan2 and NPF4 supersede a compound method based on SESplan1 and by capturing unmet demand.

- 8.23 To guide the decision-making process through this uncertainty, it is instructive to note that in all but three scenarios, the Council's supply of housing land meets the five-year demand. The three scenarios where a shortfall emerges are based on: 1) the out-of-date SESplan HNDA with a 20% generosity allowance; 2) the out-of-date SESplan HNDA with the additional inflation of unmet shortfall from previous years; and, 3) the out-of-date SESplan HNDA with both the 20% generosity allowance plus the unmet shortfall added. These scenarios are considered to be unrealistic measures of demand in Midlothian in 2021. This unmet demand from previous years is captured by the more up-to-date SESplan2 targets. Furthermore, the recently published draft NPF4 sets a target of 8,050 homes over ten years in Midlothian. This equates to an annual target of 805 homes or 4,025 over five years. The current supply of 4,500 homes is sufficient to cover these updated requirements if all the sites allocated and planned come forward and deliver.
- 8.24 The applicant's approach to analysing the supply of effective housing land is set out in their assessment dated September 2021. It takes the SESplan plan-period (2009 – 2024) requirement for Midlothian of 12,490 homes proceeds to:
- Add a 10% buffer to the MLDP housing land supply target;
 - Add demolitions (201 units);
 - Minus the total completions from 2009 to 2020;
 - Minus the established land supply of 4,243 (HLA 2020)
 - Minus four years of expected windfall development of 492 (123 units per annum)
- 8.25 Into this the applicant adds a calculated shortfall of housing supply of 3,251. These calculations are variations of the scenarios presented in the table above. The applicant's analysis is considered to be an inflation of requirement which presents an inaccurate representation of supply vs need.
- 8.26 The key message that an analysis of housing land supply provides is that, although we cannot say for certain if the Council is maintaining a five-year supply of effective housing land, it most likely is. SESplan2 provides a more up-to-date assessment of need than SESplan1. But, as the Plan was not approved (not due to erroneous housing demands calculations) it cannot be solely relied upon to provide a definitive measure of demand. Nevertheless, the SESplan2 measure of demand

suggests that a lower target would have been required of Midlothian than in SESplan1. This suggests that the Council's supply would remain in surplus if SESplan2 was approved. NPF4 updates the targets further and keeps the requirement below the current supply. However, this document is only in preparation stage and is indicative only. It is acknowledge also that NPF4 considers the targets to be minimum requirements which should not, in of themselves, be used as inhibitors to otherwise sustainable development proposals.

- 8.27 This analysis adds weight to the Council's position set out in HLA21, and the Reporter's conclusions in the Examination of the LDP, that there is no shortfall in the supply of effective housing land. To go back to the original question of do we need more land for housing, the answer is probably not, but there is no certainty based on the different approaches taken by Reporters at appeal.
- 8.28 The effect that this position has is to maintain the primacy of the development plan in the determination of applications for residential development. Whilst part of the development plan, the SDP, is out-of-date, the LDP is less than five years old and is promoting a development strategy that meets the substantial needs of the county. If a shortfall were identified, then the protective policies in the plan (RD1 and ENV4 in this case) would fall and there would be presumption in favour of the principle of development. But, there is likely to be a surplus of housing land within the plan area. This means that a proposal must identify significant material considerations that would be afforded sufficient material weight to overcome the primacy of the development plan.

Site Effectiveness

- 8.29 Related to the above topic is the question of site effectiveness. This refers to the potential of a site to deliver housing in the short term in a way that is free from constraints to development. PAN 2/2010: Affordable Housing and Housing Land Audits provides a criteria for assessing the effectiveness of a site. The criteria comprises:
- Ownership: the land is in control of a party who can develop it or release it for development;
 - Physical: the site, or relevant part of it, is free from physical constraints such as topography, flood risk and access which would otherwise preclude its development;
 - Contamination: the site is either not contaminated, or commitments are secured to remediate a site for its proposed use;
 - Deficit Funding: relates to the security of any required public funds;
 - Marketability: the site, or a relevant part of it, can be developed in the period under consideration;
 - Infrastructure: the site is either free of infrastructure constraints or can be secured from the developer to allow development; and,

- Land Use: housing is the sole preferred use of the land in planning terms, or is one of a range of possible uses.

8.30 The application is accompanied by a site effectiveness statement, which provides an assessment of the site against the above criteria. They assess the site to comply with all the above requirements. These are assessed below:

Ownership

8.31 The applicant identifies that both Hallam Land Management and CEG control the site and that the road network from which access is proposed is a public road.

Physical

8.32 The site's primary characterisation, apart from its greenfield nature, is the gradient it features sloping steeply down to the west. The applicant proposes a cut and fill approach as well as delivering split level housetypes. Whilst this approach has been delivered with some success in other areas, including in proximity to the site, the indicative levels submitted with the application include the delivery of an extensive networks of retaining wall features. Indicatively some of these are indicated as being 4.0m in height at site boundaries and up to 3.7m in height at some locations internally within the site. Midlothian recognises the need for retention in some instances however excessive retention can result in a poor development with overshadowed and overlooked houses. As such, Midlothian would seek that retention features within residential developments be limited to 1m in height. The need for such large retention raises significant concerns that the sites topography renders the site, at least in part, as ineffective. In addition, proposed levels within steep southern parts of the site also limit the ability to create useable open space. In order to create effective open space on the site additional cut and fill may be required.

8.33 The proposed development would result in the loss of a number of mature, attractive trees that are predominantly located as site boundaries. Whilst their removal is not supported it is considered that these trees would not render the site as a whole ineffective.

8.34 The site is located in an elevated position to the south of Gorebridge and would seek to deliver 308 dwellings. The site is bound by built form only on its north boundary. The site is not characterised by significant natural screening at boundaries. The proposed development would therefore be prominent in the landscape. The submitted landscape and visual appraisal (LVA) indicates that there is potential for extensive visibility across the rural landscape between the River South Esk and the Gore Water; and parts of the local road and path network, including the A7 and B6372. Visualisations in the LVA

technical appendix show that the proposed development is likely to have a significant effect on key views within the local area. It is considered that the introduction of development at this scale would result in a harmful landscape impact.

Contamination

- 8.35 The Council's Senior Manager Protective Services has provided comments on the submitted material. In regards to contaminated land it was assessed that due to a lack of information submitted within the report on site investigations dated 2015, an effective assessment of the information was not able to be made. Additional information has not been made available following this response. As such, there is no certainty provided that the site is effective in this matter.

Deficit Funding

- 8.36 The site is not understood to be dependent on any public funding.

Marketability

- 8.37 Submitted information indicates the site can be constructed within a seven year period seeking to deliver an average of 40 market dwellings per annum. There are no identified constraints that preclude a portion of site being delivered subject to details of layout, design, landscaping and access being agreed.

Infrastructure

- 8.38 The site itself is generally considered to be free from physical infrastructure apart from the presence of some overhead lines. It is considered that these would not hinder the site significantly.
- 8.39 Further infrastructure matters relating to offsite requirements are addressed later in this report.

Land Use

- 8.40 There would be no competing land uses within the proposed development. It is reiterated that parts of the site are identified as prime agricultural land.

Infrastructure Coordination

- 8.41 Key to determining whether a site is an appropriate location for new residential development is infrastructure. A focus on infrastructure is required in the assessment of non-allocated sites as site-specific requirements of allocated sites is typically expressed in the settlement statements of the MLDP. SESplan Policy 7 has traditionally been used

to bring this consideration into the assessment of non-allocated housing sites and should be applied in this case.

- 8.42 If infrastructure constraints suggest a site cannot be developed then permission should not be granted. Conversely, if developing a site would release development value that could help fund shared infrastructure then this could weigh in favour of granting planning permission. Relevant infrastructure required to support residential development includes vehicular access, education, drainage, strategic landscaping, open space and play facilities, green networks and active travel routes and other utilities.
- 8.43 These issues will be examined in more detail in subsequent sections of this report. This section will look at both shared/external infrastructure, and address concerns relating the required provision of onsite landscaping and play/open space.
- 8.44 In relation to education, the Council's Education Manger has raised particular concerns regarding the ability of existing educational facilities to be able to accommodate the demand that would arise from the proposed development. It has been expressed that existing facilities have limited capacity that can only cater for pupil production from the allocated housing sites in the MLDP can be accommodated at the catchment schools.
- 8.45 The applicant's education statement refers to Midlothian school roll projections 2019, which indicate the school roll exceeding planned capacity at both Stobhill and St Andrews RC School.
- 8.46 The need for education space in the area is further defined by the requirement for allocated sites at Redheugh (h50 and Hs7) to deliver onsite education facilities. The new Redheugh Primary School is proposed to primarily cater for associated housing development at that site, including MLDP sites h50 (700 dwellings) and Hs7 (200 dwellings - not including an adjacent safeguarded site of potentially 400 dwellings).
- 8.47 At this time, no opportunity to expand existing facilities has been identified by the Council's Education Resource Manager, over and above what is required to meet allocated development. Whilst the applicant may be willing to contribute to school infrastructure, no practical expansion has been identified at an existing facility that would be able to utilise such contributions. It is the Council's position that there is currently no suitable proposal for resolving the lack of educational infrastructure in the area that could lead to this development being adequately catered for alongside the delivery of allocated sites.
- 8.48 The delivery of the additional housing on this scale would be seen to absorb capacity in schools earmarked to support committed/allocated

development. This development would therefore serve to frustrate the aims of the MLDP in delivering housing on allocated sites and be contrary to the principles of a plan based planning system.

- 8.49 The Council's Policy and Road Safety Manager has raised concerns that whilst bus stops are located in close proximity to the site, it is considered that current public transport access is poor, with a single service every hour. Furthermore, the intensification of the use of Lady Brae and Vogrie Road to the west of the site, where on street parking limits the road to a single carriageway, likely to result in additional traffic congestion at peak times.
- 8.50 Whilst it is possible for financial contributions to be sought to provide improved public transport, it is noted that opportunities to deliver road widening or improvements are limited to Lady Brae, whereas improvements to Vogrie Road are not seen as possible at this time.
- 8.51 In relation to the delivery of landscape, open space and play space on the site, the site is 15.53ha and on the surface should have no issues delivering these facilities of a scale sufficient to meet the demands of the development. However, as has been raised previously, the levels of the site present a significant challenge to delivering development. The gradients on the site would render open spaces and some play spaces as inappropriate for effective use. It is recognised that the application is for planning permission in principle, and that there may be more appropriate areas of the site to give to open spaces. However, there is concern that the required cut and fill to deliver an effective site would be excessive.
- 8.52 The applicant considers the proposed development accords with the MLDP. The argument presented identifies that policy STRAT 2 (Windfall Development) in that the supporting text sets out that "Outwith the built-up areas, there is a general presumption against housing development unless a deficit in the 5 year effective housing land supply emerges." It is their position that a five year supply does not exist and as such development outwith built up areas can be supported. It is the Council's position that a deficit of housing does not exist and as such the development does not comply with policy STRAT 2. Furthermore the site is out with the built-up area of Gorebridge and as such cannot be classed as windfall development under policy STRAT2.

Sustainable Development

- 8.53 SPP promotes sustainable development as a key policy feature cutting across a range of government concerns. Planning has a role to play in determining the right development in the right place, where the economic benefits of development are balanced with the protection of the environment and neighbouring communities. The presumption in favour of sustainable development is a nationally applied policy tool

that ensures the planning system places a central focus on promoting economic growth. At times where the development plan fails to allocate enough land for housing then SPP provides 13 principles which can be used to assess additional sites. If a proposal meets these tests, then we can presume in favour. If not, then other sites should be sought.

- 8.54 The application of this provision of SPP has been the subject of recent judicial review cases. The most recent case quashed the Scottish Government's update of SPP and a Planning Advice Note concerned with the calculation of the five-year supply of effective housing land. The Government's update of SPP was made in response to the decision of the Inner House, Court of Session 3 June 2020. It attempted to remove the "tilted balance" from decision making. However, the Courts found the update of SPP2020 was unlawful and so the approach to determining residential applications where there is a shortfall in the supply of effective housing land is as Lord Carloway sets out. In short, the presence of a shortfall is a significant determining factor in an application for residential development. The decision maker must then take into account any adverse impacts in their assessment of the proposal as sustainable development, and balance this assessment against the presence of a shortfall. In practical terms, where there is a shortfall in housing land, the planning authority must presume in favour of all residential developments unless there are demonstrable and significant adverse impacts that would result from development.
- 8.55 The circumstances in this case are that a surplus of housing land in Midlothian is presumed at the point of the HLA21 (a 5.1 year housing supply). Although in light of the assessment above, this cannot be established with absolute certainty and is also the determined surplus is marginal comprising only a few hundred units. Yet the position taken is that the MLDP is likely to provide a five-year supply of effective housing land at this time although there is a risk that HLA22 when prepared in the coming months does not reflect this position. In times of a surplus, the presumption in favour of sustainable development is a material consideration, with lesser weight than the development plan. In times of shortfall, the weight given to the presumption in favour is elevated beyond the restrictive land use policies of a development plan.
- 8.56 However, the circumstances the Council currently faces are more complicated. Part of the development plan (SESplan) is out of date but the MLDP remains in date and allocates significant amount of land to meet high demand.
- 8.57 The presumption in favour of sustainable development is there to ensure that the growth needs of our communities are met. In the first instance, the MLDP serves this function and there is no analysis presented by the applicant to suggest it isn't. Policy DEV5 (Sustainability in New Development) sets out principle (ai) that new

development should adhere to in delivering sustainable development. It is noted that in relation to many of these principles additional detail would be required to deliver a full assessment. No outstanding objection exists that the site cannot be delivered in a way that fosters Biodiversity (principle 'b'), however, in relation to principle 'a' there are concerns that the development would be inappropriate. As set out previously, the indicative levels plan indicates a serious demand for retention and cut and fill works to deliver residential development on the site. Whilst specific solutions can be amended as part of a MSC application, the general levels of the site are considered to be a significant challenge. The levels may allow for appropriate levels of cut and fill on specific areas of the site, but development on the scale proposed is considered to fail the requirement to be in harmony with the site.

- 8.58 MLDP policy TRAN1 (Sustainable Travel) is also a consideration into the sites sustainability credentials. This sets out that "Major travel-generating uses will only be permitted where they are well located in relation to existing or proposed public transport services, are accessible by safe and direct routes for pedestrian and cyclists". Whilst no in principle objection has been raised from the Council's Policy and Road Safety Manager concern has been raised as to frequency of public transport services in the region and in regards to the local highway networks capacity to effectively absorb additional traffic.
- 8.59 The applicant identifies the sustainability principles of paragraph 29 of the SPP as material consideration. These are set out in turn below:
- Giving due weight to economic benefit – all development has an economic benefit. But, as described above, the development is not able to confirm net economic benefit as in instances of a housing land surplus, the degree that displacement reduces net benefit cannot be assumed;
 - Responding to economic issues challenges and opportunities, as outlined in local economic strategies – again, all development has an economic benefit in providing jobs through investment;
 - Supporting good design and the six qualities of successful places – the application is in principle and design is a matter to be secured by conditions. Notwithstanding the assessment in latter sections of this report, concerns exist regarding public transport connections and the local highway network being able to accommodate the development;
 - Making efficient use of existing capacities of land, buildings and infrastructure including supporting town centre and regeneration priorities – As has been identified, the capacity of the local education facilities is deemed to be insufficient to meet the requirements of the development as well as committed/allocated housing sites.
 - Supporting the delivery of accessible housing etc. – notwithstanding concerns regarding public transport the proposal would create market and affordable housing. Despite this it is noted

that the SESplan states that “New development proposals will complement and not undermine the delivery of existing committed development.” Were the existing school capacity to be used up to deliver this site, it would frustrate the delivery of other housing sites leading to a potential weakening, rather than strengthening of the housing land supply in the short term;

- Supporting delivery of infrastructure etc. – as discussed in previous sections contributions can be sought for off-site infrastructure, however it’s assessed that no education solution can be delivered for the site at this time. It is held that the development cannot meet this requirement of sustainable development;
- Supporting climate change mitigation and adaption/flood risk – again, this is examined in detail below but there are no issues in relation to this principle that the detailed application(s) could not overcome;
- Improving health and well-being etc. – this principle is also a matter of detailed design;
- Accord with the principles of the Land Use Strategy – the third Land Use Strategy for Scotland (2021 – 2026) aligns with NPF4 which is currently in production. It is a high level document which draws together a wide variety of policy concerns. It recognises the competing demands on land and advocates balance in decisions taken on land use. The site is prime agricultural land and is not planned for nor needed for development to satisfy unmet demand for housing as part of the MLDP;
- Protecting the historic environment – the proposal should be able to comply with this, subject to conditions relating to archaeology;
- Protecting natural heritage – the proposal should be able to comply with biodiversity, open space and active travel requirements subject to conditions, however, the elevated nature of the site for a development of this nature would have landscape impacts. The scale proposed would likely be only be able to be mitigated in part;
- Reducing waste etc. – the proposal should be able to comply with this, subject to conditions relating to construction works and domestic waste provision; and
- Avoiding over-development and protecting amenity, particularly water, air and soil – the proposal should be able to comply with these matters, however the scale and density of the proposed development would result in significant engineering operations. Conditions relating to noise, air quality and the detailed design of new development would be required.

8.60 Therefore, whilst the proposal is broadly compliant with a number of the principles of sustainable development, there are particular concerns relating to the availability of education infrastructure. There are further concerns relating to the scale of the proposed development and particularly to highway impacts, frequency of bus services and the impact on the landscape.

- 8.61 One area of concern relates to the land use strategy and the site's designation as prime agricultural land. SPP paragraph 80 states that "where it is necessary to use good quality land for development, the layout and design should minimise the amount of such land that is required. However, this is a high-level policy which has typically been set aside by decision takers in favour of supporting proposals for homes where needed. Deciding whether or not a proposal is sustainable development under the direction of SPP must balance competing demands on land across all factors. It should not be used as a checklist which requires complete compliance with all 13 principles.
- 8.62 Therefore, based on the above, it is concluded that the proposal cannot at this time be considered sustainable development even if a deficient housing land supply position was confirmed.

Balanced Assessment

- 8.63 The above discussion is a comprehensive examination of the pertinent matters in this assessment. It is a complex discussion because the facts of the case are not straight forward. The policy position in the absence of an up to date strategic development plan is a significant contributor to this complexity. The underlying support the planning system must give to sustainable development is another key factor. To navigate this complexity, it is important to focus on the material weight of competing factors which lead to a decision. The material weight given to a particular factor is for the decision maker.
- 8.64 This assessment finds that the MLDP presumes against the development in favour of protecting rural areas from unplanned development protecting areas of designated countryside and avoiding the loss of prime agricultural land from sites not allocated for development. The weight that these policies are given is dependent on whether or not the development strategy provides enough land for housing to meet demand. This is complicated in the absence of firm targets from the strategic development plan and ahead of the adoption of NPF4. The applicant challenges that the supply of effective housing land is insufficient to meet its housing requirements which would lead to the consideration of sites outwith settlement areas in accordance with MLDP policy STRAT2. Were this position to exist it would form a significant material consideration. Whilst housing land supply matters are complex and in a state of transition, the position as set out in the Council's HLA21 indicates that sufficient effective housing land is being delivered, furthermore MLDP policy STRAT2 relates to windfall development in the built-up area – this site is in the countryside, not the built-up area of Gorebridge.
- 8.65 On balance, it is considered that the proposed development is contrary to the development plan and that material considerations do not

outweigh this conflict and the development should be refused as the principle of development is unacceptable.

Indicative Layout, Form and Density

- 8.66 The application is for planning permission in principle which, if granted, would be subject to conditions requiring the submission of details relating to layout, form and density. Nevertheless, it is appropriate at the planning permission in principle stage to examine the constraints and opportunities of a site and capture these so that they can inform the design of detailed matters if permission is forthcoming.
- 8.67 The proposals include a holistic development of the site, with areas of open space located centrally, at the site's southern boundary and the site's west corner. A pollinator corridor is further proposed following the course of the existing water main at the north of the site.
- 8.68 The use of the site's contours to promote a westerly orientation for dwellings would be necessary to comply with MLDP policy DEV5. This is promoted in the design and access statement.
- 8.69 Regarding the structure of open space and landscaping, the site boundaries are identified for tree planting with more structured planting at the south boundary of the site. The open spaces would generally be connected to each other by the perimeter landscaping. However, central open space is more isolated from these proposals. Additional links from the proposed orchard area to the southeast to the central open space and onto the west boundary would be sought as part of any future detailed planning application. Considering the topography of the site, north south landscaping corridors would serve to break up the exposure of the site. Landscaping to the south of the site seeks to achieve this to a degree but larger unbroken parcels of development would persist in both the north and southern sections of the site.
- 8.70 The quantum of open space provided on the site will require assessment at the detailed application stage based on the population generation from the development. However, the submitted design and access statement appears to include areas of boundary planting, SUDS basin and pond and steep areas of the site within these calculations. Such areas of open space need to be accessible to be used as amenity or open space. As such, these areas should be removed from any amenity/open space provision in accordance with MLDP policy DEV9. Caution needs to be taken when delivering open spaces on gradients as a steep gradient would deter their use and functionality. According MLDP policy DEV9 and appendix 4 of the MLDP and assuming a population generation of 750 as provided in the design and access statement the development would generate the following requirements:
- 1.08ha of playing fields (circa 1 full sized pitch);
 - 0.18ha of equipped playing space;

- 0.4ha of informal play space; and
 - 1.2ha of amenity open space.
- 8.71 Section 8.6 of the design and access statement addresses the middle two points above only. The site is large and the provision of open space should be practical, however considering the topography of the site the provision of sports pitches is unlikely to be practical. As such, were the application granted, the proposed development would require to provide contributions to offsite provision. In view of the lack of such opportunities on the site, areas for informal “kick about” space should be provided within open spaces. Provision for community growing should also be made.
- 8.72 Considering the existing use of the site the proposed landscape types, such as orchard and pollinator corridor can add biodiversity benefits to the site. These should be maintained with any detailed design.
- 8.73 The density of site raises concern. 308 dwellings across the site area would result in a general density of circa 20 dwellings per hectare. Such densities would tie in with the existing built form to the north, but this does not mean that they are acceptable in more southerly locations of the site that relate more to the rural countryside. Densities should seek to reduce towards the development edge, particularly in the south.
- 8.74 As has been identified earlier in the report the levels on the site have indicated an excessive need for retaining structures. These should be kept to not more than 1m in height with dwelling under builds not more than 0.5m. The proposed use of retaining features of 3.7m is unacceptable at back to back garden locations, and 4m at site boundaries is concerning. The reduction in the density of development at steeper areas of the site would be needed to deliver acceptable residential development.
- 8.75 In addition, and future detailed planning application would require suitable private amenity space to be provided for each dwelling.
- 8.76 In regards to active travel, a principle multi user route is proposed from the southeast to the northwest boundary of the site. This is welcome as it will connect up existing routes around the development. Consideration will need to be given to delivering safe cycle routes into other parts of the development.
- 8.77 Detailed design matters would be subject to further assessment as required by conditions. It is recommended that were the application be approved, the indicative site plans should not become approved plans. Whilst the above concerns could be satisfied at a more detailed stage it is considered that amendments are required in order to achieve this.

Access and Transportation Issues

- 8.78 The MLDP prioritises sustainable modes of transport over trips by private car, whilst acknowledging that the impacts on the local road network from new development must be considered. The applicant's transport assessment provides an overview of the connections available to the site and mitigation measures to address impacts on the road network. The applicant's submission discusses active travel options and connections to active travel and public transport routes in the area.
- 8.79 The Council's Policy and Road Safety Manger has no objection to the application in principle, but does raise concerns over the impact of development on the local road network, particularly in relation to Lady Brae south of its junction with Vogrie Road. This concern could be reduced through a reduction in the number off dwellings proposed and by improved public transport links. Contributions to new bus stops and improving the frequency of the service can be secured.
- 8.80 The Council's Policy and Road Safety Manger suggests conditions to be applied if planning permission is granted.
- 8.81 It is noted that Gorebridge Railway Station is within 0.6 miles of the site and does add to the sustainability of the area. Public comments have raised particular concern in relation to the convenience of Gorebridge Railway Station given the levels involved. Whilst narrow, it is understood that a footpath links the site to the station.
- 8.82 There is concern that the quantum of development will lead to congestion at the site. A reduction in the quantum of development may ease this pressure. Improvements to public bus stops and service can be sought, but there is no guarantee that improved bus services can be delivered. Pedestrian and cycle trips from the site are considered possible.

Landscape and Visual Impact

- 8.83 MLDP policy ENV7 protects local landscape character. As has been established the submitted LVA indicates that there is potential for extensive visibility across the rural landscape between the River South Esk and the Gore Water; and parts of the local road and path network, including the A7 and B6372. Visualisations in the LVA technical appendix show that the proposed development is likely to have a significant effect on key views within the local area. It is considered that the introduction of development at this scale would result in a harmful landscape impact.
- 8.84 The use of landscaping and strategically positioned open space can be effective tools for mitigating landscape and visual impact and it is noted within the applicant's submission that the visual impact will reduce as

proposed landscaping establishes itself. Due to the scale of the proposed development, concerns remain that the landscape impact will reduce to “minor” (as set out by the applicant). Mitigation of landscape impact from a development of this scale, on such an elevated position would be very unlikely. Whilst views of the development can be broken up, the extent of development into the open countryside is considered to have likely adverse visual and landscape impact. The site is open on three boundaries and despite the presence of built form on its north boundary, its intrusion into undeveloped land would result in significant change to the landscape to the south of Gorebridge. The proposed development is therefore conflicts with MLDP policy ENV7.

Ground Conditions

- 8.85 The application is in principle and no objections have been raised from the Coal Authority or the Council’s Senior Manager Protective Services subject to conditions on any grant of planning permission.

Flood Risk and Drainage

- 8.86 The site is distant from watercourses and the coast which typically present the greatest flood risk. A review of the SEPA flood risk maps confirms the lack of flood risk from these sources. SPP and MLDP policies require applicants to assess all potential sources of flooding.
- 8.87 A flood risk assessment has been submitted with the application and the Council’s Flooding Officer has not raised any objections to the development subject to the provision of a detailed SUDS strategy. The proposed development seeks to deliver a SUDS basin and a SUDS pond, details of which could be secured by condition on any grant of planning permission.

Cultural Heritage

- 8.88 There are no historic environment statutory designated assets within the site or at the site boundaries. Borthwick & Crichton Conservation Area is located to the south of the site and separated from it by more than 200m.
- 8.89 The Council’s Archaeological Advisor has raised no objection to the application subject to a condition requiring the undertaken of and reported upon a programme of archaeological (trial trench evaluation) work in accordance with a written scheme of investigation.

Amenity

- 8.90 The development itself is of a scale that is likely to impact on the amenity of existing sensitive receptors in a negative sense. There could be impacts during the construction phase relating to dust, noise and construction vehicle movements. The assessment undertaken

indicates that there is the potential for a detrimental impact on future residential properties. However, appropriate measures to mitigate amenity impacts can be secured by condition - a further noise assessment could be submitted to demonstrate, through the use of appropriate site layout, mitigation measures, etc. that no external garden or amenity area will be subjected to a noise level in excess of 50dB LAeq(16hr) and that the internal daytime and night time noise levels can be achieved as well as the WHO sleep disturbance criteria.

- 8.91 In regards to air quality, the applicant has submitted an air quality impact assessment (AQIA) for the site carried out by The Airshed Ref No. AS0734 dated 18th February 2021. This reports that, based on predictive modelling, the proposed development will have no significant impacts on air quality in and around the development. Were the application to be approved a condition seeking a detailed construction management plan should be secured in order to mitigate dust and other air impacts during construction and to secure the mitigations set out in the submitted AQIA.
- 8.92 In regards to contaminated land this has previously been addressed and it is reiterated that the report on site investigations by Mason Evans dated August 2015 contained a lack of information so no thorough review of the report was undertaken by the Council's Senior Manager Protective Services. As such, were the application to be approved, conditions seeking the submission of a scheme to deal with any contamination of the site and/or previous mineral workings should be attached to any planning permission.
- 8.93 Whilst the lack of information is regrettable, the proposal in terms of ground conditions is likely to be acceptable in principle, but the issue of environmental noise and the amenity provided to future residents will be a key determining matter in the assessment of detailed design.

Ecology

- 8.94 The applicant has undertaken an ecological assessment dated February 2021 which was prepared by JDC Ecology. It identifies that the site does not lie within any, nor will it impact directly upon any statutory or non-statutory designated sites. The report identifies that there is scope to increase the diversity in habitat and plant species on the site.
- 8.95 In regards to protected species, it was identified from a previous ecological assessment undertaken in July 2020 that some bat foraging was taking place at the sites west boundary. It is assessed that these bats were not roosting on the site. Recommendations include avoiding light spill that could inhibit foraging routes of bats.
- 8.96 It was assessed that "The site is not suitable for otters, there is no water vole presence, it is not suitable for species such as red squirrel

or pine marten”. However, it was noted that badgers were present on the site. Mitigation would be required within the development and a Badger Management Plan would be required by condition were the application to be approved. This will require careful consideration at such a stage as it is received in order to deliver appropriate mitigations and avoidance where necessary.

- 8.97 In regards to great crested newts a separate addendum was submitted to the application following the assessment of an adjacent pond. The survey of the pond (via eDNA testing) identified that there were none present.
- 8.98 The report identifies that with effective management and mitigation, the development could deliver a net gain in biodiversity on the site. A formal biodiversity action plan would should be secured by condition were the application to be approved.

Infrastructure

- 8.99 The infrastructure requirements of new residential development have been touched on in the previous section of this report, as it pertains to the principle of development. This section will examine the specifics in more detail.
- 8.100 In terms of education infrastructure, in a normal scenario, a development would seek to deliver a financial contribution towards the provision of additional education infrastructure to meet the demands of the development. The education report submitted sets out that the site is located within the catchment areas of Stobhill Primary School, St Andrew’s RC Primary School, Newbattle High School, and St David’s RC High School. The report further indicates that existing capacity (year 2022) of the primary schools equates to 45 spaces. At Newbattle High School a capacity of 15 space is identified and 161 spaces at St. David’s High School. The MLDP already identifies the need to expand Stobhill Primary School and The Council’s Education Resource Manager has set out that the remaining capacity of these schools are required to meet committed development and housing allocations within the MLDP. No other opportunities to expand these facilities is identified. As such, even with a financial contribution towards those facilities at/near capacity, the situation would not be resolved.
- 8.101 The report further mentions the commitment to deliver a new high school at Gorebridge. However, no indication of when this will be delivered is known and as such cannot be relied upon as a possible solution.
- 8.102 Considering the lack of a viable education solution to delivering this site, the proposed development is considered to be inappropriate.

8.103 If the proposed development were to be approved it would be considered necessary to impose a condition that would prevent any development commencing until such a time as appropriate education capacity has been identified and if necessary, delivered. The development would further have to comply with MLDP policy IMP1 and deliver contributions to meet other infrastructure needs.

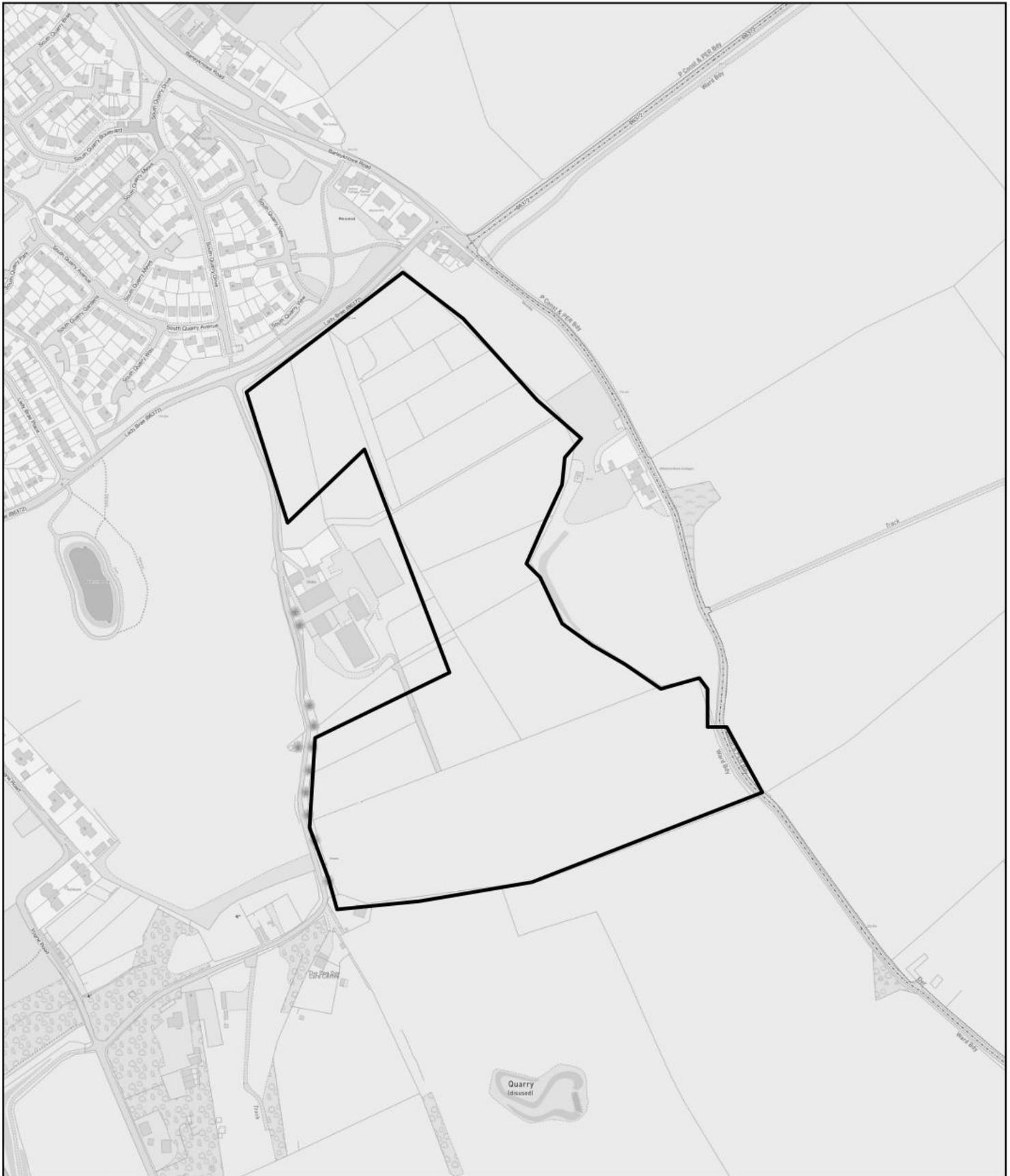
9 RECOMMENDATION

9.1 It is recommended that the Scottish Government Reporter appointed to determine the appeal is invited to refuse planning permission for the following reasons:

1. The proposed site is not allocated for housing, is outwith the built-up area of Gorebridge and is located on land designated as countryside and prime agricultural land. Therefore, there is a presumption against residential development which is not outweighed by any material considerations. The proposed development is contrary to policies RD1 and ENV4 of the Midlothian Local Development Plan and Scottish Planning Policy.
2. The sites sloping topography, the limited bus service and constrained local road infrastructure means that the site cannot be considered to be a sustainable location for residential development.
3. Residential development of the scale proposed would have a detrimental impact on the landscape and as such would conflict with policy ENV7 of the Midlothian Local Development Plan.
4. As the site is not allocated for housing or in an appropriate location for residential development of the scale proposed there is currently no local education capacity to meet the need arising from the site. Furthermore, there is not currently an education solution to meet the demand arising from the site that can be delivered by the provision of developer contributions. As such the proposed development is contrary to policy IMP1 of the Midlothian Local Development Plan.

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 4 March 2022
Application No: 21/00252/PPP
Applicant: Hallam Land Management and CEG
Agent: Geddes Consulting
Validation Date: 09 April 2021
Contact Person: Hugh Shepherd
Email: hugh.shepherd@midlothian.gov.uk
Background Papers: 20/00129/SCR and 20/00128/PAC



**Planning Service
Place Directorate**
Midlothian Council
Fairfield House
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Application for planning permission in principle for residential development and associated works at Land At Stobs Farm, Lady Brae, Gorebridge,

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File No: 21/00252/PPP



Scale: 1:5,000
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SITE BEING PROMOTED BY OTHERS

NOTES	
①	Multi-modal access
②	Possible emergency access/pedestrian access
③	Cycle/pedestrian access
④	SUDs (detention)
⑤	SUDs (retention)
⑥	Equipped play
⑦	Natural play
⑧	Pollinator corridor and edible hedgerows
⑨	Orchard
⑩	Coppice
	Midlothian path network
	Proposed toucan crossing point
	Active travel shared 3m route
	Tertiary Streets
	Trees
	Existing walling/ repaired, rebuilt

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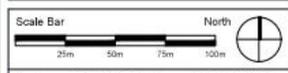
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Client
CEG / Hallam Land Management

Project
**Lady Brae
 Gorebridge**

Drawing Title
Development Framework



Scale: 1:2500@A3 Date: February 2021
 By: DR Status: PLANNING
 Checked: KE Approved:

Drawing Number
191395_LB_DF_01

Rev
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