

Notice of meeting and agenda



Planning Committee

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

Date: Tuesday, 28 August 2018

Time: 14:00

John Blair
Director, Resources

Contact:

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Further Information:

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

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

1 Welcome, Introductions and Apologies

2 Order of Business

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

3 Declarations 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 Minutes of Previous Meeting

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| 4.1 | Minutes of Meeting held on 19 June 2018 - For Approval | 5 - 18 |
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5 Public Reports

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| 5.1 | Supplementary Guidance: Green Networks – Report by Head of Communities and Economy. | 19 - 20 |
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| 5.2 | Supplementary Guidance: Resource Extraction – Report by Head of Communities and Economy. | 21 - 60 |
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| 5.3 | Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage – Report by Head of Communities and Economy. | 61 - 68 |
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| 5.4 | Appeals and Local Review Body Decisions - Report by Head of Communities and Economy. | 69 - 70 |
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Pre-Application Consultation Reports - Report by Head of Communities and Economy.

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| 5.5 | Proposed Erection of Community Facilities incorporating Primary School; Early Years Provision; Library and Leisure Facilities at Land at Danderhall Primary School and Danderhall Recreation Ground, Edmonstone Road, Danderhall (18/00350/PAC). | 71 - 74 |
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| 5.6 | Proposed Residential Development comprising 72 Dwellings, Formation of Access Roads and Car Parking and Associated Works at Land East of Conifer Road, Mayfield (18/00476/PAC). | 75 - 78 |
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Applications for Planning Permission Considered for the First Time – Reports by Head of Communities and Economy.

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| 5.7 | Section 42 Application to Remove Condition 6, for the Prior Approval of Details Regarding the Crossing Over the Pittendreich Burn Imposed on a Grant of Planning Permission in Principle (16/00712/PPP) for Residential Development on Land North of Dalhousie Dairy, Bonnyrigg (18/00406/S42). | 79 - 96 |
| 5.8 | Section 42 Application to Amend Conditions 2 and 3, to Extend the Time to Complete the Restoration of Quarry, Imposed on a Grant of Planning Permission (06/00689/FUL) for the Extraction and Processing of Sand at Upper Dalhousie Sand Quarry, Bonnyrigg (18/00082/S42). | 97 - 110 |
| 5.9 | Application for Planning Permission for the Extraction and Processing of Sand on Land to the South/South West of the Upper Dalhousie Sand Quarry, Bonnyrigg (18/00081/DPP). | 111 - 126 |

THE COMMITTEE IS INVITED (A) TO CONSIDER RESOLVING TO DEAL WITH THE UNDERNOTED BUSINESS IN PRIVATE IN TERMS OF PARAGRAPH 13 OF PART 1 OF SCHEDULE 7A TO THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973 - THE RELEVANT REPORTS ARE THEREFORE NOT FOR PUBLICATION; AND (B) TO NOTE THAT NOTWITHSTANDING ANY SUCH RESOLUTION, INFORMATION MAY STILL REQUIRE TO BE RELEASED UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 OR THE ENVIRONMENTAL INFORMATION REGULATIONS 2004.

6 Private Reports

- 6.1** Proposed Tree Preservation Order: Penicuik – Report by Head of Communities and Economy.
- 13. Information which, if disclosed to the public, would reveal that the authority proposes—(a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.

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

Minute of Meeting



Planning Committee

Date	Time	Venue
19 June 2018	2.00 pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

Present:

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

1. Apologies

Apologies received from Councillor Parry.

2. Order of Business

The order of business was confirmed as outlined in the agenda that had been circulated.

3. Declarations of interest

Councillor Baird declared a non-pecuniary interest in agenda item 5.2 - Supplementary Guidance - Food and Drink and Other Non-Retail Uses in Town Centres – on the grounds that the recommendations had a bias towards food and drink businesses.

4. Minutes of Previous Meetings

The Minutes of Meeting of 15 May 2018 were submitted and approved as a correct record.

5. Reports

Agenda No	Report Title	Presented by:
5.1	Supplementary Guidance: Green Networks	Peter Arnsdorf

Executive Summary of Report

With reference to paragraph 5.1 of the Minutes of 9 January 2018, there was submitted report, dated 12 June 2018, by the Head of Communities and Economy, advising the Committee of the responses received to the public consultation on the proposed supplementary guidance on 'Green Networks' and seeking agreement to the adoption of the Midlothian Green Network Supplementary Guidance; a copy of which was appended to the report.

The report explained that the consultation period had run for six weeks from 9 February to 3 April 2018 with discussions with interested parties continuing after the specified period. Responses had been received from a wide spread of consultees including, community councils, individual members of the public, community organisations, third sector groups, Government agencies, agents and developers. In total 33 different parties had raised 142 separate points for consideration. A summary of the consultation responses, together with details of the Council's proposed response were also appended to the report.

Summary of Discussion

The Committee, having heard from the Planning Manager, welcomed the comments received as a result of the public consultation on the proposed Supplementary Guidance.

Decision

After further discussion, the Committee agreed:-

- a) to adopt the Midlothian Green Network Supplementary Guidance (as amended following the consultation process);
- b) that the Green Network Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
- c) to instruct the Head of Communities and Economy to undertake the required notification/advertisement advising that the Green Network Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
- d) to instruct the Head of Communities and Economy to notify the Scottish Ministers of the Council's intention to adopt the Midlothian Green Network Supplementary Guidance; and
- e) to require notification of the outcome of the notification of the Scottish Ministers procedure.

Action

Head of Communities and Economy/Planning Manager

Agenda No	Report Title	Presented by:
5.2	Supplementary Guidance: Food and Drink, and Other Non-Retail Uses in Town Centres	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 12 June 2018, by the Head of Communities and Economy, seeking the Committee's agreement to undertake a formal consultation on its proposed 'Food and Drink and Other Non-retail Uses in Town Centres' supplementary guidance; a copy of which was appended to the report.

The report explained that the Midlothian Local Development Plan 2017 (MLDP), which had been adopted by the Council at its meeting on 7 November 2017, had included a commitment to prepare Supplementary Guidance and Planning Guidance on a number of topic areas (Section 7.2, pages 81 and 82 of the MLDP). Additional guidance was required to provide further detail and interpretation of the policies and strategy set out in its development plan. One of the topic areas which needed further detail was Food and Drink and Other Non-retail Uses in Town Centres.

The supplementary guidance provided a framework to protect and enhance town centres and to ensure that the right development was directed into the right areas. Food and drink and other non-retail uses should not compromise the amenity, environment and functioning of town centres but should be part of a wider range of facilities supporting vibrant and diverse commercial areas. The supplementary guidance sought to ensure that these areas were allowed to thrive and develop to meet the changing needs of local communities, with uses and facilities which would attract high footfall and economic benefits.

Summary of Discussion

The Committee, having heard from the Planning Manager, welcomed the Supplementary Guidance and looked forward to seeing the comments received as a result of the public consultations.

Decision

After further discussion, the Committee:-

- a) approved the draft Food and Drink and Other Non-retail Uses in Town Centres Supplementary Guidance for consultation; and
- b) noted that a further report on the Food and Drink and Other Non-retail Uses in Town Centres Supplementary Guidance would be brought forward for consideration following conclusion of the consultation period.

Action

Head of Communities and Economy/Planning Manager

Agenda No	Report Title	Presented by:
5.3	Major Developments: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf
Executive Summary of Report		
<p>There was submitted report, dated 12 June 2018, by the Head of Communities and Economy, updating the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.</p> <p>The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants was outlined in the Appendices to the report.</p>		
Decision		
<p>The Committee, having heard from the Planning Manager, agreed:-</p> <ul style="list-style-type: none"> (a) To note the current position in relation to major planning application proposals which were likely to be considered by the Committee in 2018; and (b) To note the updates for each of the applications. 		

Action
Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.4	Appeal and Local Review Body Decisions	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 12 June 2018, by the Head of Communities and Economy, detailing the notices of review determined by the Local Review Body (LRB) at its meeting in May 2018, and two appeal decisions received from Scottish Ministers.

Appended to the report were copies of the following appeal decision notices from the Scottish Government, Planning and Environmental Appeals Division:-

- Dated 1 June 2018, advising that following the successful conclusion of a legal agreement to secure developer contributions planning permission for the erection of 11 flatted dwellings and five dwelling houses, formation of access and car parking and associated works at land at junction of Bryans Road and Morris Road, Newtongrange (16/00809/DPP) had now been granted subject to conditions.
- Dated 29 March 2018, dismissing a claim for the award of expenses by T & V Builders against the Council in the matter of the refusal of planning permission for the erection of 11 flatted dwellings and five dwelling houses, formation of access and car parking and associated works at land at junction of Bryans Road and Morris Road, Newtongrange (16/00809/DPP)

Decision

The Committee:

- Noted the decisions made by the Local Review Body at its meeting on 22 May 2018; and
- Noted the outcome of the Appeals determined by the Scottish Ministers.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.6	Application for Planning Permission in Principle for residential development (up to 400 units) and employment uses; formation of access roads and associated works at Land at Salters Park, Salters Road, Dalkeith (16/00893/PPP).	Peter Arnsdorf

Executive Summary of Report

There was submitted report, dated 7 November 2017, by the Head of Communities and Economy concerning the above application.

Summary of Discussion

The Committee heard from the Planning Manager, who highlighted that the proposed site was allocated in the Midlothian Local Development Plan (MLDP) 2017 for economic development Class 4 (business), Class 5 (general industry) and Class 6 (storage and distribution) uses as defined by the Town and Country Planning (Use Classes) Scotland Order 1997 (as amended); that in terms of the Council's housing land supply there was no requirement for the proposed additional housing; and that there was currently no primary school capacity or an agreed acceptable solution to accommodate the primary school pupils arising from the proposed development.

In considering the argument put forward by the applicant that the site was not viable solely for economic land uses, the Committee discussed the way in which the site had been marketed for economic land uses and also the options open to the applicants to seek a change in allocation through the local development plan process. The position in relation to education provision was also debated at some length, there being major concerns that without a significant developer contribution it was highly unlikely that an acceptable solution could be found. It was pointed out that the applicants had indicated a willingness to provide developer contribution towards the cost of community use facilities at the Dalkeith Schools campus, to limit the number of housing units to 150 and to develop out the employment uses first, which would allow time for an acceptable educational solution to be found.

After further discussion, Councillor Cassidy, seconded by Councillor Baird, moved that based on the undertakings offered by the applicants, that planning permission in principle be granted for upto a maximum of 150 dwellinghouses subject to appropriate conditions and suitable developer contributions, particularly in relation to education provision.

As an amendment, Councillor Milligan, seconded by Councillor Hackett, moved that, as the proposed application was contrary to policy and that there was no acceptable educational solution, planning permission in principle be refused for reasons detailed in the Head of Communities and Economy's report.

Councillor Milligan further requested that a roll call vote be taken which was unanimously agreed by the Committee thereby satisfied the requirements of Standing Order 11.5(ii) for one-third of the Members present (or the nearest whole number to this) for a roll call vote.

Following this the Committee voted as follows:

Name	Motion	Amendment	Abstain
	Moved by Cllr Cassidy 2 nd by Cllr Baird	Moved by Cllr Milligan 2 nd by Cllr Hackett	
Cllr Alexander		X	
Cllr Baird	X		
Cllr Cassidy	X		
Cllr Curran		X	
Cllr Hackett		X	
Cllr Hardie	X		
Cllr Imrie		X	
Cllr Johnstone	X		
Cllr Lay-Douglas		X	
Cllr McCall		X	
Cllr Milligan		X	
Cllr Muirhead		X	
Cllr Munro			X
Cllr Russell		X	
Cllr Smail	X		
Cllr Wallace		X	
Cllr Winchester		X	
TOTAL	5	11	1

Decision

The Committee agreed that planning permission be refused for the following reasons:

1. The proposed residential use is not in accordance with the site's allocation for Class 4 (business), Class 5 (general industry) and Class 6 (storage and distribution) uses in the development plan and as such the development is contrary to policy 2 of the Strategic Development Plan for Edinburgh and the South-East Scotland (approved in 2013), policies STRAT1 and ECON1 of the Midlothian Local Development Plan 2017 and the Scottish Government's policy position set out in Scottish Planning Policy.
2. There is not an education solution to accommodate all of the school children that would arise from the proposed residential development of the site, in particular non-denominational primary school children and as such the proposed development does not accord with policies IMP1 and IMP2 of the Midlothian Local Development Plan 2017.
3. It has not been demonstrated that the proposed economic uses, working from home units/workshop homes and the residential development can coexist on the site without the economic uses having a detrimental impact on residential amenity or the housing resulting in a restrictive burden being placed businesses located on the site.

Action

Head of Communities and Economy

Agenda No	Report Title	Presented by:
5.7	Section 42 Application to Remove Condition 8 (Zero and/or Low Carbon Equipment) of Planning Permission 07/00556/OUT for Class 4 and 5 Uses (Business and Industrial Uses) at Land South West of Newtonloan Toll, Gorebridge (17/00559/S42).	Peter Arnsdorf
Executive Summary of Report		
There was submitted report, dated 12 June 2018, by the Head of Communities and Economy concerning the above application.		
Decision		
<p>The Committee, having heard from the Planning Manager, who offered in response to a request from Councillor Johnstone to provide a briefing for the local Members, agreed that planning permission be granted for the following reason:</p> <p><i>The proposed development site is identified as being part of the Council's safeguarded/committed economic land supply within the Midlothian Local Development Plan 2017 and as such there is a presumption in favour of the proposed development. This presumption in favour of development is not outweighed by any other material considerations.</i></p> <p>subject to:</p> <ul style="list-style-type: none"> i) the prior signing of a legal agreement to secure contributions towards Borders Rail. The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application will be refused; and ii) the following conditions: <ul style="list-style-type: none"> 1. Details of the phasing of the development shall be submitted to the planning authority for approval, and no work shall commence on site until the phasing scheme has been approved in writing. Following approval, the development shall be implemented in accordance with the approved scheme. <i>Reason:</i> <i>To ensure the development is phased to mitigate the impact of construction on future users of the buildings, existing local residents and those visiting the development site.</i> 2. Development shall not begin on any individual phase of development (identified in compliance with condition 1) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works for the corresponding phase of development has been submitted to and approved in writing by the planning authority. Details of the scheme shall include: 		

- i. existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
- ii. existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii. proposed new planting in communal areas 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. The landscaping in the open spaces shall be completed prior to the buildings on adjoining plots 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);
- 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);
- x. proposed cycle parking facilities;
- xi. proposed woodland management plan for any existing, to be retained, and proposed woodland; and,
- xii. details of existing and proposed services, including water, gas, electric, telephone and community heating.

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 (part vi.).

Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

Reason: To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies DEV2, DEV5, DEV6 and DEV7 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.

4. Development shall not begin on an individual phase of development (identified in compliance with condition 1) until an application for approval of matters specified in conditions for the siting, design and external appearance of all buildings and other structures, including electricity substations, for the corresponding phase of development 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. 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 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.*

5. Development shall not begin on an individual phase of development (identified in compliance with condition 1) until an application for approval of matters specified in conditions for site access, roads, footpaths, cycle ways and transportation movements for the corresponding phase of development 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 roads (including turning facilities), footpaths and cycle ways;
 - iii. proposed visibility splays, traffic calming measures, lighting and signage;
 - iv. proposed construction traffic access and haulage routes;
 - v. a green transport plan designed to minimise the use of private transport and to promote walking, cycling and the use of public transport;
 - vi. proposed car parking and vehicle charging arrangements;
 - vii. an internal road layout which facilitates buses entering and leaving the site in a forward facing direction;
 - viii. details of a 3 metre wide pedestrian/cycling link to be provided to the southern edge of the site to link to the bus based park and ride to be provided within the housing site at Redheugh; and,
 - 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.*

6. Development shall not begin until an application for approval of matters specified in conditions for works to the A7 has been submitted to and

approved in writing by the planning authority. Details of the scheme shall include:

- i. details of the proposed vehicular and pedestrian access from the A7 (including a 2 metre wide footpath along the site frontage with the A7, proposed visibility splays, traffic calming measures, lighting and signage);
- ii. details of the provision of two new bus stops and shelters provided at suitable points on the site frontage with the A7;
- iii. details of the proposed signalised junction access layout (as shown on drawing 0429_SK-031 rev B) together with further details of the traffic control system onto the A7;
- iv. details of upgrading works to the existing traffic lights at Newtonloan Toll to provide a pedestrian crossing facility on all four arms; and,
- v. 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.*

7. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:

- i. the nature, extent and types of contamination and/or previous mineral workings on the site;
- ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
- iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
- iv. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

Reason: *To ensure that any contamination on the site 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.

8. 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 commercial building. 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.*

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

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

10. Development shall not begin until an application for approval of matters specified in conditions for the provision and use of electric vehicle charging stations throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

11. 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.

12. No commercial building on the site shall be occupied until a community heating scheme for the site and; if practicable, other neighbouring developments/sites, is approved in writing by the planning authority. The 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 11 and 12: *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.*

13. The details of the development delineated on the indicative plan, dated May 2007, originally submitted with planning application 07/00556/OUT, are not approved.

Reason: *The planning permission is in principle only and the details shown on the layout plan are for illustrative purposes only and do not form part of the planning permission in principle.*

14. No overhead wires, cables or telecommunication masts shall be introduced onto the site without the prior written approval of the planning authority.

Reason: *To ensure that the appearance of the development is not spoiled by over-head power lines, wires and telecommunication masts.*

15. No construction, engineering or other works shall take place out with the hours of 8.00am to 7.00pm on Mondays to Fridays and 8.00am to 1.00pm on Saturdays unless otherwise agreed in writing by the planning authority.

Reason: *To minimise disturbance to nearby residential properties from noise, construction traffic and other pollution.*

16. The use of the buildings erected on the site shall be for uses within Class 4 (Business) and Class 5 (General Industrial) of the Town and Country Planning (Use Classes) (Scotland) Order 1997 or equivalent in any subsequent amendment or replacement order, unless otherwise approved by the planning authority.

Reason: *To ensure that the uses of the buildings are for the purposes applied for in order to meet economic land requirements.*

17. There shall be no external storage of equipment, packaging, waste or other items on the site and no industrial process or work shall be undertaken out with the buildings unless approved by the planning authority.

Reason: *In the interest of visual amenity.*

18. Development shall not begin until an investigation on badger and bat activity/presence is undertaken by a qualified ecologist and any mitigation measures identified implemented in accordance with details

to be submitted and approved in writing by the planning authority. The investigation shall be carried out within the six months prior to development commencing.

Reason: *In the interests of safeguarding badgers and bats and to ensure that an up to date understanding of these species on the site is available prior to development commencing.*

Action

Head of Communities and Economy

The meeting terminated at 3.15pm.



SUPPLEMENTARY GUIDANCE: GREEN NETWORK

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to update the Committee on the adoption of the Midlothian Green Network Supplementary Guidance.

2 BACKGROUND

- 2.1 At its meeting of 19 June 2018 the Committee agreed to adopt the Midlothian Green Network Supplementary Guidance following a formal consultation process which ran from February to April 2018. In addition the Committee:
- a. instructed the Head of Communities and Economy to undertake the required notification/advertisement advising that the Green Network Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
 - b. instructed the Head of Communities and Economy to notify the Scottish Ministers of the Council's intention to adopt the Midlothian Green Network Supplementary Guidance; and
 - c. required notification of the outcome of the notification of the Scottish Ministers procedure.
- 2.3 The notification/advertisement referred to in paragraph 2.1a was published in the Midlothian Advertiser newspaper on 12 July 2018. The advertisement was required to comply with Strategic Environmental Assessment legislation and regulations and was for information purposes only.
- 2.4 With regard the requirements set out in paragraph 2.1b and 2.1c the Scottish Ministers were notified of the Council's intention to adopt the supplementary guidance following the Committee's decision and have since confirmed that the Council can proceed to adopt the guidance subject to the inclusion of an additional sentence in paragraph 1.2.8 of the guidance, which states (the additional sentence is underlined):

"Trees and woodland make a substantial contribution to urban and rural landscapes, providing a range of natural and semi-natural habitats. They also have an important role in contributing to sustainable

water management, to the quality of rivers, soils and air, and to quality of life through opportunities for outdoor recreation, education and employment. All types of native woodland are recognised as priority habitats in terms of biodiversity at the national level. Ancient and semi-natural ancient woodland are of particular importance for biodiversity. The Council gives strong protection to woodland, trees and hedgerows, and will only allow the removal of trees and/or hedgerows where this will achieve significant and clearly defined public benefits (MLDP Policy ENV 11). The Scottish Government's Control of Woodland Removal Policy will also be taken into account where relevant."

- 2.5 The change indicated in the direction from Scottish Ministers is non-material and has no significant impact in terms of Strategic Environmental Assessment legislation. Given the Council's intention to adopt the Midlothian Green Network Supplementary Guidance document, no further action is required by Committee. Officers have made the change set out in the Scottish Ministers' direction and the document is now adopted by the Council and forms part of the development plan. The amended and final version of the Midlothian Green Network Supplementary Guidance document is on the Council's website.

3 RECOMMENDATION

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

Ian Johnson
Head of Communities and Economy

Date: 16 August 2018
Contact Person: Grant Ballantine, Lead Officer Conservation and Environment - grant.ballantine@midlothian.gov.uk
Tel No: 0131 271 3429
Background Papers: MLDP 2017 adopted 7 November 2017.
The Green Network Supplementary Guidance approved by the Committee at its meeting of 19 June 2018



SUPPLEMENTARY GUIDANCE: RESOURCE EXTRACTION

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 This report seeks the Committee's agreement to undertake a formal consultation on its proposed 'Resource Extraction' supplementary guidance.

2 BACKGROUND

- 2.1 At its meeting of 7 November 2017 the Council adopted the Midlothian Local Development Plan 2017 (MLDP). The MLDP included a commitment to prepare Supplementary Guidance and Planning Guidance on a number of topic areas (Section 7.2, pages 81 and 82 of the MLDP). Additional guidance is required to provide further detail and interpretation of the policies and strategy set out in its development plan. One of the topic areas which needs further clarification is with regard Midlothian's Resource Extraction.
- 2.2 Draft **Supplementary Guidance** has to be published to enable interested parties to make comment and for any representations received to be considered prior to finalisation of the guidance. Supplementary Guidance is subject to screening for a Strategic Environmental Assessment (SEA) and Habitats Regulations Appraisal (HRA). Furthermore, the local planning authority must also notify Scottish Ministers of its intention to adopted Supplementary Guidance, who have the opportunity to intervene in its drafting and adoption. Once adopted Supplementary Guidance forms part of the development plan and is given statutory weight. Supplementary Guidance is expected on core topics which are integral to the Council spatial strategy. Supplementary Guidance will be a significant policy consideration in the assessment of planning applications.
- 2.3 Non-statutory **Planning Guidance** does not require prior publication, consultation or notification to Scottish Ministers. Planning Guidance will be a material consideration in the assessment of planning applications but does not form part of the development plan.

3 RESOURCE EXTRACTION SUPPLEMENTARY GUIDANCE

- 3.1 The draft Supplementary Guidance has been screened for SEA in consultation with the environmental agencies. They have concluded that significant environmental effects are not likely as a consequence of the guidance. However it is for the Council to formally determine if a SEA is required. The guidance has also been screened for a HRA and because of the distance between the proposed resource extraction sites and the designated internationally protected sites and because of the protection of sites within the MLDP a HRA is considered not to be required.
- 3.2 The draft Supplementary Guidance is appended to this report and includes:
- operating standards in respect of a number of the key environmental factors, such as noise, dust and vibration;
 - approaches to better ensure the restoration of resource extraction sites; and
 - measures to increase community involvement and oversight of mineral operations, through the use of community liaison committees.
- 3.3 When the MLDP was prepared it was also envisaged that the guidance would provide more detail for MLDP Policy MIN3: Offshore Oil and Gas. However, the Scottish Government has subsequently stated that it will not support the development of unconventional gas extraction activities (including hydraulic fracturing and coal bed methane extraction) in Scotland (Statement of Minister for Business, Innovation and Energy to Scottish Parliament on 3 October 2017). This position was endorsed by the Scottish Parliament on 24 October 2017. The Government's policy is subject to Strategic Environmental Assessment prior to its finalisation. Accordingly, the Supplementary Guidance will provide no further guidance on this topic. This aspect of the Supplementary Guidance could be re-visited if national policy changed.
- 3.4 The draft guidance will be made publically available on the Council's website for a period of at least four weeks. The Community Councils, the Scottish Environment Protection Agency (SEPA), Scottish Water, the Forestry Commission and Scottish Natural Heritage will be notified and invited to make comment. In addition, bodies with a specialist interest or persons/groups who made representations to the resource extraction policies in the plan, will also be notified.

4 RECOMMENDATION

- 4.1 The Committee is recommended to:
- a) approve the draft Resource Extraction Supplementary Guidance for consultation;
 - b) consider a further report on the Resource Extraction Supplementary Guidance following the proposed consultation; and

- c) determine that a Strategic Environmental Assessment is not required.

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Background Papers: MLDP 2017 adopted 7 November 2017 and
Appendix 1: draft Supplementary Guidance for Resource Extraction

Resource Extraction Supplementary Guidance

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1 Introduction (note text of draft SG Subject to Planning Committee approval for consultation)

Introduction.

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

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

The purpose of the SG is to provide criteria for assessing applications for surface mineral working, setting out further detail on the matters raised in Policy MIN2 Surface Mineral Extraction.

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

2 Policy Context

Policy Context

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The MLDP strategy for coal comprises areas of search at

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

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

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

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

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

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

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

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

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

Sand and Gravel

- Outerston (Temple Quarry)
- Upper Dalhousie

Opencast Coal

- Cauldhall Moor
- Halkerston North

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

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

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

Safeguarding of mineral resources

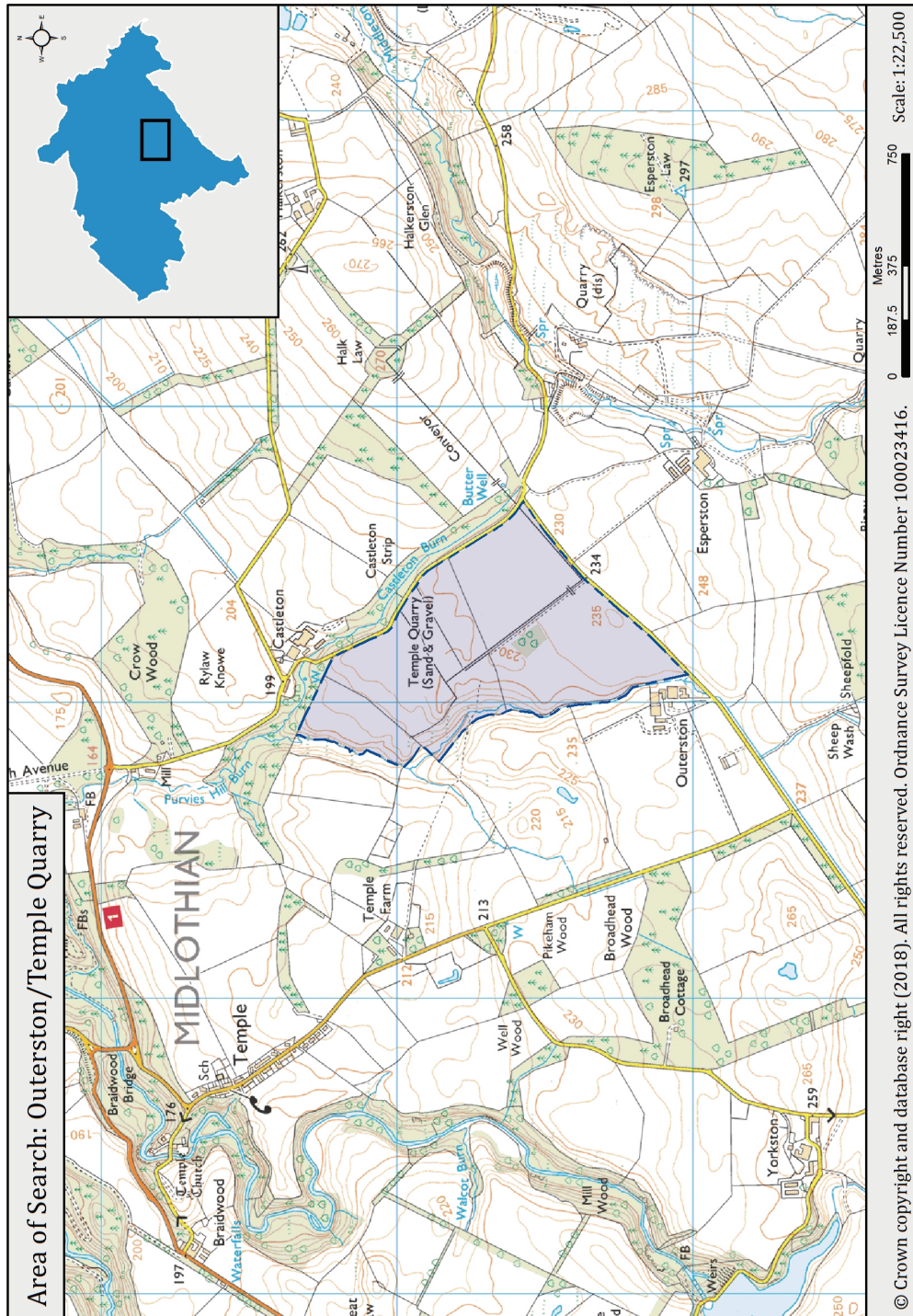
Mineral resources will be safeguarded from sterilisation by other types of development, where the deposits are of sufficient scale or quality to be of commercial interest and their extraction would be environmentally acceptable and would not conflict with the development strategy for the area.

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

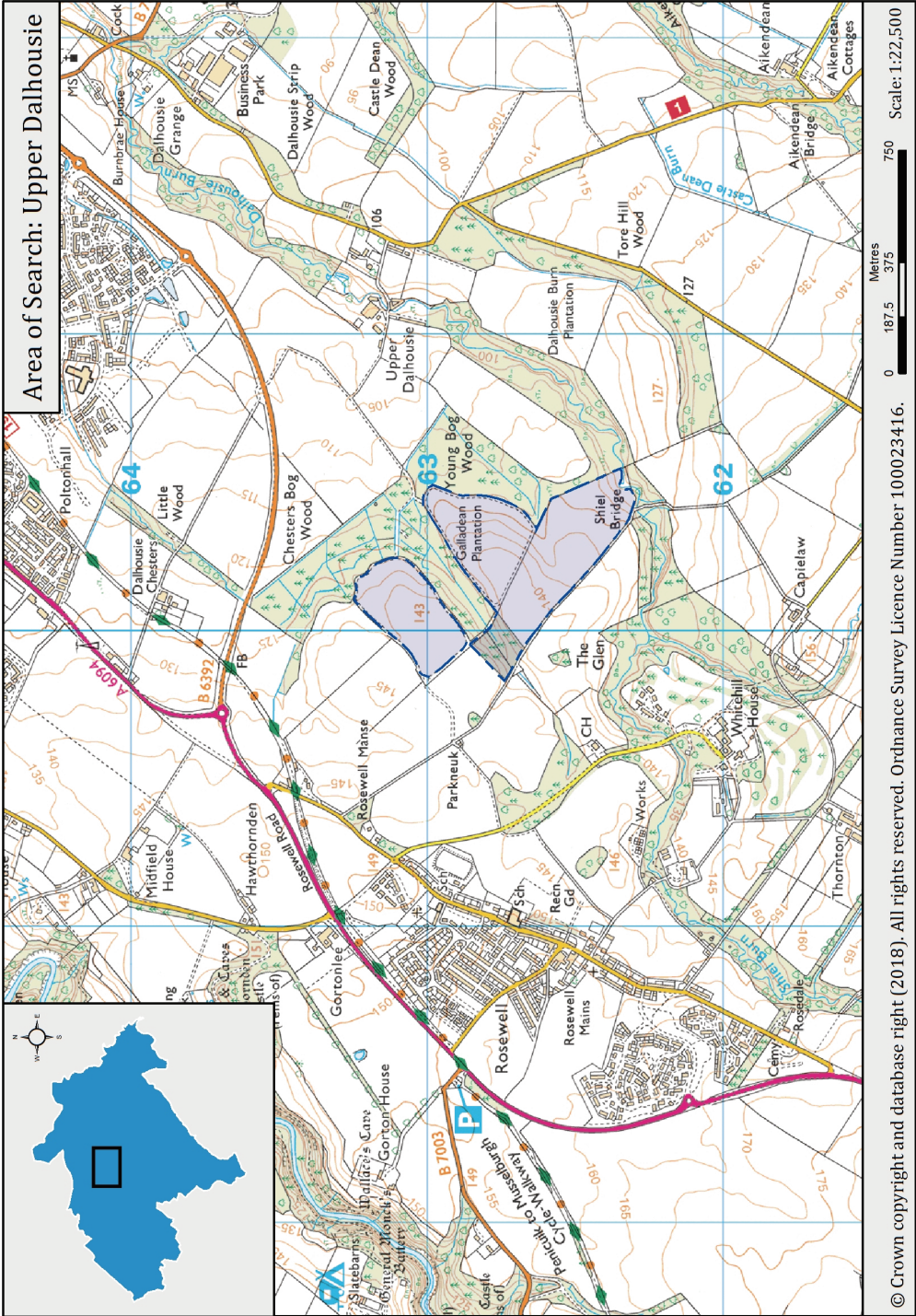
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site boundaries and settlements (recognising that it is unlikely that coal would be worked at the very edge of an area of search) in determining the potential of development proposals to sterilise the resource. The Council will come to a judgement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

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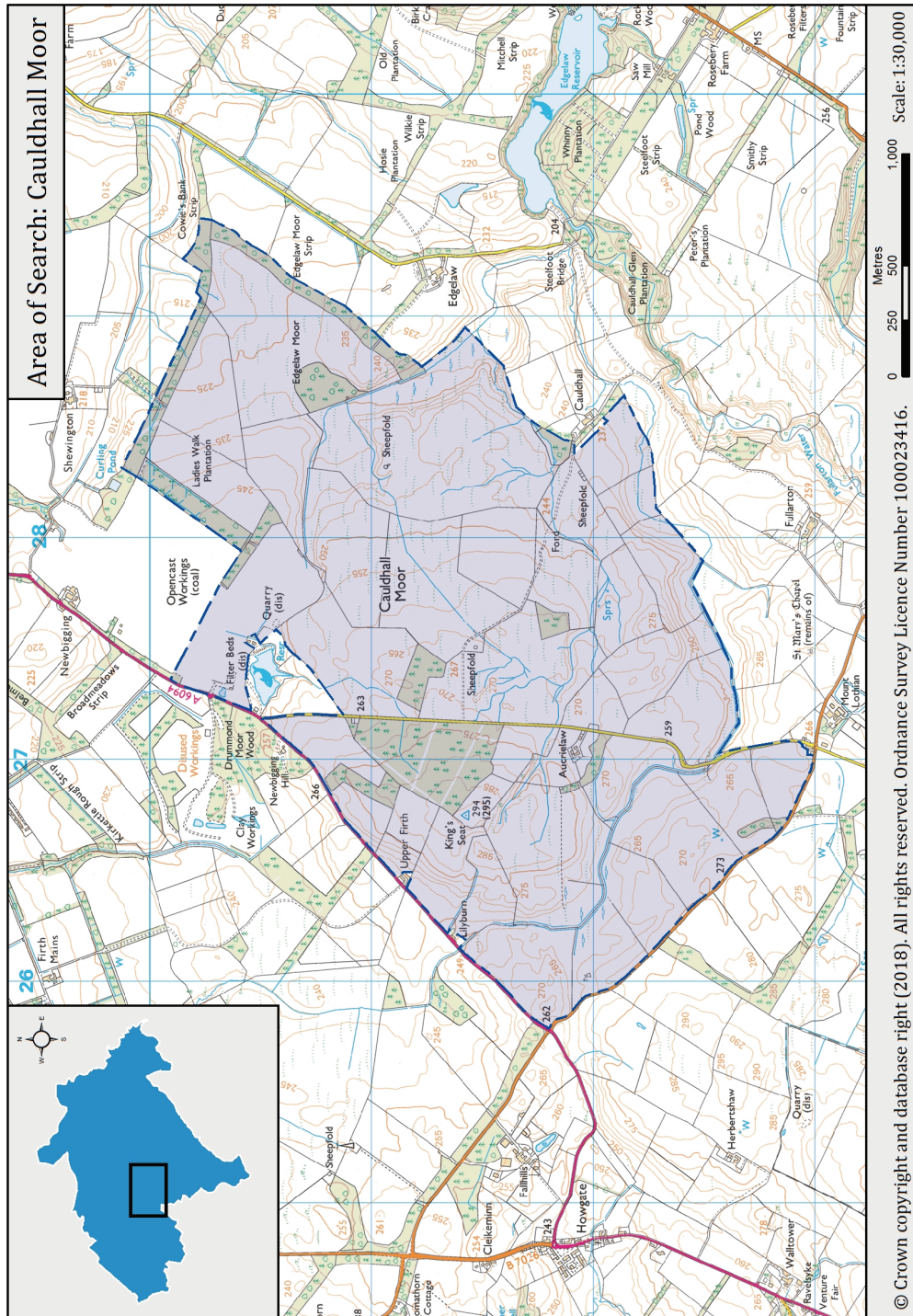


Policy MIN1 Area of Search - Outerston

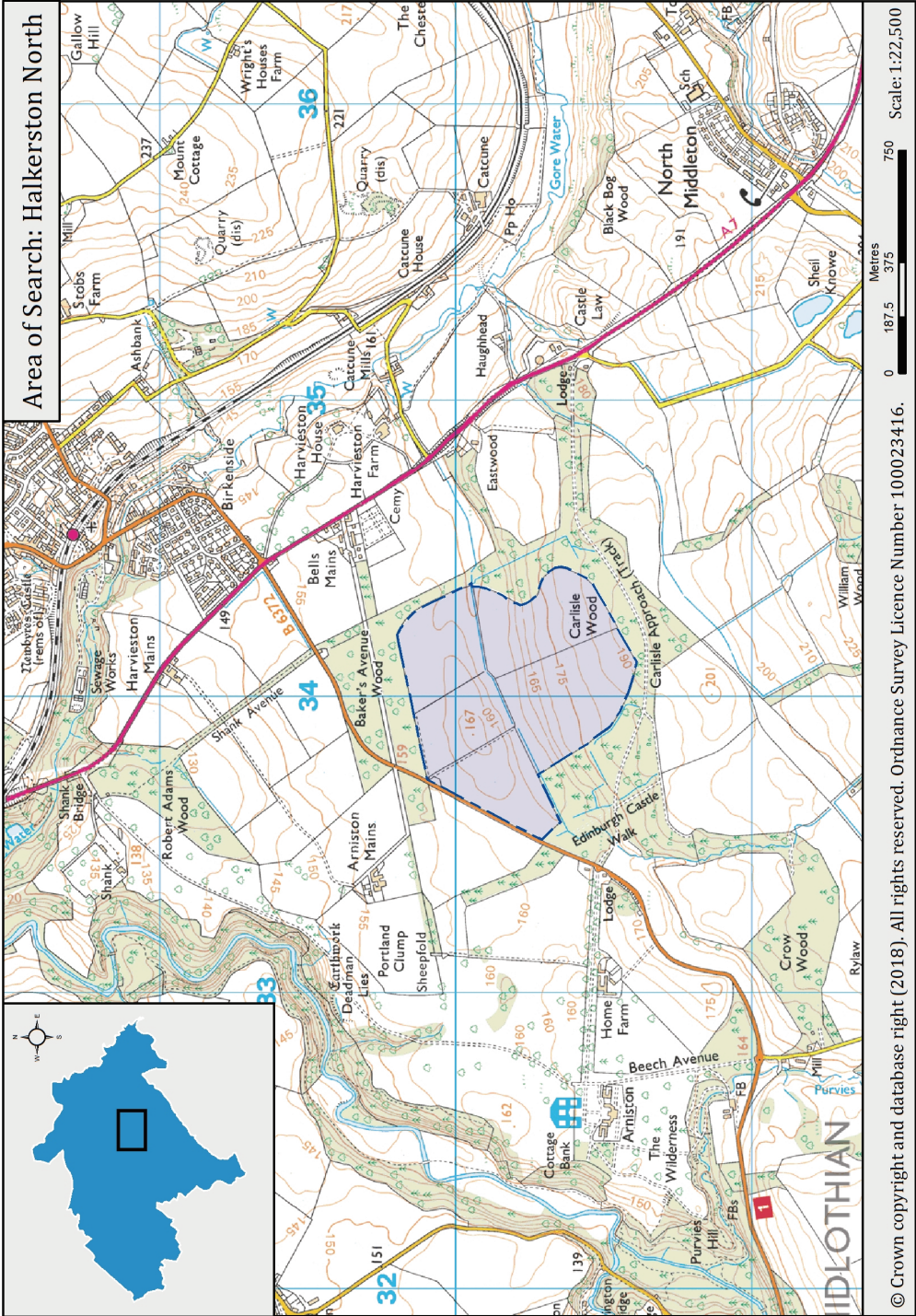


Policy MIN1 Area of Search - Upper Dalhousie

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Policy MIN1 Areas of Search - Cauldhall Moor



Policy MIN1 Area of Search - Halkerston North

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Policy MIN2**Surface Mineral Extraction**

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

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

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

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

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

Policy MIN 3**Onshore Oil and Gas**

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

3 Detailed Criteria for Mineral Extraction

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

Planning Process matters

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

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

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

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

For larger minerals developments (those requiring EIA), Midlothian Council recommends the establishment of Community Liaison Committees to involve communities and ensure their voice is heard as a minerals site is worked and restored. These should include representatives of the community, developer and planning authority, and meet at appropriate intervals (to be determined in the circumstances of the development) over the duration of the project.

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Question 1

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

Question 2

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

Policy MIN2 - detailed criteria.

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

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

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

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

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

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

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

The Council will seek adherence to the following environmental standards.

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

The primary health concern is from fine dust particulates. In the case of fine dust particles (PM_{10} or less) consideration of sensitive receptors may extend up to 1km from the site. At the scoping stage the Council may require a dust assessment study (as part of EIA, or separately if the scheme does not trigger EIA) which may generate minimum stand off distances to sensitive receptors.

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

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

The release of fine particulate material is a matter which affects public health and is covered by limits set by EU directives and Scottish Government guidelines. For particulate matter (PM_{10}) exposure at any sensitive receptor must not exceed 50 microgrammes per cubic metre over any 24 hour period or 18 microgrammes per cubic metre averaged across

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a year. Very fine particulate matter ($PM_{2.5}$) should not exceed 10 microgrammes per cubic metre averaged across a year. These target values shall apply at all locations where members of the public might be regularly exposed.

PM_{10} and $PM_{2.5}$ emissions are also associated with road traffic emissions (and are more likely to be problematic in heavily congested areas). This is a matter to be addressed by the Transport Assessment element of any EIA, which will consider the effect of haulage traffic on congestion. The Council may require further evidence how this interacts with any Air Quality Management Areas (AQMA) extant at the time of the application. The Council will wish to be satisfied that minerals applications in all cases do not give rise to conditions that would necessitate the establishment of further AQMAs.

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

Dust deposition should not exceed more than 200 milligrams per square metre per day, at any sensitive location.

Question 3

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

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

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

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acceptable at sensitive locations, but in each case the Council will come to a judgement based on background conditions and the advice of Environmental Health professionals (see the glossary for explanation of noise terminology).

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

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

Question 4

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

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

Ground vibration as a result of blasting experienced at any sensitive receptor must not exceed a peak particle velocity (PPV) of 12 millimetres per second (mm/s), average levels should not exceed 10mm/s, and 95% of all blasts shall not exceed a PPV value of 6mm/s. The Council will also wish to be satisfied that transfer values (or magnification levels) have been taken into account, reflecting that vibration may be higher at upper levels in a building than at ground level. The Council may impose lower PPV levels in cases where there is particular sensitivity such as vibration sensitive industry, a Category A listed building or Scheduled Ancient Monument, or an area prone to subsidence through historic mining activities (the Council will require to be satisfied that an applicant has explored this thoroughly, particularly so that the presence of traditional 'stoop and room' mining areas, which have been prone to collapse, is identified).

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Question 5

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

Operating hours (including heavy goods vehicles arriving or leaving the site) should be restricted to daytime Monday to Friday (0800 to 1900) and half day Saturday (0800 to 1300) and excluding main public holidays (Easter, Christmas and New Year), unless justified in relation to the specific circumstances of the application. Some essential and low impact activities, to be agreed in conditions, may be permitted outwith these hours. There are particular controls on when blasting may occur (see matters on vibration, above).

Question 6

Do you agree with the proposed controls on operating hours?

2. Effect on the landscape

Operations should avoid permanent adverse effects on the landscape and seek to avoid significant short term effects. For developments requiring EIA, the Council will establish viewpoints for the assessment of the proposal at scoping stage. For non-EIA development the Council will seek early discussion on landscape matters. Proposals must minimise the visual impact of the operations on the surrounding landscape through the careful design and phasing of the workings and overburden mounds, together with the provision of screening bunds where appropriate. Where mineral workings are likely to be of prolonged duration, the proposal should commence reinstatement as part of a phased restoration (reference should be made to the section on Restoration and Aftercare for guidance on long term reinstatement of sites).

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

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

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

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

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

The Council will require any Regionally Important Geological and Geomorphological Sites (RIGS) to be protected.

4. Effect on the water environment

The River Basin Management Plan (RBMP) for Scotland considers the current status and pressures on the water environment, and sets objectives to be achieved. The aim of the RBMP is to (i) ensure no worsening in water body status and (ii) to bring about the progressive improvement of all water bodies to good status over time. The Scottish Environment Protection Agency (SEPA) water environment hub <https://www.sepa.org.uk/data-visualisation/water-environment-hub/> provides details on the status and objectives of each water body.

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

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

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

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

5. Effect on nature conservation and biodiversity

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

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

6. Effect on the historic environment

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

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

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

7. Effect on the road network; particularly local roads

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

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

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

Resource Extraction SG July 2018

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

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

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

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

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

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

Question 7

Do you have any views on the other detailed criteria with respect to site implementation?
Please enter your comments in the box below.

10. Robustness and Suitability of proposals for restoration and aftercare

This aspect of minerals operations is particularly important, to avoid a repetition of past problems in the coal sector, and potentially in other mineral operations as well. There has been much recent work in this area by the Scottish Opencast Coal Task Force, resulting in the report 'Surface Coal Mine Restoration: Towards Better Regulation.'

Resource Extraction SG July 2018

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

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

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

Monitoring. At the planning application stage the Council will determine monitoring points and the frequency of monitoring, and the reporting arrangements. For very large applications the Council will support use of a Compliance Assessor or 'Environmental Clerk of Works' approach - a monitoring service funded by but independent of the applicant to ensure that environmental standards are complied with. The Council encourages the setting up of Community Liaison Committees as a way to increase community oversight of an operation and increase mutual understanding between the community, operators and regulators.

Question 8

Do you support the approach to monitoring?

Question 9

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

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

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

Resource Extraction SG July 2018

The Council supports the drawing up of a Mine or Quarry Progress Plan (MQPP) as part of a planning application. The purpose of the plan is to provide transparency and oversight to ensure projects are developed and restored as intended. The MQPP would form the basis of the agreed working and restoration programme, and be secured by condition. The planning authority (and where appropriate the community liaison committee as well) would monitor implementation of the Progress Plan.

Question 10

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

Question 11

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

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

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

The Council considers that a ring-fenced fund secured through legal agreement is the best form of financial instrument to effect restoration and aftercare. This would be a fund expressly set aside for this purpose. Depending on the site characteristics, the amount of money in the fund might be linked to the sequence of activities in the MQPP and 'profiled' so that the amount in the fund steps up as each stage of extraction proceeds, then steps down again as liabilities are reduced by sequential restoration. The fund would have to be topped up to exceed inflation, and to include allowance for risk. The fund would be set aside from other creditors in the event of a company liquidation, and be available in the event of such a failure to the Council and other agencies carrying out restoration work.

Resource Extraction SG July 2018

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

Question 12

Do you support this approach to securing site restoration?

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

Question 13

Do you have any views on the best way to account for uncertainties and risk in restoration? Please enter your comments in the box below.

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

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

Resource Extraction SG July 2018

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

Question 14

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

Where prime agricultural land (particularly classes 1 or 2) is found on site, the Council expects valuable soils to be stored and reinstated on site. In exceptional circumstances the soils might be removed from the site and employed at another location where they may be of continuing value (for example in a bing restoration scheme). This would have to be justified to the satisfaction of the Council (for example where the site was to be developed for another use following extraction).

In the case of extraction under or alongside peatland, the Council expects peat to be stored and reinstated. This will require careful attention to the hydrology of the restored site; the aim should be to propagate the formation of new peat as time goes on, which might be a long term benefit in a location where the hydrology and the peat resource has been damaged by previous human intervention. The Council may require some peat deposits to be left in situ, and will be guided by advice received in the development management process from SNH and SEPA. Cases where the extraction of peat itself is the objective are addressed below in related policy MLDP Policy ENV5 (Peat and Carbon Rich Soils).

In respect of water environment monitoring and restoration matters, the Council will wish to be satisfied that proposals demonstrate that they have identified best practice at design, extraction and restoration phase. The Council may require monitoring of water quality and flow volumes sufficient to determine that the water environment has not been adversely affected. The interaction between mining operations and the water environment is also likely to be subject of the Controlled Activities Regulations (CAR) managed by SEPA. The Council will establish provision through conditions and use of ring fenced restoration funds, such that where monitoring results suggest that a change in the operating method or additional measures are necessary, the requisite amelioration can be made. SEPA CAR enforcement

Resource Extraction SG July 2018

procedures may also provide regulation in this respect. The objective is that post restoration, the level of monitoring required at a water body potentially affected by mineral development, should be no more than was necessary in its pre-development condition.

Other Matters

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

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

Resource Extraction SG July 2018

4 Onshore Oil and Gas

Onshore Oil and Gas.

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

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

Question 15

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

5 Glossary

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

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

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

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

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

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

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

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

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

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

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

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

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

6 Appendix 1 - list of questions

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

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

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

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

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

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

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

Question 8. Do you support the approach to monitoring?

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

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

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

Question 12. Do you support the approach to securing site restoration?

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

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

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

Resource Extraction SG July 2018

7 Appendix 2 - Letter from Scottish Government

Local Government and Communities Directorate
Planning and Architecture Division



Scottish Government
Riaghaltas na h-Alba
gov.scot

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

Heads of Planning

03 October 2017

Dear Sir/Madam,

CONTROL OF UNCONVENTIONAL OIL AND GAS DEVELOPMENTS

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

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

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

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

Regards

John McNairney
Chief Planner

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



COMMUNICATING CLEARLY

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

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

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

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

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

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



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

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

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

2 BACKGROUND

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

3 DEVELOPMENT PLAN UPDATE

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

4 RECOMMENDATION

- 4.1 The Committee is recommended to note the major planning application proposals which are likely to be considered by the Committee in 2018 and the updates for each of the applications.

Ian Johnson
Head of Communities and Economy

Date: 16 August 2018
Contact Person: Peter Arnsdorf, Planning Manager
peter.arnsdorf@midlothian.gov.uk
Tel No: 0131 271 3310

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

APPENDIX A

MAJOR APPLICATIONS CURRENTLY BEING ASSESSED

Ref	Location	Proposal	Expected date of reporting to Committee	Comment
17/00408/DPP	Land at Old Craighall Road, Millerhill	Erection of 125 residential units; formation of access roads, SUDs features and associated works	October 2018	Pre-Application Consultation (14/00415/PAC) carried out by the applicants in June - September 2014.
17/00409/DPP	Land at Wellington Farm, Old Craighall Road, Millerhill	Erection of 116 residential units; formation of access roads, SUDs features and associated works	October 2018	Pre-Application Consultation (14/00415/PAC) carried out by the applicants in June - September 2014.
17/00435/DPP	Land at Newbyres, River Gore Road, Gorebridge	Erection of 125 residential units; formation of access roads, SUDs features and associated works	Being held in abeyance at the request of the applicant	Pre-Application Consultation (13/00609/PAC) carried out by the applicants in August - November 2013. The applicant is currently reviewing their layout following advice from officers that the layout and form of the development is unacceptable and contrary to the development plan.
17/00980/PPP	Land adjacent former Rosslynlee Hospital, Roslin (Site AHs1)	Residential development and associated works and ancillary commercial use	October 2018	Pre-Application Consultation (16/00266/PAC) carried out by the applicants in April - June 2016 The site is identified as an additional housing opportunity in the adopted MLDP with an indicative 120 – 300 units.
17/01001/DPP	Land at the former Rosslynlee Hospital, Roslin (Site AHs1)	Alterations and conversion of former hospital and buildings to form 71 dwellings, erection of 30 dwellinghouses and associated works	October 2018	Pre-Application Consultation (16/00267/PAC) carried out by the applicants in April - June 2016 The site is identified as an additional housing opportunity in the adopted MLDP with an indicative 120 – 300 units.
18/00081/DPP	Land south west of Upper Dalhousie Sand Quarry, Rosewell	Extension to existing sand quarry	August 2018	Pre-Application Consultation (17/00565/PAC) carried out by the applicants in July - October 2017. This application is reported to this meeting of the Committee.

18/00082/S42 <i>New addition to the table</i>	Upper Dalhousie Sand Quarry Bonnyrigg	Section 42 application to amend condition 2 and 3 of planning permission 06/00689/FUL to extend the time for completion of restoration of area A by a further 3 years and area B by a further 6 years	August 2018	Section 42 applications do not require to go through the Pre-Application Consultation process. This application is reported to this meeting of the Committee.
18/00099/DPP	Land at Gore Avenue and Newbyres Crescent, Gorebridge	Erection of 46 flatted dwellings; 17 dwellinghouses and 12 extra care units; formation of access roads and car parking; SUDS features and associated works	Being held in abeyance	Pre-Application Consultation (17/00913/PAC) carried out by the applicants in November 2017 – February 2018. This application is being held in abeyance subject to the applicant submitting additional information regarding mine gas mitigation measures.
18/00155/DPP	Shawfair Site F Monktonhall Colliery Road, Dalkeith	Use of land for the storage of soil (top soil and sub soil) for a temporary period of 5 years.	October 2018	Pre-Application Consultation (17/00859/PAC) carried out by the applicants in October 2017 – January 2018.
18/00308/DPP	Land south west of Newbattle Community High School, Newtongrange	Erection of 79 residential units; formation of access roads, car parking and associated works	October 2018	Pre-Application Consultation (18/00102/PAC) carried out by the applicants in February 2018 – May 2018.
18/00403/DPP <i>New addition to the table</i>	Land between Rosewell Road and Carnethie Street, Rosewell	Erection of 100 dwellinghouses; formation of access roads, car parking and associated works	November 2018	Pre-Application Consultation (15/00774/PAC) carried out by the applicants in September 2015 – December 2015.
18/00406/S42 <i>New addition to the table</i>	Land north of Dalhousie Dairy Bonnyrigg	Section 42 application to remove condition 6 (which relates to details of the crossing over the Pendreich Burn) of planning permission 16/00712/DPP	August 2018	Section 42 applications do not require to go through the Pre-Application Consultation process. The application seeks to remove condition 6 of planning permission 16/00712/DPP (which was granted on appeal) on the basis that the details of the crossing have been agreed by way of application 17/00611/DPP, for the formation of access road, embankment culvert and associated works to cross the Pittendreich Burn, granted permission in September 2017. This

				<p>application was being determined whilst the appeal against application 16/00712/DPP was subject to consideration by a Scottish Government Reporter and as such there is an element of duplication which the applicant wishes to remove.</p> <p>This application is reported to this meeting of the Committee.</p>
<p>18/00495/DPP</p> <p><i>New addition to the table</i></p>	<p>Land west of Burnbrae Terrace Bonnyrigg</p>	<p>Erection of resource facility including offices; practical skills training suites, stores, workshop, motor transport workshop, ambulance depot and enterprise units; formation of car parking, access roads and external storage areas; and associated facilitating groundworks</p>	<p>November 2018</p>	<p>Pre-Application Consultation (17/00721/PAC) carried out by the applicants in September 2017 – December 2017.</p>
<p>18/00528/S42</p> <p><i>New addition to the table</i></p>	<p>Land at Calderstone, Biggar Road, Lothianburn</p>	<p>Section 42 Application to amend conditions 3, 4, 5, 6 and 10 of planning permission 15/00113/PPP (to amend the phasing of the development)</p>	<p>November 2018</p>	<p>Section 42 applications do not require to go through the Pre-Application Consultation process.</p> <p>The conditions relate to the phasing of development, landscaping, building design and layout and transportation matters.</p>
<p>18/00535/PPP</p> <p><i>New addition to the table</i></p>	<p>Land north west of Moat View, Roslin</p>	<p>Residential development and associated works</p>	<p>November 2018</p>	<p>Pre-Application Consultation (18/00139/PAC) carried out by the applicants in February 2018 – May 2018.</p>

APPENDIX B

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

Ref	Location	Proposal	Date of PAC submission	Earliest date for receipt of planning application and current position
16/00830/PAC	Land east of junction with Greenhall Road Barleyknowe Road Gorebridge	Residential development This site is not allocated for housing	24 November 2016	10/02/17 - no application yet received. A pre-application report was reported to the January 2017 meeting of the Committee.
17/00296/PAC	Land to the east of Lawfield Road and to the north of Ash Grove, Mayfield	Residential development This site is not allocated for housing	19 April 2017	06/07/17 - no application yet received. A pre-application report was reported to the June 2017 meeting of the Committee.
17/00367/PAC	Site Hs12 Hopefield Farm 2 Bonnyrigg	Residential development The site is identified for an indicative 375 residential units in the MLDP.	9 May 2017	02/08/17 - no application yet received. A pre-application report was reported to the August 2017 meeting of the Committee.
17/00402/PAC	Site Hs11 Dalhousie South Bonnyrigg	Residential development The site is identified for an indicative 360 residential units in the MLDP.	19 May 2017	12/08/17 - no application yet received. A pre-application report was reported to the August 2017 meeting of the Committee.
17/00606/PAC	Land south east of Auchendinny, The Brae, Auchendinny (Site Hs20)	Residential development The site is identified for an indicative 350 residential units in the MLDP.	27 July 2017	20/10/17 - no application yet received. A pre-application report was reported to the November 2017 meeting of the Committee.
17/00663/PAC	Land bounded by A7, Stobhill Road and Pentland Avenue, Gorebridge	Mixed use development comprising residential and commercial land uses	16 August 2017	09/11/17 - no application yet received. A pre-application report was reported to the October 2017 meeting of the Committee.
17/00670/PAC	Land to the north of Hardengreen House, Dalkeith	Mixed use development including Class 1 (Shops); Class 2 (Financial, Professional and Other Services); Class 3 (Food and Drink); Class 4 (Business); Class 9 (Houses); and Class 10 (Non-Residential Institutions).	22 August 2017	15/11/17 - no application yet received. A pre-application report was reported to the October 2017 meeting of the Committee.

17/00693/PAC	Land 65M west of Rosslyn Bowling Club, Main Street, Roslin (Site Hs19)	Residential development The site forms part of (approximately 25%) a larger development site identified for an indicative 260 residential units in the MLDP.	30 August 2017	23/11/17 - no application yet received. A pre-application report was reported to the November 2017 meeting of the Committee.
18/00350/PAC	Land at Danderhall Primary School and Danderhall Recreation Ground Edmonstone Road. Danderhall	Erection of a community facility incorporating primary school; early years provision; library and leisure facilities.	18 May 2018	11/08/2018 - A pre-application report is reported to this meeting of the Committee
18/00476/PAC <i>New addition to the table</i>	Land east of Conifer Road, Mayfield, Dalkeith	Residential development for 72 units The site is identified for an indicative 65 residential units in the MLDP.	2 July 2018	25/09/2018 - A pre-application report is reported to this meeting of the Committee
18/00558/PAC <i>New addition to the table</i>	Land at the former Monktonhall Colliery Site, Monktonhall Colliery Road, Newton, Danderhall	Erection of a community facility incorporating secondary and primary school; early years provision; family learning provision; library, leisure and healthcare facilities, sports pitches and associated works.	1 August 2018	25/10/2018



APPEALS AND LOCAL REVIEW BODY DECISIONS

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

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

2 BACKGROUND

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

3 PREVIOUS REVIEWS DETERMINED BY THE LRB

- 3.1 At its meeting on 20 June 2018 the LRB made the following decisions:

	Application Reference	Site Address	Proposed Development	LRB Decision
1	17/00864/DPP	Mansfield, Mayfield, Dalkeith	Conversion of steading into four dwellinghouses	Permission refused at LRB meeting of 20.06.2018
2	17/00900/DPP	Land west of Wellington Cottages, Springfield Road, Penicuik	Siting of two residential caravans for a temporary period of two years (retrospective)	Permission refused at LRB meeting of 20.06.2018
3	17/00960/PPP	Land adjacent Mansfield, Mayfield, Dalkeith	Planning permission in principle for the erection of three dwellinghouses	Permission refused at LRB meeting of 20.06.2018

	Application Reference	Site Address	Proposed Development	LRB Decision
4	18/00065/DPP	17-29 Engine Road, Loanhead	Change of use of coach depot and garage to car breakers yard	Permission granted at LRB meeting of 20.06.2018

4 RECOMMENDATION

- 4.1 The Committee is recommended to note the decisions made by the Local Review Body at its meeting in June 2018.

Ian Johnson
Head of Communities and Economy

Date: 16 August 2018
Contact Person: Peter Arnsdorf, Planning Manager
 peter.arnsdorf@midlothian.gov.uk
Tel No: 0131 271 3310

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



PRE - APPLICATION REPORT REGARDING ERECTION OF COMMUNITY FACILITY INCORPORATING PRIMARY SCHOOL; EARLY YEARS PROVISION; LIBRARY AND LEISURE FACILITIES AT LAND AT DANDERHALL PRIMARY SCHOOL AND DANDERHALL RECREATION GROUND, EDMONSTONE ROAD, DANDERHALL (18/00350/PAC)

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre-application consultation submitted regarding the erection of a community facility incorporating primary school; early years provision; library and leisure facilities at land at Danderhall Primary School and Danderhall Recreation Ground, Edmonstone Road, Danderhall.
- 1.2 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre-application consultation for erection of a community facility incorporating primary school; early years provision; library and leisure facilities at land at Danderhall Primary School and Danderhall Recreation Ground, Edmonstone Road, Danderhall was submitted by Midlothian Council on 18 May 2018.
- 2.3 As part of the 12 week pre-application consultation, public events took place at Danderhall Leisure Centre on 3 May 2018, from 2pm to 8pm; and at Danderhall Library on 7 August 2018, from 2pm to 8pm. On the conclusion of the consultation the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present,

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

- 2.4 Copies of the pre-application notices have been sent by the prospective applicant to Danderhall and District Community Council, Danderhall Primary School and Parents' Council, and Danderhall Leisure Centre.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP).
- 3.3 The 3.25 hectare site straddles Edmonstone Road and comprises the site of the existing Danderhall Primary School and grounds to the south of the road and the recreational ground to the north of the road. The southern part of the site (the existing school site) is bounded by housing. The northern part of the site (the recreation ground) is bound by woodland to the north and west and a social club, bowling green, sports facility, a play area and further recreational ground to the east.
- 3.4 No further details of the proposals have been submitted with the pre-application consultation.
- 3.5 The site falls within the built-up area of Danderhall as identified in the Midlothian Local Development Plan (MLDP). MLDP policy DEV2 (Protecting Amenity within the Built-Up Area) permits development within the built-up area unless it is likely to detract materially from the existing character or amenity of the area. The part of the site to the north of Edmonstone Road is part of an area of open space identified in the MLDP and as such is subject to policy DEV8 (Open Spaces), which seeks to protect and enhance such space. The permanent loss of this facility is contrary to policy, but can potentially be mitigated by the provision of an alternative replacement facility or the enhancement of other local facilities. The MLDP identifies that an extension to Danderhall Primary School is required. Additional community facilities and infrastructure are also required as part of the wider development of the Danderhall/Shawfair area.
- 3.6 If an application is submitted there will be a presumption in favour of the proposed development subject to the mitigation of the loss of the protected open space and the design and form of the building being commensurate with its surroundings.

4 PROCEDURES

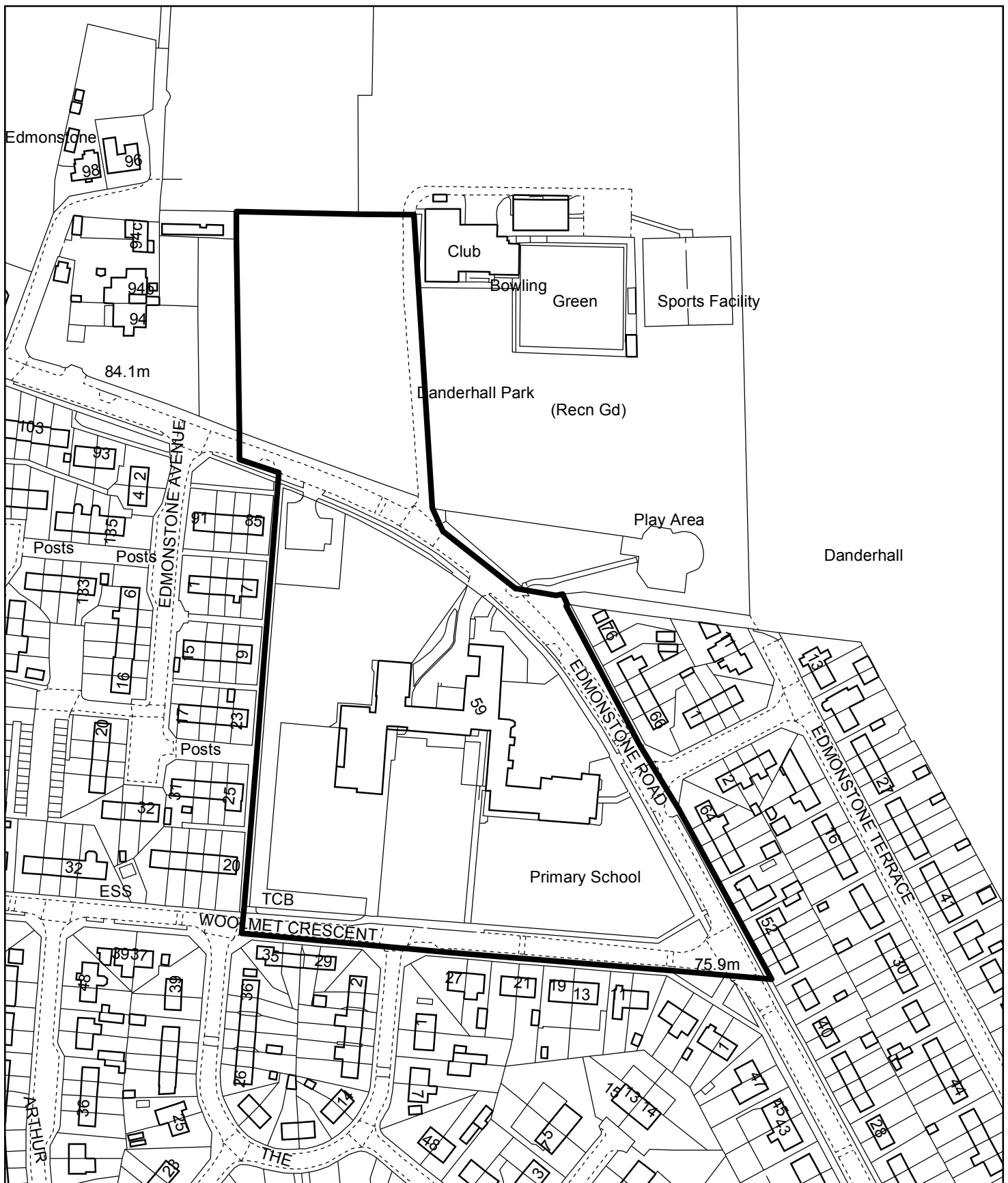
- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice'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

5 RECOMMENDATION

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

Ian Johnson
Head of Communities and Economy

Date: 16 August 2018
Contact Person: Brian Forsyth, Planning Officer
Tel No: 0131 271 3473



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
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Land at Danderhall Primary School and Danderhall
Recreation Ground, Edmonstone Road, Danderhall

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PRE - APPLICATION REPORT REGARDING RESIDENTIAL DEVELOPMENT COMPRISING 72 DWELLINGS, FORMATION OF ACCESS ROADS AND CAR PARKING AND ASSOCIATED WORKS AT LAND EAST OF CONIFER ROAD, MAYFIELD (18/00476/PAC)

Report by Head of Communities and Economy

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of a pre-application consultation submitted regarding residential development comprising 72 dwellings, formation of access roads and car parking and associated works at land east of Conifer Road, Mayfield. The site comprises allocated housing site Hs48 Bryans Easthouses in the adopted Midlothian Local Development Plan 2017 (MLDP).
- 1.2 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre-application consultation for the erection of 72 dwellings, formation of access roads and car parking and associated works at land east of Conifer Road, Mayfield was submitted on 2 July 2018.
- 2.3 As part of the 12 week pre-application consultation, two public events are scheduled to take place at the Church of Scotland, Newbattle Church, Bogwood Road, Mayfield on Wednesday 22 August and Saturday 25 August 2018. On the conclusion of the consultation the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the

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

- 2.4 Copies of the pre application notices have been sent by the prospective applicant to the local elected members and Mayfield and Easthouses Community Council.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP).
- 3.3 The 2.88 hectare site is the former site of Bryans Primary School, to the north of Mayfield. The site is cleared ground with housing to the east, west and south with countryside to the north. The site comprises allocated housing site Hs48 Bryans, Easthouses in the MLDP which is identified for an indicative 65 residential units. Therefore there is a presumption in favour of appropriate residential development.
- 3.4 The land slopes from the northwest to the south east and sits at a higher level than the neighbouring houses in David Scott Avenue and Rowan Tree Road. There is an existing vehicular access from Conifer Road and pedestrian access from Rowan Tree Road and Camp Road. An indicative site layout has been submitted, including SUDs features and amenity space. The land to the northeast of the site is allocated housing site Hs41 North Mayfield which is identified for an indicative 61 residential units.
- 3.5 The MLDP identifies the need for developer contributions towards:
- Borders Rail;
 - Lawfield Primary School;
 - Newbattle Community High School;
 - denominational secondary school;
 - the provision of affordable housing;
 - improvements to Mayfield Town Centre; and
 - children's play.
- 3.6 If an application is submitted there will be a presumption in favour of the proposed development subject to securing developer contributions, in compliance with policy STRAT1 of the MLDP.
- 3.7 The MLDP identifies the site as being within the built-up area of Mayfield. Any subsequent application will be subject to assessment against policies: STRAT1: Committed Development; DEV2: Protecting Amenity within the Built-Up Area; DEV3: Affordable and Specialist

Housing; DEV5: Sustainability in New Development; DEV6: Layout and Design of New Development; DEV7: Landscaping in New Development; DEV9: Open Space Standards; TRAN1: Sustainable Travel; TRAN5: Electric Vehicle Charging; IT1: Digital Infrastructure; ENV9: Flooding; ENV10: Water Environment; NRG6: Community Heating; IMP1: New Development; IMP2: Essential Infrastructure Required to Enable New development to Take Place; and IMP3: Water and Drainage.

4 PROCEDURES

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

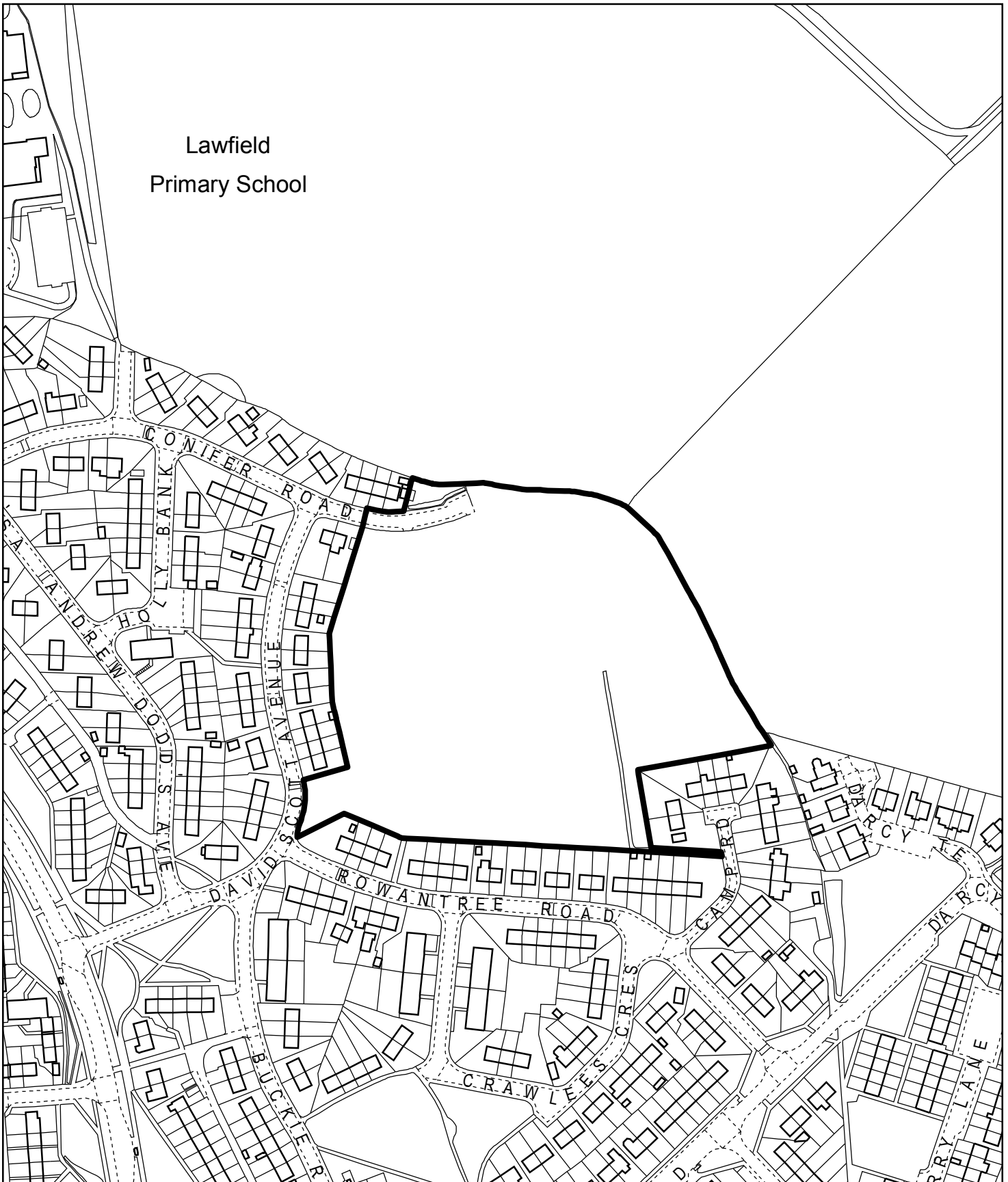
5 RECOMMENDATION

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

Ian Johnson
Head of Communities and Economy

Date: 16 August 2018
Contact Person: Mhairi-Anne Cowie, Planning Officer
Tel No: 0131 271 3308

Lawfield
Primary School



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Land East of Conifer Road, Mayfield

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SECTION 42 APPLICATION (18/00406/S42) TO REMOVE CONDITION 6, FOR THE PRIOR APPROVAL OF THE DETAILS REGARDING THE CROSSING OVER THE PITTRENDREICH BURN, IMPOSED ON A GRANT OF PLANNING PERMISSION IN PRINCIPLE (16/00712/PPP) FOR RESIDENTIAL DEVELOPMENT ON LAND NORTH OF DALHOUSIE DAIRY, BONNYRIGG.

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 In February 2018 planning permission in principle 16/00712/PPP was granted on appeal for residential development on land north of Dalhousie Dairy, Bonnyrigg subject to a planning obligation securing developer contributions and conditions. This application seeks to remove condition 6, which requires the prior approval of the details regarding a road and pedestrian crossing over the Pittendreich Burn connecting the southern part of the site with the northern part. There have been no representations received and no consultations were required.**
- 1.2 The relevant development plan policies are policies 5 and 7 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT3, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN2, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV23, ENV24, ENV25, NRG3, NRG4, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.**
- 1.3 The recommendation is to grant planning permission subject to conditions and the applicant entering into a Planning Obligation to secure contributions towards necessary infrastructure and the provision of affordable housing.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site comprises 16.2 hectares of agricultural land split between two parcels bisected by the Pittendreich Burn and embankments. Both parcels of land are generally level although the Pittendreich Burn sits in a deep cutting. The site is currently undeveloped greenfield land.**

- 2.2 The application site is located north of Dalhousie Dairy and to the immediate north-east of the built up area of the settlement of Bonnyrigg. The Pittendreich Burn and steep embankments run from west to east through the site and splits the site into two development areas. A National Cycle Route 1 (NCR1) runs along an embankment to the north of the site with an existing housing development beyond to the north-west. A green belt corridor which accommodates overhead pylons running from north to south, bounds the site to the east, beyond which is the A7. The southern section of the site has frontage onto the B6392 to the south-east. The existing Dalhousie housing development bounds the site to the south-west.
- 2.3 The existing built form of the Dalhousie housing development to the west comprises a mixture of two-storey detached, semi-detached and terraced houses. An existing pedestrian underpass provides access from the housing development to the north into the site. There is an existing ramp up to NCR1.
- 2.4 The site is identified in the Midlothian Local Development Plan 2017 as an allocated housing site (Hs10).

3 PROPOSAL

- 3.1 The application, made under Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006 (hereafter referred to as the Act), is to remove condition 6 of planning permission 16/00712/PPP.
- 3.2 A Section 42 application, is in itself a planning application - a particular kind of planning application for development without complying with a condition/s previously imposed on an earlier grant of planning permission. A grant of planning permission under Section 42 results in an entirely new planning permission which will supersede the original permission if implemented. Therefore, if planning permission is granted for this application it will supersede the planning consent 16/00712/PPP if implemented. It will therefore be a planning permission in principle for the residential development of the site.
- 3.3 Although a Section 42 application is a new planning application in law the Act states *“on such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted”*. The principle, layout and form of development are not subject to assessment. However, as a new planning application it shall be subject to a new/amended legal agreement to secure developer contributions.
- 3.4 Condition 6 of planning permission in principle 16/00712/PPP states:

“Development shall not begin until an application for approval of matters specified in conditions for a road and pedestrian crossing over the Pittendreich Burn connecting the southern part of the application site

with the northern part of the application site has been granted by the planning authority.”

4 BACKGROUND

- 4.1 The applicant carried out a pre-application consultation (16/00161/PAC) for the site. A report on the pre-application consultation was reported to the Committee at its meeting of 19 April 2016. There was general agreement by Members that vehicular access to the wider Hs10 site should be taken from the B6392 and across the Pittendreich Burn rather than through the existing residential estate at Dalhousie.
- 4.2 An environmental impact assessment (EIA) screening opinion request, 15/00626/SCR, for a proposed residential development for the whole of site Hs10 was submitted 24 July 2015. The applicant was advised that an EIA was not required under schedule 2 of the EIA Regulations.
- 4.3 In February 2017 the Committee resolved to grant detailed planning permission (16/00855/DPP) for the erection of 28 houses and associated works on the southern part of site Hs10 subject to conditions and a planning obligation securing developer contributions.
- 4.4 In February 2018 planning permission in principle 16/00712/PPP was granted on appeal for residential development on land north of Dalhousie Dairy, Bonnyrigg subject to a planning obligation securing developer contributions and conditions.
- 4.5 Planning application 17/00298/PPP for planning permission in principle for residential development on land north of Dalhousie Dairy, Bonnyrigg was withdrawn. This application was submitted for consideration whilst application 16/00712/PPP was being considered by a Scottish Government Reporter – following the Reporter’s decision to grant permission the application was withdrawn.
- 4.6 Planning application 17/00611/DPP for the formation of access road; embankment culvert and associated works to alter ground levels at land at Pittendreich Burn, Bonnyrigg was granted permission in April 2018. This application was submitted for consideration whilst application 16/00712/PPP was being considered by a Scottish Government Reporter. This application effectively duplicates condition 6 of planning application 16/00712/PPP.

5. CONSULTATIONS:

- 5.1 No consultations were required.

6. REPRESENTATIONS:

- 6.1 No representations have been received.

7 PLANNING POLICY

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

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 (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 300 housing units on the site (Hs10).
- 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.
- 7.7 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.
- 7.9 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.10 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that Plan and seeks an

appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan.

- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area, including the A701 realignment.
- 7.13 Policy **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.
- 7.14 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.15 Policy **ENV2 Midlothian Green Networks** supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the *Midlothian Green Network*.
- 7.16 Policy **ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.
- 7.17 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.18 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environmental.
- 7.19 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural

woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.

- 7.20 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.21 Policy **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.
- 7.22 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.
- 7.23 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.
- 7.24 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.
- 7.25 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.26 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.
- 7.27 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.

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

National Policy

- 7.29 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.

- 7.30 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.

- 7.31 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*.

- 7.32 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.

- 7.33 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".

- 7.34 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.

- 7.35 **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.

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

8 PLANNING ISSUES

- 8.1 The main issue to be determined is whether the proposal accords with the development plan, unless material planning considerations indicate otherwise.

The Principle of Development

- 8.2 The site is allocated for housing and is located within the built up area of Bonnyrigg where there is a presumption in favour of appropriate development. The subsequent grant of planning permission in principle (16/00712/PPP) for housing reaffirmed the principle of residential development across the application site.

The Removal of Condition 6

- 8.3 Application 16/00712/PPP includes condition 6 which states:

"Development shall not begin until an application for approval of matters specified in conditions for a road and pedestrian crossing over the Pittendreich Burn connecting the southern part of the application site with the northern part of the application site has been granted by the planning authority."

- 8.4 The Planning Statement submitted in support of the application describes the proposal as being either the removal of condition 6 of planning permission in principle 16/00712/PPP or the variation of condition 6 to state that no dwelling shall be occupied on any area north of the Pittendreich Burn prior to the construction of a road and pedestrian crossing over the Pittendreich Burn. However, following clarification from the applicant the application stands to be determined on the basis of the description of the proposal as described and certified on the application form, which is for the removal of condition 6.

- 8.5 In April 2018 the Council granted planning permission (17/00611/DPP) for the formation of access road; embankment culvert and associated works to alter ground levels at land at Pittendreich Burn, Bonnyrigg subject to conditions. Condition 1 states:

"Only construction vehicles and delivery vehicles associated with the pre-construction works specified in the supporting document titled "Assessment of Working Procedures for Burn Crossing Construction" and associated with the construction of the concrete culvert hereby approved and additionally vehicles associated with the early provision of structural landscaping shall access the site via Bairds Way, Harmony Crescent and Gladstone Gait. There shall be no variation therefrom unless with the prior written approval of the Planning Authority."

- 8.6 The details of the crossing have been approved by way of application 17/00611/DPP, which duplicates the requirement of condition 6 of planning permission 16/00712/PPP. Application 17/00611/DPP regarding the Pittendreich Burn crossing was submitted whilst application 16/00712/PPP for residential development was being considered by the Scottish Government Reporter.
- 8.7 Planning permission 16/00712/PPP for residential development also includes a condition limiting the use of Baird's Way, Harmony Crescent and Gladstone Gait to construction vehicles associated with the crossing works and the provision of structural landscaping. Condition 7 states:
- "Construction vehicle access to/from the part of the site located to the north of the Pittendreich Burn shall only be via the new road crossing formed within the site over the Pittendreich Burn, except for such access as is required in connection with the initial pre-construction enabling works related to the burn crossing and early provision of structural landscaping. This crossing shall also be made available for residential access to houses built to the north of the Pittendreich Burn, from the date of first occupation of any of those houses."*
- 8.8 The access limitations imposed by condition 7 of planning permission 16/00712/PPP and condition 1 of planning permission 17/00611/DPP are not undermined by the removal of condition 6 of planning permission 16/00712/PPP.

Requirement for a new Planning Obligation

- 8.9 The 16/00712/PPP grant of planning permission was subject to a planning obligation to secure developer contributions towards primary education, secondary education, the Borders Railway, the A7 urbanisation, maintenance of open space and the provision of affordable housing. It is proposed to require an amended legal agreement to ensure the agreed financial position is protected. This can be achieved by way of a new agreement or by way of a separate application to modify the existing agreement.
- 8.10 Although the application is a 'Section 42 application' it is a planning application which has to be assessed in accordance with Section 37(2) of the Town and Country Planning (Scotland) Act (1997), which states "in dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations".
- 8.11 The appropriate procedural requirements are set out in Circular 3/2013: Development Management Procedures which confirms that a Section 42 is a new permission and that if permission is granted it should be subject to the conclusion of any appropriate planning obligation to secure developer contributions.

9 **RECOMMENDATION:**

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

The proposed development site is identified as being part of the Council's safeguarded/committed housing land supply within the Midlothian Local Development Plan 2017 and as such there is a presumption in favour of the proposed development. This presumption in favour of development is not outweighed by any other material considerations.

Subject to:

- i) the prior signing of a legal agreement to secure contributions towards primary education, secondary education, the Borders Railway, the A7 urbanisation, maintenance of open space and the provision of affordable housing. 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 (which are those previously imposed by the Reporter, with the exception of those conditions relating to the design of the crossing):

- 1. 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, structural landscaping, SUDS provision and transportation infrastructure including the new road and pedestrian crossing over the Pittendreich Burn. 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. As soon as possible after each of the phases of the development approved under condition 1 above is completed (except for the last or final phase, in respect of which notice shall be given under section 27B(1) of the Town and Country Planning (Scotland) Act 1997), the person who has completed any phase shall give written notice of the completion of that phase to the planning authority.

Reason: To accord with section 27B(2) of the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006.

3. Development shall not begin on an individual phase of development (identified in compliance with condition 1) 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, roads, footpaths and cycleways in relation to a fixed datum;
 - ii. existing trees, landscaping features and vegetation to be retained, removed, protected during development and in the case of damage, restored;
 - iii. proposed new planting in communal areas 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. 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 in the open spaces shall be completed prior to the houses on adjoining plots being occupied;
 - vii. drainage details and sustainable urban drainage systems to manage water runoff;
 - viii. proposed car park configuration and surfacing;
 - ix. proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
 - x. proposed play areas and equipment, where this is included within the particular phase;
 - xi. proposed cycle parking facilities; and
 - xii. proposed area of improved quality (minimum of 20% of the proposed dwellings), where this is included within the particular phase.

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. 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 (LDP) and national planning guidance and advice.*

4. Development shall not begin on an individual phase of development (identified in compliance with condition 1) 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 samples will also include those proposed in the area of improved quality. 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 national planning guidance and advice.*

5. Development shall not begin on any individual phase of development (identified in compliance with condition 1) 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 (including turning facilities), parking areas, footways and cycle ways including (unless otherwise agreed by the planning authority) a new link facilitating eastbound movement from the north-eastern corner of the site onto National Cycle Route 1, all in relation to a fixed datum;
 - ii. the proposed upgrading of the existing vehicle access from the B6392, including details of associated localised road widening of the B6392 to form a dedicated right turn lane into the site entrance and the formation of a pedestrian crossing island on the access road;
 - iii. proposed visibility splays, traffic calming measures, lighting and signage;
 - iv. the upgrading of the current public transport infrastructure at the existing bus stops adjacent to the site entrance on the B6392 including the introduction of a signal controlled pedestrian crossing point linking the two bus stops, the relocation of stops to accommodate the crossing and the provision of a new bus shelter at the eastbound bus stop;

- v. except for over the short bridge section on the approach to the A7, the increasing in width to a minimum of 2.5m of the existing section of 2m wide public footway leading eastwards from the site entrance to the A7;
- vi. measures to close-off the vehicle/ pedestrian access to the proposed burn crossing to be put in place until the burn crossing is completed and the development on the northern part of burn is ready to commence;
- vii. a programme for completion for the construction of access, roads, footpaths and cycle paths;
- viii. proposed haulage routes for construction vehicles; and
- ix. proposed car parking arrangements.

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 neighbouring residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

- 6. Construction vehicle access to/from the part of the site located to the north of the Pittendreich Burn shall only be via the new road crossing formed within the site over the Pittendreich Burn the subject of planning permission 17/00611/DPP or a different future planning permission, except for such access as is required in connection with initial pre- construction enabling works related to the burn crossing and the early provision of structural landscaping. This crossing shall also be made available for residential access to houses built to the north of the Pittendreich Burn, from the date of first occupation of any of those houses.

Reason: *In the interests of road safety and the residential amenity of existing neighbouring residences.*

- 7. 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 any 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 any contamination and/ or previous mineral workings encountered during construction work; and,
- iv. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, any necessary measures to decontaminate the site, as described in the agreed scheme, shall be fully implemented as approved by the planning authority.

Reason: *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.*

8. 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 IMP1 of the Midlothian LDP and national planning guidance and advice.*

9. Development shall not begin until a programme of archaeological works (metal detector survey and evaluation) and scheme of investigation has been submitted to and approved in writing in by the planning authority. The approved programme of works shall be carried out by a professional archaeologist prior to any construction works, demolition or pre-commencement ground works taking place unless otherwise agreed in writing by the planning authority.

Reason: *To ensure this development does not result in the unnecessary loss of buried archaeological material in accordance with Policy ENV25 of the Midlothian LDP.*

10. Prior to works commencing on site a report on an assessment of the likely effects of road traffic noise on the amenity of the future occupants of the houses shall be undertaken by an acoustic specialist to identify any noise mitigation measures necessary to ensure compliance with the following criteria:

- i. 50 dB LAeq(16hr) for daytime external garden amenity;

- ii. 35 dB LAeq(16hr) for daytime internal living apartment; and,
- iii. 30 dB LAeq(8 hour) for night time internal living apartment.

The night time sleep disturbance criteria shall be that contained in the WHO Night Noise Guidelines for Europe, LAmax of 42 dB(A).

Any recommended noise mitigation measures shall be implemented prior to the occupation of the houses.

Reason: *In the interests of safeguarding the residential amenity of the future occupants of the houses.*

- 11. Prior to the commencement of the development a sustainability/biodiversity scheme for the site, incorporating a programme of ecological works, action programme and timetable, shall be submitted to and approved in writing by the planning authority. The actions set out in the programme shall be undertaken in accordance with the agreed timetable.

Reason: *In the interests of safeguarding biodiversity.*

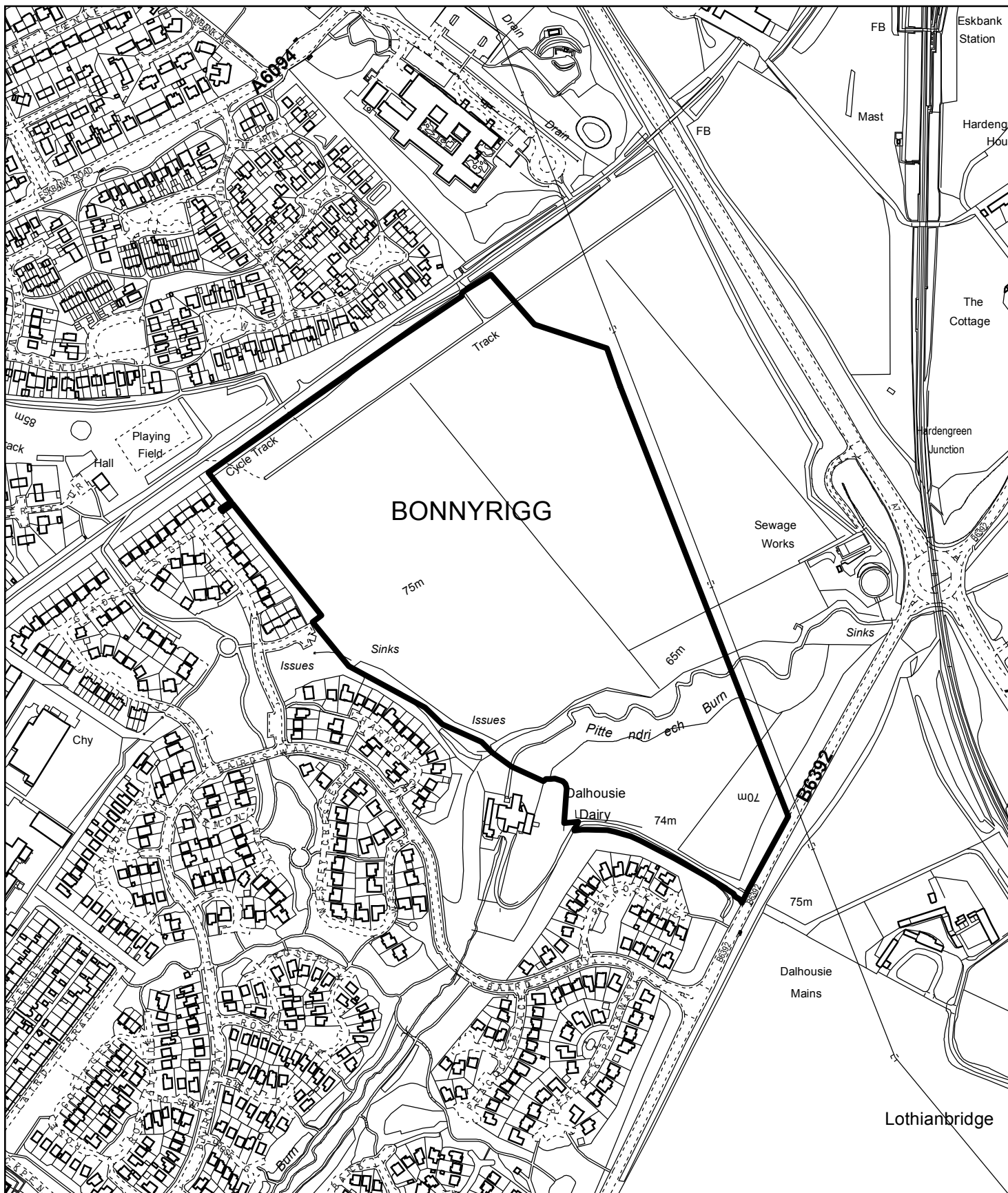
- 12. Prior to the commencement of development, the scope of a report, and a subsequent substantive report, on the technical feasibility and financial viability of the operation of a community heating scheme and the installation of low and zero carbon generating technology for the development hereby approved (linked if practicable with other neighbouring developments/ sites), in accordance with MLDP Policies NRG3, NRG4 and NRG6, shall be submitted for the prior written approval of the planning authority. Should the planning authority conclude, on the basis of this report, that a scheme is technically feasible and financially viable, no dwellinghouses on the site shall be occupied until a community heating scheme, and/ or low and zero carbon generating technology for the site, (linked if practicable with other neighbouring developments/ sites), is approved in writing by the planning authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

The approved scheme shall be implemented in accordance with a phasing scheme also to be agreed in writing in advance by the planning authority.

Reason: *To ensure opportunities for the provision of a community heating system and low and zero carbon generating technologies for the site are fully explored to accord with the requirements of Midlothian LDP Policies NRG3, NRG4 and NRG6, and in order to promote sustainable development.*

Ian Johnson
Head of Communities and Economy

Date: 16 August 2018
Application No: 18/00406/S42
Applicant: Grange Estates (Newbattle) Ltd, Westerwood House, Royston Road
Validation Date: 12 June 2018
Contact Person: Adam Thomson
adam.thomson@midlothian.gov.uk
Tel No: 0131 271 3346
Background Papers: 15/00626/SCR, 16/00161/PAC, 16/00712/PPP, 16/00855/DPP, 17/00611/DPP



**Education, Economy
& Communities**
Midlothian Council
Fairfield House
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Dalkeith
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Land North Of Dalhousie Dairy, Bonnyrigg

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File No. 18/00406/S42

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SECTION 42 APPLICATION (18/00082/S42) TO AMEND CONDITIONS 2 AND 3, TO EXTEND THE TIME TO COMPLETE THE RESTORATION OF QUARRY, IMPOSED ON A GRANT OF PLANNING PERMISSION (06/00689/FUL) FOR THE EXTRACTION AND PROCESSING OF SAND AT UPPER DALHOUSIE SAND QUARRY, BONNYRIGG. THE APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL IMPACT ASSESSMENT REPORT SUBMITTED UNDER THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2011.

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 In August 2009 planning permission 06/00689/FUL was granted for the extraction and processing of sand and associated plant and office at Upper Dalhousie, Bonnyrigg. This application seeks planning permission to amend conditions 2 and 3 of planning permission 06/00689/FUL to extend the restoration periods of the two extraction areas. The application is accompanied by an Environmental Impact Assessment Report which has been submitted in terms of the EIA (Scotland) (Regulations) 2011. There have been no representations received and consultation responses from The Coal Authority, Historic Environment Scotland, the Scottish Environment Protection Agency (SEPA), Scottish Water, Scottish Natural Heritage, Bonnyrigg and Lasswade Community Council, The Council's Archaeology Advisor, The Council's Environmental Health Manager and the Council's Policy, Road Safety Manager and the Council's Legal Services.**
- 1.2 The relevant development plan policies are policy 4 of the Edinburgh and South East Strategic Development Plan 2013 (SESplan) and policies MIN1, MIN2, RD1, ENV2, ENV4, ENV7, ENV10, ENV11, ENV15, ENV17, ENV18, ENV22, ENV23, ENV24, ENV25, IMP1, and IMP3 of the Midlothian Local Development Plan 2017.**
- 1.3 The recommendation is to grant planning permission subject to conditions and securing a bond (between the applicant and**

landowner) to ensure sufficient funding is in place to restore the site.

2 LOCATION AND SITE DESCRIPTION

- 2.1 The Upper Dalhousie Sand Quarry is located to the south east of Bonnyrigg and comprises two extraction areas; Area A is to the south east and Area B is to the north west. The existing processing area, site office and welfare facilities are located to the eastern extent of Area A, close to the site access. The site is accessed off the B6392 distributor road to the south of the Hopefield residential development. The site is approximately 18 hectares.
- 2.2 Extraction from Area A has been completed. Extraction from Area B commenced in 2016 and is ongoing. Area A has been partially restored, with the un-restored area being used for settlement ponds and to accommodate the processing plant and welfare facilities.
- 2.3 The site is bounded by agricultural land and areas of woodland with Whitehill House (and associated residential development) and Rosewell beyond to the west/south west and Bonnyrigg beyond to the north. The closest dwellinghouses are Parkneuk, at approximately 200m to the west and the residential development at Whitehill House, at approximately 400m to the south west.
- 2.4 Immediately adjacent to the proposed northern extraction area (Area B) is an area of land, which was previously quarried for sand and gravel in the 1950's. This area was subsequently utilised by the local authority for the disposal of domestic waste, principally ash, during the 1960's. The area between Area B and the private property at Parkneuk was also utilised by the local authority for the disposal of domestic wastes during the 1960's.

3 PROPOSAL

- 3.1 The application, made under Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006 (hereafter referred to as the Act), is to extend the restoration periods for the Dalhousie Sand Quarry.
- 3.2 A Section 42 application, is in itself a planning application - a particular kind of planning application for development without complying with a condition/s previously imposed on an earlier grant of planning permission. A grant of planning permission under Section 42 results in an entirely new planning permission which will supersede the original permission if implemented. Therefore if planning permission is granted for this application it will supersede planning consent 06/00689/DPP.
- 3.3 Although a Section 42 application is a new planning application in law the Act states *"on such an application the planning authority shall*

consider only the question of the conditions subject to which planning permission should be granted". The principle, layout and form of development are not subject to assessment.

- 3.4 Condition 2 of planning application 06/00689/DPP, which relates to extraction Area A, states:

"Permission for the extraction of sand from area A as indicated on the approved drawing ED20614/FIG3.2 'AREA A EXCAVATION' is granted for a period of 7 years from the date of commencement of operations on the site, such date to be notified to the Planning Authority by the applicants within one week of commencement; and shall be followed by the completion of the restoration of Area A to a condition suitable for agriculture, woodland, as per the details of the Environmental Statement chapter 3.6 to 3.8 as represented in ED20614/FIG4.1 'REVISED RESTORATION MASTERPLAN' and in accordance with the requirements of conditions 51 to 56 below."

- 3.5 Condition 3 of planning application 06/00689/DPP, which relates to extraction Area B, states:

"Permission for the extraction of sand from area B as indicated on the approved drawing ED20614/FIG3.3 'AREA B EXCAVATION' is granted for a period of 7 years starting from the date of the completion of the restoration of site A as required by conditions 51 to 56; and shall be followed by the completion of the restoration of Area B to a condition suitable for agriculture, woodland, as per the details of the Environmental Statement chapter 3.6 to 3.8 as represented in ED20614/FIG4.1 'REVISED RESTORATION MASTERPLAN' and in accordance with the requirements of conditions 51 to 56 below."

- 3.6 It is proposed to:

- extend the permitted period of time for the completion of the restoration of Area A by three years from 2017 to 2020 (condition 2);
- extend the permitted period of time for the completion of the working/extraction of sand and the restoration of Area B by six years from 2024 to 2030 (condition 3);
- work below the water table in Area B to extract additional sand reserves (details covered by the plans approved by condition 3); and,
- seek approval for the restoration plans for Area A and Area B (conditions 2 and 3).

- 3.7 The application is also accompanied by:

- environmental statement;
- a flood risk assessment;
- a drainage impact assessment;
- a transport assessment;
- a habitat survey; and

- a tree survey.

4 BACKGROUND

- 4.1 Planning application 06/00689/FUL for the extraction and processing of sand and the erection of the associated plant and office provision at Upper Dalhousie was granted permission in August 2009. This consent has been implemented and work continues on the site.
- 4.2 Planning application 13/00064/DPP for the installation of sand processing plant and a conveyor at the quarry was granted permission in March 2013.
- 4.3 An environmental impact assessment (EIA) scoping request (17/00380/SCO) for the extension of operations was submitted in May 2017. The applicant was advised what matters need to be covered by an EIA which need to be submitted under schedule 2 of the EIA Regulations.
- 4.4 A related planning application (18/00081/DPP) for the extension of the quarry is subject to assessment and is elsewhere on the Committee agenda. The application is related to this proposal in that the extension area (Area C) will provide additional material for the restoration of Area B.

5 CONSULTATIONS

- 5.1 The **Coal Authority** confirms that the application site falls within a defined Development High Risk Area. However, the conditions subject to review are not material to coal mining issues and therefore, The Coal Authority has no comments.
- 5.2 **Historic Environment Scotland (HES)** do not have any comments to make on the proposals – however, the application should still be determined in accordance with national and local policies and guidance with regard the historic environment.
- 5.3 The **Scottish Environment Protection Agency (SEPA)** does not object to the application as it is an amendment of conditions which do not materially change the operation of the quarry.
- 5.4 **Scottish Water** does not object to the application.
- 5.5 **Scottish Natural Heritage (SNH)** does not object to the application subject to conditions securing the conclusions set out in the Environmental Statement regarding ecological receptors (ancient woodland and protected species). The new Restoration Masterplan for the site appears to be dependent on securing consent for extraction in Area C (subject of a separate planning application).

- 5.6 The **Bonnyrigg and Lasswade Community Council** advise that they engaged their local community regarding the existing and potential future impacts of the quarrying activity, in particularly the traffic implications, the result of which was that no concerns were raised and as such the Community Council does not object to the application. However the Community Council expect Midlothian Council to secure a bond to ensure the site's restoration.
- 5.7 The **Council's Archaeology Advisor** has no comment.
- 5.8 The **Council's Environmental Health Manager** advises that the site is currently well managed and operates without giving rise to noise or dust nuisance complaints, officers are of the opinion that no additional mitigation measures are required. The Environmental Health Manager has no objections to this application subject to conditions to control noise and dust emissions arising from the operation of the site.
- 5.9 The **Council's Policy and Road Safety Manager** does not object to the application.
- 5.10 The **Council's Legal Services** have advised that as the landowner is the Crown Estates the risk to the Council of the landowner and applicant not restoring the land is low, so if the Council are satisfied with the terms of the bond we do not need to be a party to it, it shall be between the applicant and landowner.

6 REPRESENTATIONS

- 6.1 No representations have been received in relation to this application.

7 PLANNING POLICY

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

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 **Policy 4 (MINERALS)** requires local development plans; to safeguard mineral resources from sterilisation, identify areas of search, set criteria to assess when considering proposals and support the use of secondary and recycled aggregates.

Midlothian Local Development Plan 2017 (MLDP)

- 7.3 Policy **MIN1: Areas of Search for Surface Extraction** identifies Upper Dalhousie as being an area for the extraction of sand and gravel where surface mineral extraction may be acceptable in

principle. The policy states that the identification of an area of search does not indicate the Council's acceptance of any particular proposal for the winning and working of a surface mineral resource within any or all of that area of search. Outwith the areas of search there is a presumption against surface mineral extraction. In addition the policy safeguards mineral resources from sterilisation, in specific circumstances.

7.4 Policy **MIN2: Surface Mineral Extraction** requires proposals for mineral extraction to meet the criteria set out in the Supplementary Guidance on Resource Extraction. They will not be permitted where they would have a significant adverse effect on communities, sensitive uses or the environment and will only be supported if the Council is satisfied that they are acceptable in relation to the following matters:

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

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

7.6 The extraction of a secondary material (for example, fireclay from a coal extraction site) is supported provided that its removal does not detract from high quality restoration, or have unacceptable environmental effects (including from cumulative vehicle movements). In order that the supply and demand for aggregates can be monitored, operators of new aggregates sites will be required to supply annual statements of production and remaining reserves.

- 7.7 Policy **RD1: Development in the Countryside** sets out where appropriate development would be acceptable in the countryside subject to defined criteria. One acceptable use is resource extraction in compliance with Policy MIN1. All such development requires being of a scale or character appropriate to the rural area and landscape, capable of being appropriately accessed and serviced, have acceptable drainage provision and water supply and be accessible by public transport and services, where appropriate.
- 7.8 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.
- 7.9 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.
- 7.10 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.
- 7.11 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.
- 7.12 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.
- 7.13 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.14 Policy **ENV 17 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

- 7.15 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.
- 7.16 Policy **ENV22: Listed buildings** does not permit development which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.
- 7.17 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.
- 7.18 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.
- 7.19 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.
- 7.20 Policy **IMP1: New Development** gives the planning authority the policy basis to impose appropriate planning conditions and controls to mitigate the impact of the development.
- 7.21 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

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.

The Principle of Development

- 8.2 Planning permission for the extraction and processing of sand and associated works was granted in 2009. The site was then given continued support in the MLDP and identified as an area of search for mineral extraction. This application, to extend the period of extraction and restoration does not change this presumption in favour of development.

Amendments to Conditions 2 and 3

- 8.3 The application seeks to extend the restoration period of Area A from a 2017 deadline to 2020 and to extend the extraction and restoration

period of Area B from a deadline of 2024 to 2030. This is to allow the continued extraction of the resource; including the extraction of sand from below the water table in Area B. This proposal is seen as part of a wider strategy to maximise the onsite resource which includes extending the extraction area into Area C (subject to planning application 18/00081/DPP). It is not uncommon to adjust the operational time periods of resource extraction sites in response to fluctuating demands for materials which influences the rates of extraction, the ability to extract more material than originally expected and to ensure the best possible restoration programme.

- 8.4 Extraction from Area A is completed. Restoration of this part of the site is underway; but behind schedule, in part due to significant level changes which need to be addressed (up to a 10m variance in places) and the siting of water settling ponds on this part of the site. Additional ground works and tree/woodland planting is still required in accordance with the restoration masterplan and as such it is considered necessary to extend the operation period of the site to 2020. The small area occupied by the site office and welfare building will be restored once site operations across the whole site are complete.
- 8.5 Extraction and restoration of Area B is to take place over an additional six year period. The restoration of Area B is proposed to be completed by 2030. The restoration masterplan shows the levels dropping around the south western, north western and south eastern boundaries of the site. The maximum drop in levels amounts to 16m. These areas will be planted with woodland planting, this will integrate the level change into the landscape. The central, fairly level area of the site is to be restored to agricultural grassland. Considering the potential to extract further material and undertake the required restoration it is considered reasonable and necessary to extend the operation period of the site to 2030.
- 8.6 Area C is the subject of a separate planning application (18/00081/DPP), however it is worth noting that the proposed restoration profiles of Areas A and B will tie into this extended extraction area and that some of the material from the proposed extension will be used to restore Area B. The proposed restoration masterplan includes additional informal footpaths, a sand face for nesting sand martins and a pond. The potential biodiversity and wildlife benefits of the restoration proposals are a positive benefit of the development.
- 8.7 The consequence of the extending extraction in Area B and the delayed restoration of Areas A and B is that the environmental impacts of the development will be extended over a longer period of time. However, the existing quarry has not generated any significant complaints and appears to be effectively managed. The restoration of the site can be secured by a bond and by planning conditions.

Transportation Issues

- 8.8 The transportation statement submitted considers the traffic and transportation effects of the proposal and concludes that the traffic generation will be no greater than that from the existing operations and the access arrangements are not subject to change. No significant environmental effects are anticipated. As with the existing operations, a number of mitigation measures will be put in place including:
- instructions to drivers and suppliers to follow the agreed route to and from the site; and
 - the implementation of good site management practice including wheel washing, vehicle sheeting and road cleaning.
- 8.9 An average of 30 trucks/heavy goods vehicles per day enter and leave the site via the existing access road, this is comparable to the existing volume of vehicular movements. A further 18 non heavy goods vehicles enter and leave the site – these are the 6 staff arriving for and leaving work, deliveries and visitors. The operator also owns the concrete batching plant at Lady Victoria Business Park, nearby on the A7, where much of the extracted material will be used.

Environmental Statement

- 8.10 The Environmental Statement submitted with the application sets out the findings of an Environmental Impact Assessment process carried out by the applicant under The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. The process identifies the likely significant environmental effects of the development and suggests ways in which any significant negative environmental effects can be mitigated. The statement considers the following issues:
- geology;
 - landscape and visual impact;
 - ecology;
 - soils and agriculture;
 - hydrology;
 - historic environment including archaeology and cultural heritage;
 - noise;
 - air quality;
 - access and transportation issues;
 - recreation
- 8.11 The environmental statement identifies that there are no long term detrimental consequences of the proposed development. The proposal does present an opportunity for potential longer term environmental benefits subject to the restoration programme, which if undertaken in a sensitive manner could enhance the environment for the benefit of

wildlife, the local landscape, drainage, pollution prevention and future recreational and agricultural uses.

- 8.12 The EIA process requires that alternative options to the proposed scheme are considered and a justification is given for the preferred option chosen. The options considered were: 1) do nothing with the site; 2) reduce the extraction area; 3) extract from an alternative site; and 4) work above the water table only. The preferred development option (continued working of the the current site) is considered the best option for a number of reasons. Firstly, the area is identified as an area of search in the MLDP for the extraction of construction aggregate to supply the local area. Secondly, not continuing with the ongoing extraction would have a detrimental impact on the provision of construction sand to meet demand in the region. Thirdly, reducing the extraction area (by not fully exploiting the resource in Area B) would risk sterilising existing available reserves. Fourthly, the current site has minimal detrimental impact on local communities. Finally identifying an alternative site would present a significant challenge in terms of the development plan process and the time taken to reach a point where material could be extracted.

9 RECOMMENDATION

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

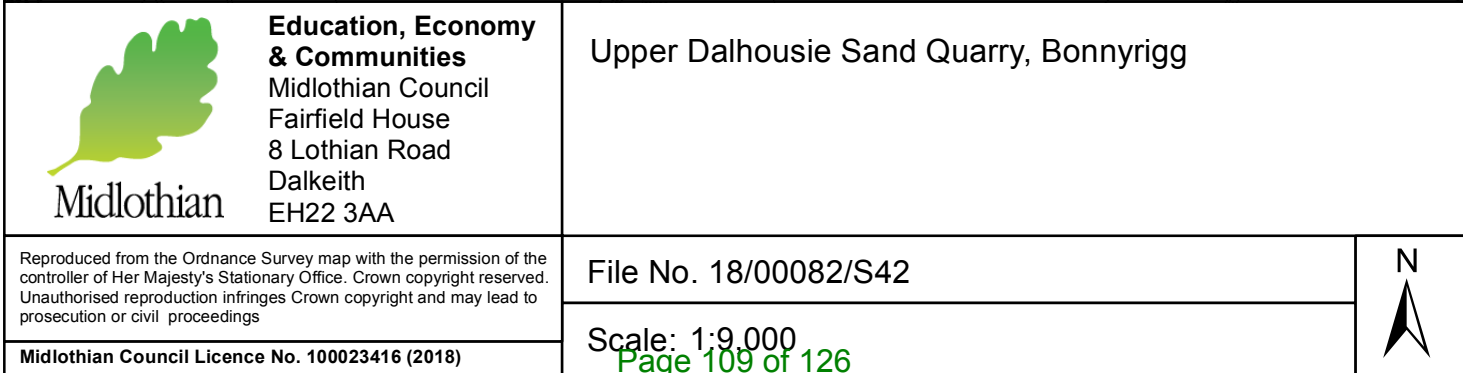
The proposed development site is identified as a mineral extraction site within the Midlothian Local Development Plan 2017; as such there is a presumption in favour of the proposed development. This presumption in favour of development is not outweighed by any other material considerations. The proposed amendments to conditions 2 and 3 are considered not to undermine this policy position or have long term detrimental environmental impact.

Subject to:

- i) the developer demonstrating, to the written satisfaction of the Council, that they have sufficient bond provision/insurance in place to ensure that, in the event that the operator is not able to restore the site, financial provision is made to enable the site is restored in accordance with an approved restoration plan.
- ii) conditions to be agreed with the Chair of the Committee:

Ian Johnson
Head of Communities and Economy

Date: 16 August 2018
Application No: 18/00082/S42 (Available online)
Applicant: Tillicoultry Quarries
Agent: Wardell Armstrong LLP
Validation Date: 2 February 2018
Contact Person: Joyce Learmonth, Lead Officer Major
Developments and Enforcement
Tel No: 0131 271 3311
Background Papers: 18/00081/DPP, 18/00082/S42, 06/00689/FUL





APPLICATION FOR PLANNING PERMISSION 18/00081/DPP FOR THE EXTRACTION AND PROCESSING OF SAND ON LAND TO THE SOUTH/SOUTH WEST OF THE UPPER DALHOUSIE SAND QUARRY, BONNYRIGG. THE APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL IMPACT ASSESSMENT REPORT SUBMITTED UNDER THE TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2011.

Report by Head of Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 In August 2009 planning permission 06/00689/FUL was granted for the extraction and processing of sand and associated plant and office at Upper Dalhousie, Bonnyrigg. This application seeks planning permission to extend the area of extraction and processing onto land to the south/south west of the existing operational area. The application is accompanied by an Environmental Impact Assessment Report which has been submitted in terms of the EIA (Scotland) (Regulations) 2011. There have been no representations received and consultation responses from The Coal Authority, Historic Environment Scotland, the Scottish Environment Protection Agency (SEPA), Scottish Water, Scottish Natural Heritage, Bonnyrigg and Lasswade Community Council, The Council's Archaeology Advisor, The Council's Environmental Health Manager and the Council's Policy, Road Safety Manager and the Council's Legal Services.**
- 1.2 The relevant development plan policies are policy 4 of the Edinburgh and South East Strategic Development Plan 2013 (SESplan) and policies MIN1, MIN2, RD1, ENV2, ENV4, ENV7, ENV10, ENV11, ENV15, ENV17, ENV18, ENV22, ENV23, ENV24, ENV25, IMP1, and IMP3 of the Midlothian Local Development Plan 2017.**
- 1.3 The recommendation is to grant planning permission subject to conditions and securing a bond (between the applicant and landowner) to ensure sufficient funding is in place to restore the site.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The Upper Dalhousie Sand Quarry is located to the south east of Bonnyrigg and comprises two existing extraction areas; Area A is to the south east and Area B is to the north west. The existing processing area, site office and welfare facilities are located to the eastern extent of Area A, close to the site access. The site is accessed off the B6392 distributor road to the south of the Hopefield residential development. The site is approximately 18 hectares.
- 2.2 The extension site (Area C) extends to some 15.8 hectares and is irregular in shape and includes part of Area A of the existing quarry, as the intention is to use the existing onsite processing plant, welfare facilities and site office. The additional sand extraction area is approximately 11.4 hectares. Conveyor belts move the extracted sand from the extraction operations to the processing area. Extraction from Area A has been completed and has been partially restored. Extraction from Area B commenced in 2016 and is ongoing.
- 2.3 The site is currently part of the existing quarry (the overlap with Area A), woodland or is in agricultural use, the latter being the main use of the site. The site is bounded by agricultural land, areas of woodland and sand extraction Area A with Whitehill House (and associated residential development) and Rosewell beyond to the west/south west and Bonnyrigg beyond to the north. The closest dwellinghouses are Parkneuk, at approximately 300m to the north west and the residential development at Whitehill House, at approximately 200m to the south west.
- 2.4 The site is adjacent to a Special Landscape Area and within close proximity to the Dalhousie Designed Landscape, which is on the National Inventory of Designed Landscapes in Scotland. These landscape designations lie to the east of the site.
- 2.5 There is a public footpath link immediately to the west of extraction Area C. Other footpaths are located to the south and east of the site. The applicant proposes to link into the footpath network as part of the restoration scheme for the site.

3 PROPOSAL

- 3.1 It is proposed to extract approximately 1.6 million tonnes of sand over a ten year period. This is based on the current extraction rate of around 150,000 tonnes a year, of which 120,000 tonnes is removed from the site. Extraction rates may differ year on year depending on market demand. Area C would be worked both above and below the water table. The proposed phasing of the proposal is that extraction is to commence in 2026 and continue until 2035. The rolling restoration programme will start in 2029 and be completed in 2036.

- 3.2 Excavations will take place in three phases; the first phase being the central area adjacent to Area A and the north west of the site, the second phase will be the main central part of the site and the third phase will be the south western part of the site.
- 3.3 It is proposed to continue the existing working hours of the quarry which are; 7.00am to 6.00pm Mondays to Fridays and 7.00am to 1.00pm on Saturdays. No work is carried out on Sundays or public holidays except for emergency work or routine maintenance.
- 3.4 The operator, Tillicoultry Quarries, currently operate six quarries in Scotland, three hard rock quarries and three sand and gravel quarries. Three grades of sand are extracted from the site; sand for asphalt, building sand and ducting sands. Asphalt sand accounts for 60% of the extractions and is used at the applicant's production plant at Newtongrange.
- 3.5 The sand extraction is essentially a 'wet process', there is no crushing involved and the extracted material has a 7% moisture content which minimises dust problems. The sand is transported by conveyer belt to the processing plant which is in Area A.
- 3.6 There is a 33 thousand litre capacity water tank on site which is fed from a borehole.
- 3.7 An average of 30 trucks/heavy goods vehicles per day will leave the site via the existing access road, this is comparable to the existing volume of vehicular movements.
- 3.8 The site is to be progressively restored with restoration commencing in 2029 and completion in 2036, one year after the completion of the extraction process. Restoration would be achieved using silt material arising during the processing operations along with topsoil stored in bunds at the site. It is anticipated that silt material from Area C will be used in the restoration of Area B as well as the application site, Area C.
- 3.9 The restoration of Area C has been designed so that the majority of the site can return to agricultural use integrating with the surrounding topography, including merging with the restoration profile of Area A to create a natural appearing landform. Area C will take the form of a valley which will slope down to the south-east, towards the Dalhousie Burn. The restored site will include a natural water feature within the north eastern corner of the site. This wetland habitat will provide an opportunity to enhance local biodiversity and ecology.
- 3.10 The restored areas will be seeded and planted and then be subject to a programme of aftercare to facilitate the return to productive agricultural use and woodland planting. All plant and welfare facilities will be removed from the site and the land in these areas will be returned to an agricultural use.

- 3.11 A number of informal paths will be introduced/reinstated as part of the proposed site restoration, including a link from Area C, around the proposed water feature, up through area A, around the side of Area B and across to the west.
- 3.12 By way of a separate planning application (application 18/00082/S42 is also on the Committee agenda) the applicants have applied to conclude the restoration of Area A, the section outwith the overlap area covered in this extension application, by 2020 and Area B by 2030.
- 3.13 The application is also accompanied by:
- environmental statement;
 - a pre application consultation report;
 - a flood risk assessment;
 - a coal mining risk assessment;
 - a drainage impact assessment;
 - a transport assessment;
 - a habitat survey; and
 - a tree survey.

4 BACKGROUND

- 4.1 Planning application 06/00689/FUL for the extraction and processing of sand and the erection of the associated plant and office provision at Upper Dalhousie was granted permission in August 2009. This consent has been implemented and work continues on the site.
- 4.2 Planning application 13/00064/DPP for the installation of sand processing plant and a conveyor at the quarry was granted permission in March 2013.
- 4.3 An environmental impact assessment (EIA) scoping request (16/00816/SCO) for the extension of operations was submitted in November 2016. The applicant was advised what matters need to be covered by an EIA which need to be submitted under schedule 2 of the EIA Regulations.
- 4.4 Pre Application Consultation 17/00565/PAC regarding the extension of the quarry on land to the south west of the existing Dalhousie Sand Quarry, Bonnyrigg was reported to the Committee at its meeting in August 2017.
- 4.5 A related planning application (18/00082/S42) for an extension of time to conclude the extraction and restoration of the existing quarry is elsewhere on the Committee agenda.

5 CONSULTATIONS

- 5.1 The **Coal Authority** consider that the content and conclusions of the Coal Mining Risk Assessment submitted with the application demonstrate that the site is safe and stable to enable the proposed development to be undertaken. The Coal Authority does not object to the application.
- 5.2 **Historic Environment Scotland (HES)** does not object to the application. HES were consulted at the scoping stage of the EIA process in 2016, which identified a potential impact on the setting of Whitehill House, a category A listed building. However, they are satisfied that the impact is a temporary one which can be mitigated by planting along the boundary of the site.
- 5.3 The **Scottish Environment Protection Agency (SEPA)** does not object to the application. The site is at a medium to high risk of flooding (0.5% annual probability or a 1 in 200 year event) from the Shiel Burn/Dalhousie Burn. It is however acknowledged that the proposed use of the land is a temporary one and as such there is no long term risk. The applicant's Flood Risk Assessment (FRA) sets out an onsite drainage strategy and confirms that operation works will not result in discharge into local watercourses (the Shiel Burn and Dalhousie Burn). In relation to air quality SEPA state that the environmental statement (non-technical) reports that a negligible impact on air quality is predicted.
- 5.4 **Scottish Water** does not object to the application.
- 5.5 **Scottish Natural Heritage (SNH)** does not object to the application subject to; securing a bond to ensure effective site restoration, effective landscaping, the reinstatement of active travel routes and securing the conclusions set out in the Environmental Statement regarding ecological receptors (ancient woodland and protected species).
- 5.6 The **Bonnyrigg and Lasswade Community Council** advises that they engaged their local community regarding the existing and potential future impacts of the quarrying activity, in particularly the traffic implications, the result of which was that no concerns were raised and as such the Community Council does not object to the application. However the Community Council expect Midlothian Council to secure a bond to ensure the site's restoration.
- 5.7 The **Council's Archaeology Advisor** is satisfied that the Environmental Impact Assessment considers the possible historic environment implications of the proposed development and that a programme of archaeological works comprising a monitored soil strip (equivalent to a watching brief) is necessary. This can be secured by a planning condition.

- 5.8 The **Council's Environmental Heath Manager** advises that the existing site is currently well managed and operates without giving rise to noise or dust nuisance complaints, officers are of the opinion that extending the site can also be operated in way in which environmental impacts are mitigated. The Environmental Health Manager has no objections to this application subject to conditions to control noise and dust emissions arising from the operation of the site. The processing plant will remain in its existing location which will not give rise to an increase in noise levels. The noise impact assessment accompanying the application demonstrates that the predicted noise levels at the three noise sensitive receptors studied would be below the 45 db 1 hour LAeq guideline value. Dust mitigation measures which are the conveyor system, sprinkler system and wheel wash and management plan appear adequate to prevent nuisance arising. The operating hours will be as existing 7.00am to 6.00pm Monday to Friday and 7.00am to 1.00pm Saturday. The following matters should be addressed by conditions:
- roads and un-vegetated surfaces shall be dampened down to prevent windblown dust;
 - site access roads shall be kept in good repair and regularly graded;
 - all laden vehicles must be sheeted prior to leaving the quarry;
 - a speed limit of 15mph shall be enforced along the site access road;
 - the dust management plan dated January 2018 shall be enforced and a programme of dust monitoring results will be periodically sent to the local authority; and
 - noise levels from soil stripping, bund formation, removal and restoration operations at nearby noise sensitive dwellings must not exceed a one hour LAeq of 45db as recommended in PAN 50 Annex A: The control of noise at surface mineral workings.
- 5.9 The **Council's Policy and Road Safety Manager** does not object to the application.
- 5.10 The **Council's Legal Services** have advised that as the landowner is the Crown Estates the risk to the Council of the landowner and applicant not restoring the land is low, so if the Council are satisfied with the terms of the bond we do not need to be a party to it, it shall be between the applicant and landowner.
- 6 REPRESENTATIONS**
- 6.1 No representations have been received in relation to this application.

7 PLANNING POLICY

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

Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 **Policy 4 (MINERALS)** requires local development plans; to safeguard mineral resources from sterilisation, identify areas of search, set criteria to assess when considering proposals and support the use of secondary and recycled aggregates.

Midlothian Local Development Plan 2017 (MLDP)

- 7.3 Policy **MIN1: Areas of Search for Surface Extraction** identifies Upper Dalhousie as being an area for the extraction of sand and gravel where surface mineral extraction may be acceptable in principle. The policy states that the identification of an area of search does not indicate the Council's acceptance of any particular proposal for the winning and working of a surface mineral resource within any or all of that area of search. Outwith the areas of search there is a presumption against surface mineral extraction. In addition the policy safeguards mineral resources from sterilisation, in specific circumstances.

- 7.4 Policy **MIN2: Surface Mineral Extraction** requires proposals for mineral extraction to meet the criteria set out in the Supplementary Guidance on Resource Extraction. They will not be permitted where they would have a significant adverse effect on communities, sensitive uses or the environment and will only be supported if the Council is satisfied that they are acceptable in relation to the following matters:

- effect on the health and amenity of settlements, communities and housing groups or other sensitive uses;
- effect on the landscape, in particular that of the Green Belt, Pentland Hills Regional Park, and Special Landscape Areas;
- effect on soils, in particular prime agricultural land, and peatland;
- effect on the water environment;
- effect on nature conservation and biodiversity, in particular sites of international, national or local nature conservation value;
- effect on the historic environment, in particular: Conservation areas, scheduled monuments, listed buildings, historic gardens and designed landscapes, historic battlefields, significant

- archaeological sites (and, where relevant, the settings of the aforementioned designated areas or buildings);
 - effect on the road network, particularly local roads;
 - cumulative effects of the proposal when combined with other consented or operational mineral extraction or landfill activities;
 - effect on the local economy in terms of tourism, leisure or recreation; and,
 - robustness and suitability of proposals for restoration and aftercare.
- 7.5 In determining applications for surface coal extraction, the Council will also consider any beneficial impacts from extraction in terms of site remediation and stabilisation and/or other permanent physical benefits to the community.
- 7.6 The extraction of a secondary material (for example, fireclay from a coal extraction site) is supported provided that its removal does not detract from high quality restoration, or have unacceptable environmental effects (including from cumulative vehicle movements). In order that the supply and demand for aggregates can be monitored, operators of new aggregates sites will be required to supply annual statements of production and remaining reserves.
- 7.7 Policy **RD1: Development in the Countryside** sets out where appropriate development would be acceptable in the countryside subject to defined criteria. One acceptable use is resource extraction in compliance with Policy MIN1. All such development requires being of a scale or character appropriate to the rural area and landscape, capable of being appropriately accessed and serviced, have acceptable drainage provision and water supply and be accessible by public transport and services, where appropriate.
- 7.8 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.
- 7.9 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.
- 7.10 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.

- 7.11 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.
- 7.12 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.
- 7.13 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.14 Policy **ENV 17 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
- 7.15 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.
- 7.16 Policy **ENV22: Listed buildings** does not permit development which would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.
- 7.17 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.
- 7.18 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.
- 7.19 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.

- 7.20 Policy **IMP1: New Development** gives the planning authority the policy basis to impose appropriate planning conditions and controls to mitigate the impact of the development.
- 7.21 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

National Policy

- 7.22 The **SPP (Scottish Planning Policy) 2014** sets out the Government guidance in relation to mineral extraction and states “Minerals make an important contribution to the economy, providing materials for construction, energy supply and other uses, and supporting employment. NPF3 notes that minerals will be required as construction materials to support our ambition for diversification of the energy mix. Planning should safeguard mineral resources and facilitate their responsible use. Our spatial strategy underlines the need to address restoration of past minerals extraction sites in and around the Central Belt.” (Paragraph 234)
- 7.23 The planning system should:
- safeguard workable resources and ensure that an adequate and steady supply is available to meet the needs of the construction, energy and other sectors;
 - minimise the impacts of extraction on local communities, the environment and the built and natural heritage; and
 - secure the sustainable restoration of sites to beneficial afteruse after working has ceased.’ (Paragraph 235)
- 7.24 “A range of financial guarantee options is currently available and planning authorities should consider the most effective solution on a site-by-site basis. All solutions should provide assurance and clarity over the amount and period of the guarantee and in particular, where it is a bond, the risks covered (including operator failure) and the triggers for calling in a bond, including payment terms. In the aggregates sector, an operator may be able to demonstrate adequate provision under an industry-funded guarantee scheme.” (Paragraph 247)
- 7.25 “Planning authorities should ensure that rigorous procedures are in place to monitor consents, including restoration arrangements, at appropriate intervals, and ensure that appropriate action is taken when necessary.” (Paragraph 248).

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.

The Principle of Development

- 8.2 Planning permission for the extraction and processing of sand and associated works was originally granted in 2009. The site was then given continued support in the MLDP and identified as an area of search for mineral extraction. This application, to extend the operational site to the south/south west into 'Area C' is within the identified area of search. This application, to extract and process sand accords with the development plan and there are no material considerations which outweigh this presumption in favour of development.

Landscape and Visual Impact

- 8.3 The proposed operations will have a detrimental impact on the landscape during the extraction process as the top soil is stripped back and sand is removed from the ground. However, the detrimental impact caused by this 'opening up' of the site is mitigated by the fact that; the operation is temporary (from 2026 to 2036), the phased extraction and rolling programme of restoration means that not all of the site will be operational at any one time, the degree of separation from any settlements, established woodland areas adjoining the site and that a landscape buffer will be planted along the sites south/south western boundary in advance of operations commencing. The landscape buffer will comprise enhancing the existing hedge, which runs along the core path adjoining the site, with an additional 5 metres of planting along its length. This will reduce the visual impact on the landscape and soften distance views for residents of the Whitehill House residential development some 200 metres further to the south west.
- 8.4 Additional landscaping is also proposed along the south eastern boundary of the site which abuts the South Esk and Carrington Farmlands Special Landscape Area. In this sensitive area it will be important to agree a landscaping scheme which complements the existing planting. The details of any additional areas of planting can be secured by conditions on a grant of planning permission.
- 8.5 A restoration masterplan has been submitted as part of the planning application. The plan identifies; key proposed landscape features, new restoration ground levels, the formation of a 'natural' water feature to enhance biodiversity and the end land uses as agriculture and woodland. This is acceptable in principle subject to the final details being agreed by condition.
- 8.6 There is currently a variation in the levels across the site of approximately 20 metres dropping from the north west to south east.

After the extraction and restoration processes have been completed the proposed height variation across the site will be approximately 23 metres. The main areas of change will be along the south/south west boundary and in the north/north west of the site. The level changes in these areas will be softened into the landscape by woodland planting, By having a more dramatic level change on the edge of the site it is possible to retain a more level area centrally which can be used for agriculture. The proposed restoration masterplan includes additional informal footpaths, a sand bank for nesting sand martins and a pond. The potential biodiversity and wildlife benefits of the restoration proposals are a positive benefit of the development. The final restoration details will be secured by condition and protected by the provision of a financial bond.

Noise

- 8.7 The nature of the operation means that there will be some noise from the extraction and processing procedures and from the top soil stripping process. However, these noise levels will be comparable to existing levels, which have not been the subject of complaints and are at a tolerable level within the guidance enforced by the Council's Environmental Health Service and reinforced by planning condition on the existing planning permissions. The main concern would be during the temporary soil stripping process on the site, which will take a period of up to 8 weeks. During this short period of time there will be a higher risk of potential noise disturbance, which is only acceptable because of the limited time of this phase of operation.

Transportation Issues

- 8.8 The transportation statement submitted considers the traffic and transportation effects of the proposal and concludes that the traffic generation will be no greater than that from the existing operations and the access arrangements are not subject to change. No significant environmental effects are anticipated. As with the existing operations, a number of mitigation measures will be put in place including:
- instructions to drivers and suppliers to follow the agreed route to and from the site; and
 - the implementation of good site management practice including wheel washing, vehicle sheeting and road cleaning.
- 8.9 An average of 30 trucks/heavy goods vehicles per day will enter and leave the site via the existing access road, this is comparable to the existing volume of vehicular movements. A further 18 non heavy goods vehicles will enter and leave the site – this will be the 6 staff arriving for and leaving work, deliveries and visitors. The operator also owns the concrete batching plant at Lady Victoria Business Park, nearby on the A7, where much of the extracted material will be used.

Environmental Statement

- 8.10 The Environmental Statement submitted with the application sets out the findings of an Environmental Impact Assessment process carried out by the applicant under The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. The process identifies the likely significant environmental effects of the development and suggests ways in which any significant negative environmental effects can be mitigated. The statement considers the following issues:
- geology;
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 - recreation
- 8.11 The environmental statement identifies that there are no long term detrimental consequences of the proposed development. The proposal does present an opportunity for potential longer term environmental benefits subject to the restoration programme, which if undertaken in a sensitive manner could enhance the environment for the benefit of wildlife, the local landscape, drainage, pollution prevention and future recreational and agricultural uses.
- 8.12 The EIA process requires that alternative options to the proposed scheme are considered and a justification is given for the preferred option chosen. The options considered were: 1) do nothing with the site; 2) reduce the extraction area; 3) extract from an alternative site; and 4) work above the water table only. The preferred development option (extending the current site) is considered the best option for a number of reasons. Firstly, the extension area is identified as an area of search in the MLDP for the extraction of construction aggregate to supply the local area. Secondly, not extending the area would have a detrimental impact on the provision of construction sand to meet demand in the region. Thirdly, reducing the extraction area would risk sterilising existing available reserves. Fourthly, the site has minimal detrimental impact on local communities. Finally identifying an alternative site would present a significant challenge in terms of the development plan process and the time taken to reach a point where material could be extracted.

9 RECOMMENDATION

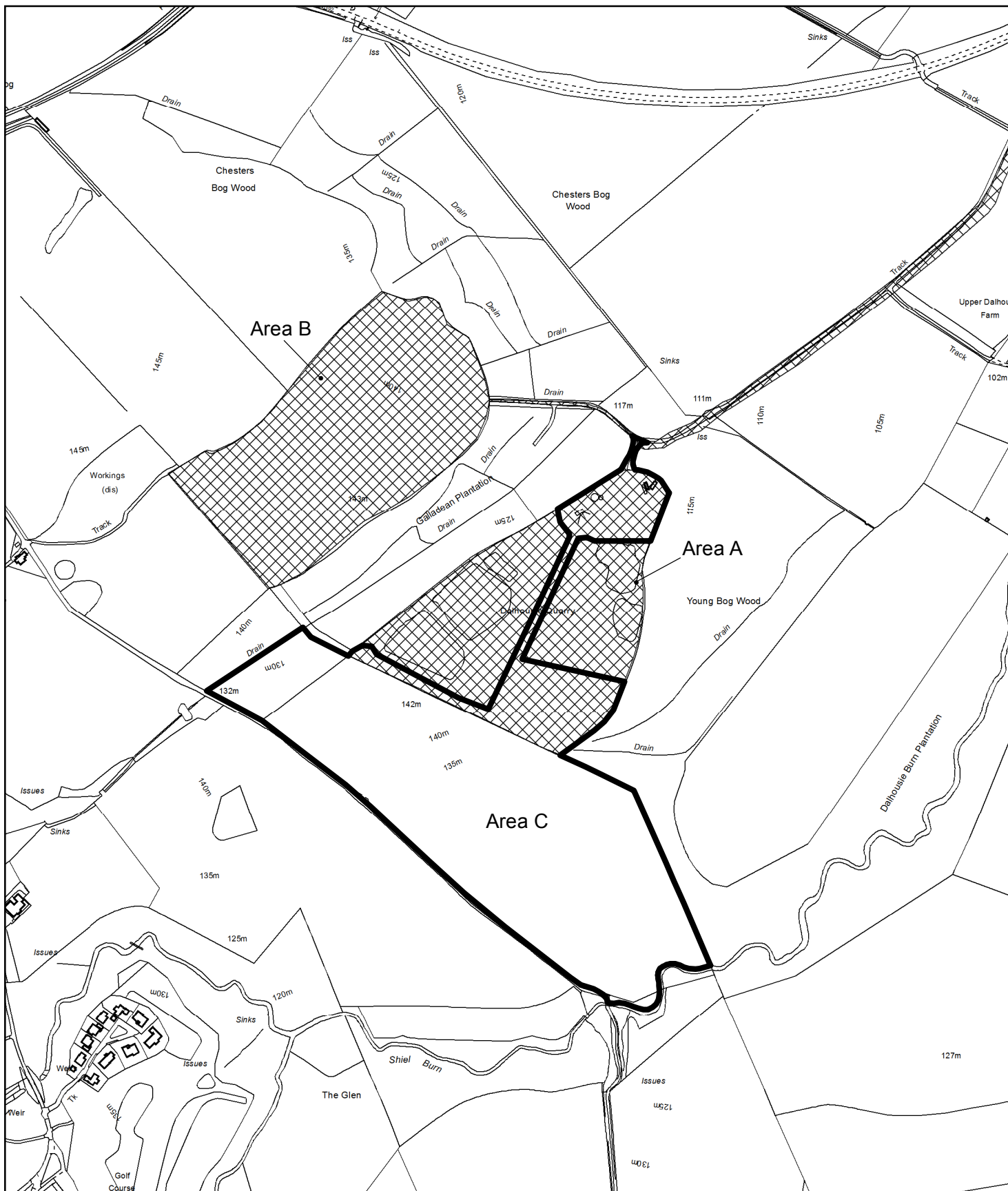
9.1 That planning permission be granted for the following reasons:

The proposed development site is identified as a mineral extraction site within the Midlothian Local Development Plan 2017; as such there is a presumption in favour of the proposed development. This presumption in favour of development is not outweighed by any other material considerations.

- i) the developer demonstrating, to the written satisfaction of the Council, that they have sufficient bond provision/insurance in place to ensure that, in the event that the operator is not able to restore the site, financial provision is made to enable the site is restored in accordance with an approved restoration plan.
- ii) conditions to be agreed with the Chair of the Committee:

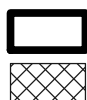
Ian Johnson
Head of Communities and Economy

Date:	16 August 2018
Application No:	18/00081/DPP (Available online)
Applicant:	Tillicoultry Quarries
Agent:	Wardell Armstrong LLP
Validation Date:	2 February 2018
Contact Person:	Joyce Learmonth, Lead Officer Major Developments and Enforcement
Tel No:	0131 271 3311
Background Papers:	18/00081/DPP, 18/00082/S42, 06/00689/FUL



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

Land South West of Upper Dalhousie Sand Quarry,
Rosewell



Application Site (18/0081/DPP)

Existing Site (18/00082/S42)

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