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**APPLICATION FOR DETAILED PLANNING PERMISSION (16/00809/DPP)  
FOR THE ERECTION OF 11 FLATTED DWELLINGS AND FIVE  
DWELLINGHOUSES, FORMATION OF CAR PARK AND ACCESS ROAD  
AND ASSOCIATED WORKS ON LAND AT THE JUNCTION OF BRYANS  
ROAD AND MORRIS ROAD, NEWTONGRANGE**

Report by Head of Communities and Economy

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

**1.1 The application is for detailed planning permission for 11 flatted dwellings and five dwellinghouses on land within the built-up area of Newtongrange, as identified in the adopted Midlothian Local Plan. There has been 60 representations and consultation responses from the Council's Head of Education, the Policy and Road Safety Manager, the Council's Archaeological Advisor and the Coal Authority. The relevant development plan policies are RP20, RP28, RP31, HOUS3, HOUS4, IMP1, IMP2 and DP2 of the Midlothian Local Plan (2008). Policies STRAT2, DEV 2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN5, IT1, ENV 10, ENV24, ENV25, IMP1 and IMP2 of the proposed Midlothian Local Development Plan are material considerations. The recommendation is to grant planning permission subject to conditions and securing developer contributions.**

## **2 LOCATION AND SITE DESCRIPTION**

- 2.1** The application site comprises of a an 'L' shape plot of land which is located on the corner of Bryans Road and Morris Road, Newtongrange and is primarily a residential area with a mixture of other building uses such as the Police Station and some commercial units in close proximity. The character of the dwellings and buildings within the local area vary in scale, form, design and material finish. There is no particular or dominant architectural style in the locality.
- 2.2** To the north-east of the site is the police station and beyond this there are residential dwellings. The police station is a single storey flat roofed building which is attached to residential dwellings. The residential dwellings are two storey flat roofed buildings with a three storey mono-pitch roof elements. These dwellings are finished in dry dash with timber detailing.

- 2.3 To the east of the application site, to the other side of Morris Road, is an area which is predominantly covered by self seeded trees.
- 2.4 The application site wraps around the north-east and south-east boundaries of Bryans Farmhouse. Bryans Farmhouse is a two storey traditional dwellinghouse which is finished in natural stone with a slate pitched roof and is enclosed by boundary walls and fencing. The dwellinghouse has been extended to the south-east and north-east. There are a range of ancillary structures located within the curtilage of the dwellinghouse which includes a single storey outbuilding/garage to the north-east of Bryans Farmhouse. On the eastern elevation of the roof of the outbuilding there are solar panels.
- 2.5 To the north-west of the application site is residential flatted dwellings on Reed Drive which primarily comprises of two storey, 4 in a block flats. These buildings are finished in reconstituted stone, painted wet dash with hipped roofs either finished in clay pan tiles or slate.
- 2.6 Up until January 2015 the application site comprised of a collection of buildings which had been used as workshops and offices. These buildings visually read as agricultural outbuildings located in a prominent position close to Morris Road. The buildings had no statutory protection and were demolished in 2015. The site is currently vacant other than two caravans. The plot of land is enclosed by security fencing.

### **3 PROPOSAL**

- 3.1 Planning permission is sought for the erection of five terraced dwellinghouses and 11 flatted dwellings. A similar proposal was refused in 2015 by the Committee and then refused at appeal. However, the applicant now considers that the previous concerns have been addressed by reducing the number of flats proposed, reducing the height of part of the flatted building and increasing the number of available parking spaces.
- 3.2 The block of flats is to be located to the south-east side of the site, with the side elevation being set back from Bryans Road. The building will run alongside Morris Road. The five terraced dwellinghouses are to be located to the north-west side of the site and will back onto the rear of the two storey flatted dwellings at Reed Drive.
- 3.3 The block of flats comprises of a three storey element closest to the Bryans Road and Morris Road junction with the remainder of the flatted building being two storeys high. The three storey element of the flatted building is some 8.6metres high with the two storey element being some 5.6metres high. The flatted building is located to the south-east of Bryans Farmhouse. The ground levels within the application site vary; the land of which the flats are to be located sits some 0.3 metres above the site which Bryans Farmhouse is located.

- 3.4 The 11 flats will comprise of one three bedroom flat which includes a balcony, en-suite, bathroom and an open plan kitchen cum living room and 10 two bedroom flats; one of which includes a balcony, bathroom and open plan kitchen and living room; and the other nine comprise of an en suite, bathroom and an open plan kitchen cum living room. The flatted building will also house bin storage at ground floor level to the eastern side of the building at the other side of the vehicle pend.
- 3.5 The flatted building is to be finished in a facing brick with timber clad elements. The proposed fenestration has a strong vertical emphasis aligning windows and the timber cladding creating a contemporary design.
- 3.6 The five terraced dwellinghouses visually read as two storey dwellings, but include accommodation within the roof space afforded by the 35° roof pitch and rooflights. The dwellinghouses measure some 5.4 metres to the eaves and 9.1 metres to the ridge. Each house will comprise of 4 bedrooms, 1 en-suite, 2 bathrooms, a kitchen with open plan dining room and a living room. The land to the front of the dwellinghouses sits some 0.3 metres above the land which Bryans Farmhouse sits and the land to the rear of the dwellinghouses is some 0.45 metres above the land which the Bryans Farmhouse sits.
- 3.7 The five terraced dwellinghouses are of a traditional form with a pitched roof. The two end dwellings are to be finished in facing brick and the three central dwellings in a smooth painted render. The material finish and strong fenestration arrangement give the dwellings a contemporary design.
- 3.8 Between the buildings proposed for the flatted dwellings and terraced houses, there is an area of car parking which will provide 30 parking spaces. The car park will be accessible via a pend which connects to Morris Road. Within this area, a small building is proposed as a bicycle store which will contain 'sheffield' racks and a lockable door.
- 3.9 To the north-east boundary from the front elevation of the terraced dwellinghouses to the rear of the application site there will be a 1.8 metre high timber fence. To the south-west boundary there will be a 1 metre high railing which will connect to the neighbouring boundary treatment and will then connect to the rest of the boundary treatment which will comprise of a 0.5 metre high brick wall with 0.5 metre high railings above which will continue around the site boundary from the south-west around the corner of the site to the southern side of the vehicle access pend at the eastern side of the application site.
- 3.10 No details have been submitted with regards to affordable housing.
- 3.11 A coal mining risk assessment was submitted with the application due to the application site being located within a high risk area.

## **4 BACKGROUND**

- 4.1 There have been a number of planning applications submitted for residential development on the site in recent years. Two applications were submitted in 2007, an application in 2015 and another in 2016.
- 4.2 Planning permission was sought in 2007 for the erection of 24 flatted dwellings, ref: 07/00078/FUL. This application was refused by the Committee as it would result in the over-development of the site. The Planning Authority were concerned that the site had been considered in isolation, with little respect to the other buildings in the area. It was also considered that the building would have been overly dominant in the street scene.
- 4.3 Based on the outcome of the above-mentioned planning application, and the obvious appetite to develop the site, the Planning Authority drew up an informal development brief for the site. The brief was to be used as guidance in order to achieve an appropriate scheme.
- 4.4 Planning permission was sought in 2007 for a reduced proposal for 20 dwellings comprising of 15 flats and 5 houses, Ref: 07/00333/FUL. Again, this scheme was considered, by the Planning Authority, to be over development of the site. Before the application was reported to the Committee for refusal the applicant decided to withdraw the application.
- 4.5 In 2015 planning application 15/00029/DPP for the erection of 18 dwellings comprising of 13 flats and five houses was refused. This scheme was refused by the Committee for the following reasons; the flat roof design of the flatted residential block would significantly detract from the character and appearance of the area; the three storey building would be overly dominant of the street scene in terms of scale, height and position of a prominent site; the proposed development would not benefit from sufficient garden ground for residential properties and would result in inadequate levels of amenity for future residents; the proposed development would not benefit from adequate vehicle parking spaces which would result in inconsiderate, and potentially illegal, overflow parking on Morris Road which along with concerns over the accessibility of the site for services vehicles raises road safety concerns; the proposal represented an overdevelopment of the site and was, therefore, contrary to the terms of policies RP20, HOUS3 and DP2 of the adopted Midlothian Local Plan.
- 4.6 In July 2015, the applicant submitted an appeal to the Planning and Environmental Appeals Division of the Scottish Government (DPEA) and was assessed by a reporter whom was appointed by the Scottish Ministers. The main issues considered at appeal were the adequacy of car parking and impact on road safety; the design, appearance and layout of the development including adequacy of garden space; and the development's effect upon residential amenity.

- 4.7 With regards to the design, appearance and layout of the development including adequate garden space the reported concluded that “*there was no particular or dominant architectural style in the locality*”. The reporter did not consider the design of the development to be unacceptable. Furthermore, in reference to the flat roof design of the proposed flats it was noted that both the adjacent police station and residential properties on Morris Road utilise flat roofs on parts of these buildings. It was detailed that the use of a flat-roofed building at this application site is not detrimental to the character and appearance of the area. The visual scale and siting of the development was not considered to be overbearing within the wider streetscape. It was also noted that the choice of materials were appropriate and reflected the materials used within the area. In relation to the gardens sizes for the houses and communal private open space for the flats it was not deficient to such an extent that would be contrary to policy DP2.
- 4.8 In relation to the effect upon residential amenity it was concluded that the development would not result in a significant or unacceptable loss of residential amenity at Bryans Farmhouse or other residential properties. Although the proposal did not fully comply with the separation distances specified by policy DP2, overlooking would not result and therefore the minor departure from the policy would be acceptable in this instance.
- 4.9 The conclusion reached by the reported found “*the proposed car parking to serve the development is deficient to an unacceptable degree. This would result in both residents and visitors to the properties being forced to find alternative locations to park, and this would most likely result in on-street parking on Morris Road which would have an adverse impact upon road safety and impede traffic flow.*” The reporter concluded “*in terms of design, appearance, layout, amenity ground, effect upon residential amenity and all other material planning considerations the reporter did not find the proposal to be unacceptable.*”
- 4.10 Planning application 16/00207/DPP, for the erection of 12 dwellinghouses was granted planning permission subject to conditions and a planning obligation to secure developer contributions. This application was circulated on the 27 September 2016 and was not called in for determination at Committee.
- 4.11 In March 2017 the application which is the subject of this report was called to Committee by a local ward Member due to concerns relating to the highway impacts and the design and density of the development proposal; and also suggesting that the proposal was not significantly different from a previous refused proposal for 18 units (15/00029/DPP).

## 5 CONSULTATIONS

- 5.1 The Council's **Head of Education** estimates that 16 dwellings would give rise to five primary school pupils and four secondary school pupils. The Council's Head of Education has advised that the applicant will be required to make a developer contribution towards non-denominational primary school provision towards an extension to a school. A developer contribution will also be required towards secondary non-denominational provision and towards denominational secondary school capacity.
- 5.2 The Council's **Policy and Road Safety Manager** has not objected to the planning application but has requested further details regarding access and parking be submitted. It is noted that as part of the ongoing Newbattle High School redevelopment, Bryans Road/Morris Road junction was to be changed to a traffic controlled junction with the extension of the current traffic calming at the school frontage to the junction. Traffic lights have since been installed at the Morris Road/Bryans Road junction. This will see a reduction in vehicle speeds and has provided an improved pedestrian crossing at this location. The proposed building is setback sufficiently from the junction and would not obstruct the existing visibility splay at the road junction.
- 5.3 The Council's **Archaeological Consultant** noted that the application site is located on the site of a medieval chapel and graveyard dedicated to St Briox in the 12<sup>th</sup>/13<sup>th</sup> century and therefore has potential to be a site of archaeological significance. Historically the churchyard was defined by large trees, which have since been felled, and described as being to the north-west of Bryans Farm. In 1903 a stone font was recovered from the farm. The application site has potential archaeological significance and therefore there is a requirement for a programme of archaeological works (Archive Assessment and Evaluation) to be carried out to record the historical remains and to determine whether the development will disturb any buried archaeological deposits.
- 5.4 The **Coal Authority** confirmed that the application site is located within the development high risk area and advised that the comments provided in relation to a planning application 16/00207/DPP on the 19 April 2016 for the application site remain valid in respect of this application. The response provided concurs with the recommendations of the applicant's report, that coal mining legacy potentially poses a risk to the proposed development and that further intrusive site investigation works are required. The Coal Authority recommended that, if approved, a planning condition be secured which requires the submission of a further report on the exact position regarding coal mining legacy and that remedial works are undertaken.
- 5.5 **Newtongrange Community Council** has objected to the planning application on the basis of objections received from within the

community. The Community Council have noted that the site should be developed in a sympathetic way, giving consideration to existing historic properties and be in keeping with the look and feel of the village. The Community Council are concerned about the proposals being overdevelopment of the site, the lack of detail provided with regards to the archaeological investigation and the development's impact on the immediate neighbours.

5.6 **Scottish Water** made no comments regarding the proposal.

5.7 The Council's **Environmental Health Manager** made no comments regarding the proposal.

## 6 REPRESENTATIONS

6.1 There have been 60 representations objecting to the application; 54 standard format/template letters and six separate letters, two of which were received from one household. All representations can be viewed fully online. The representations raised concerns which can be summarised as follows:

- The proposed development is similar to a previously refused proposal (15/00029/DPP);
- The proposed development, as a result of its size, height and position, will be out of character and overly dominant;
- The building will detract from Bryans Farmhouse, which is a historic focal point;
- The proposed development is out of character with the area in terms of form, density and design. The flat roof does not relate to nearby buildings which are of a traditional design;
- The proposed development projects towards the Morris Road/Bryans Road junction and will restrict visibility increasing risks to pedestrians and motorists. It was also noted that this is a designated school route. It is suggested that the development is sited further back from this junction;
- The proposed development will result in an increase in residential traffic onto Morris Road which raises concerns regarding visibility from the bend and the increased risk to pedestrians on this designated school route;
- The proposed development may not be adequate for refuse vehicles;
- The proposed development is an overdevelopment of the site and may not meet the recommended guidelines;
- Concerns about archaeological potential of the site and whether it will be recorded;
- The proposed development is too close to Bryans Farmhouse and may impact on the amenity as a result of overshadowing and privacy;
- The proposed development would have an adverse impact on the childminding business being operated from Bryans Farmhouse.

The community do not want to see a local business negatively impacted;

- The objectors highlight the Scottish Government's aspirations with regards to energy regeneration from renewable resources and suggest that this development should take that into consideration; and
- The objectors consider the proposal to be an overdevelopment of a plot of this scale and, consider the proposal not to meet the requirements of policies DP2, HOUS3 and RP20 of the adopted Midlothian Local Plan and paragraph 184 of the Scottish Planning Policy (renewable energy). In particular the proposal is considered to materially detract from the existing character and amenity of the area.

6.2 The representations which are not of a standard letter template format raise similar issues to those noted above. One objector raises concerns with regards to fire vehicle accessibility to the site stating that, this does not appear to meet the minimum requirement in terms of the height of the vehicle access pend. Another objector raised concerns with regards to loss of sunlight and security concerns in relation to the proposed flats, houses and parking area in relation to the rear garden of a property at Reed Drive.

6.3 The neighbour at Bryans Farmhouse has submitted a representation which included an appendix along with two emails to further clarify concerns. The letter of representation largely raises similar concerns which are noted above. Other concerns raised within the representation can be summarised as follows:

- Concerns about how the development may impact on her property and business;
- Noted that the submitted plans do not detail the existing conservatory to the south-east side of her property which results in the flats being a further 2 metres closer to her property and which is not considered to be a reasonable separation distance;
- States that the land rises to the south and so any building erected will dominate and impose upon Bryans Farmhouse which raises further concerns that the proposed development will impact on her amenity, as a result of overshadowing and a reduction in privacy;
- Concerned that the development will also impact on the solar panels which she has attached to her outbuilding;
- Claims that the proposed development will adversely impact her childminding business as it will reduce privacy;
- Claims that previous buildings were unsympathetically demolished without a bat assessment and no longer see any bats;
- States that the development does not meet the fire & rescue vehicle accessibility requirements due to height restrictions of the pend and houses being more than 45 metres from nearest road access;



- States that under previous demolition warrant the structural engineers required supporting legs on the back wall of the now demolished building which results in parking spaces 24 – 28 and the bike store being unviable;
- Concerned that the bin storage is not adequate;
- Concerned that the amenity garden ground does not meet the required amount for the flats or dwellings; and
- Concerns over the loss/lack of the trees along boundaries.

The concerns noted above will be addressed within the planning issues section of this report.

## 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 Plan (MLP), adopted in December 2008. The Proposed Midlothian Local Development Plan (MLDP) 2014 has been submitted to the Scottish Ministers and is subject to an examination which is likely to be concluded in Summer 2017. As this plan is at an advanced stage of preparation and represents the settled view of the Council it is a material consideration of significant weight in the assessment of the application. With regard this application the policies in the MLDP are reflective of those in the MLP. The following policies are relevant to the proposal:

### Midlothian Local Plan 2008 (MLP):

- 7.2 Policy **RP20: Development within the Built-up Area** states that development will not be permitted within the built-up area where it is likely to detract materially from the existing character or amenity of the area.
- 7.3 Policy **RP28: Site Assessment, Evaluation and Recording** states that where any development proposal could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the impact of the proposal on the archaeological resource.
- 7.4 Policy **RP31: Open Space Standards** advises that the Council proposes to bring forward supplementary planning guidance based on the open space strategy outlining the minimum open space standards in respect of all new development, and until that is available the requirements for open space provision are as set out in policy DP2.
- 7.5 Policy **HOUS3: Windfall Housing Sites** advises that within the built-up areas, housing development on non-allocated sites and including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that: it does not lead to the loss or damage of valuable public or private open space; it does not conflict with the

established land use of the area; it respects the character of the area in terms of scale, form, design and materials; it meets traffic and parking requirements; and it accords with other relevant Local Plan policies and proposals, including policies IMP1, IMP2, IMP3 and DP2.

- 7.6 Policy **HOUS4: Affordable Housing** requires that on residential sites allocated in this Local Plan and on windfall sites identified during the plan period, provision shall be required for affordable housing units equal to or exceeding 25% of the total site capacity, as follows:
- for sites of less than 15 units (or less than 0.5 hectares in size) no provision will be sought;
  - for sites of between 15 and 49 units (or 0.5 to 1.6 hectares in size) there will be no provision for the first 14 units thereafter 25% of the remaining units will be for affordable housing
  - for sites of 50 units and over (or larger than 1.6 hectares in size), there will be a requirement for 25% of the total units to be for affordable housing.
- 7.7 Lower levels of provision, or a commuted sum, may be acceptable where this has been fully justified. Supplementary planning guidance for the affordable housing provision shall provide advice on: the acceptable tenure split between social and low cost housing; possible delivery mechanisms; the scope for commuted sums; and other relevant matters as necessary.
- 7.8 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 transport infrastructure, landscaping, public transport connections, including bus stops and shelters, parking in accordance with approved standards, cycling access and facilities, pedestrian access, acceptable alternative access routes, access for people with mobility issues, traffic and environmental management issues, protection/management/compensation for natural and conservation interests affected, archaeological provision and 'percent for art' provision.
- 7.9 Policy **IMP2: Essential Infrastructure Required to enable New Development to Take Place**, states that new development will not take place until provision has been made for essential infrastructure and environmental requirements, related to the scale and impact of the proposal. This includes education provision, essential roads infrastructure, protecting valuable environmental assets within or adjacent to the site and compensation for any losses including alternative provision where appropriate. In this case the need to upgrade junctions and access arrangements will come through a Traffic Assessment and specific requirements may arise from water and drainage and flood risk assessments.

- 7.10 Policy **DP2: Development Guidelines** sets out Development Guidelines for residential developments. The policy indicates the standards that should be applied when considering applications for dwellings.

Midlothian Local Development Plan (MLDP)

- 7.11 Policy **STRAT2** supports development on windfall sites where it does not result in the loss of valuable open space; does not conflict with established land uses in the area; its design is compatible with the character of the area and it meets the required traffic and parking standards.
- 7.12 Policy **DEV2** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.13 Policy **DEV3** seeks an affordable housing contribution of 25% from sites allocated in the MLDP.
- 7.14 Policy **DEV5** sets out the requirements for development with regards to sustainability principles.
- 7.15 Policy **DEV6** sets out design guidance for new developments.
- 7.16 Policy **DEV7** sets out the requirements for landscaping in new developments.
- 7.17 Policy **DEV9** sets out the necessary open space for new developments.
- 7.18 Policy **TRANS5** seeks the provision of electric vehicle charging points in new developments.
- 7.19 Policy **IT1** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.20 Policy **ENV10** requires that new development pass surface water through a sustainable urban drainage system (SUDS).
- 7.21 Policy **ENV24** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting and policy **ENV25** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.

- 7.22 Policy **IMP1 and 2** identify the need to make provision, or contribute towards a provision, of infrastructure and facilities needed to deliver a service, which arise from the proposed development.
- 7.23 The Council has prepared **Supplementary Planning Guidance on Affordable Housing and Developer Contributions**. The SPG on Developer Contributions sets out guidance on when and where developer contributions are payable.

#### National Policy

- 7.24 **The Scottish Planning Policy (SPP)** in respect of housing is also a material consideration. In the interest of sustainability it is good practice to make best use of brownfield sites within towns subject to the protection of the character of the area and amenity of existing residents. This reflects the advice contained within the SPP (para 80) which seeks more efficient use of land and buildings. 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;
- 7.25 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 policies, in particular policy DP2.
- 7.26 The SPP clearly 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.
- 7.27 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.

## **8 PLANNING ISSUES**

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

### Principle of development

- 8.2 The application site is located within the built up area of Newtongrange where there is a presumption in favour of appropriate development. The application site is situated within a primarily residential area and as such the site is not inherently unsuitable for residential development and the consultations carried out have not highlighted any overriding reasons as to why the site could not be redeveloped for residential purposes. The objectors to the residential scheme do not object to the principal of a residential development on the site. Generally, it is considered that a residential use of the site is compatible with the character of the area.
- 8.3 The principal planning issues relate to the assessment of the appropriateness of the scale, mass and proportions of the development, the elevation design, material finish, layout, amenity space, access and parking, impact on local amenity. With regards to the application consideration must also be given to the possibility of significant archaeological interest within the site and whether there are any legacy coal mining issues that require remediation.

### Site Layout

- 8.4 The shape of the application site along with the neighbouring properties limit the viable layout options, consideration must be given to good urban design principles and to ensuring any adverse impact on amenity of the area is limited.
- 8.5 The applicant has sought to use the building lines established by the neighbouring properties. Therefore, the south-west side of the flatted dwellings do not project forward of the existing dwelling known as Bryans Farmhouse, which ensures that the Bryans Farmhouse remains visible and is not visually dominated. The flatted building continues along part of Morris Road and reflects the positioning of the Police Station building to the north-east of the flats which is located close to Morris Road.
- 8.6 There is an area of land to the south-west side of the site which sits between the building and Bryans Road and an area of land to the south-east of the flats that will serve as amenity space for the residents of the flats. Policy DP2 of the adopted local plan requires that each flat is to be provided with 50sqm of communal amenity space. The area of the application site allocated for gardens for the flats meets the requirements in size and means there is an adequate level of amenity provided.
- 8.7 In between the block of flats and the terraced dwellings there is an area of car parking space and a vehicle access road which is taken from Morris Road. A bike store and pedestrian footpath are also located within this area. The footpath is taken from the pedestrian footpath at

Morris Road and leads to the flats, around the car park and to the terraced dwellings.

- 8.8 The terraced dwellings are located within the interior of the site and therefore have no requirements to reflect nearby building lines. However the layout and orientation of these houses are important factors to consider. The houses front on to the car parking area and each have an area of private garden ground to the rear.
- 8.9 The policy DP2 standards require private amenity space of 100sqm for each of the terraced dwellings. However, compliance with the standard means, for terraced dwellings, very long and narrow gardens which are of limited use. For this reason the Council has previously supported smaller private gardens than required by the DP2 standards for terraced houses. It would be appropriate, in the circumstances, to allow for a relaxation of the private garden standards, particularly as the houses comply with the standard for minimum rear garden length.
- 8.10 The form of development and the size of the site do not lend itself to the provision of children's play equipment on site. There are playing fields and public parks located within walking distance of the application site which are accessible to the public; Welfare Park, Newtongrange is located some 500 metres south-west of the application site, Mayfield Public Park is some 560 metres north-east of the application site and Easthouses Public Park is some 630 metres north of the application site. A contribution towards the provision of children's play facilities within Newtongrange will be required to enhance these existing facilities.
- 8.11 The proposed layout of the residential development maximises the potential of the site whilst responding to the constraints. The proposed development presents a solution which generally complies with the policies of the local plan.

### Design

- 8.12 Much comment has been made in the letters of representation about the design and scale of the proposed development, and it being 'out of character' with the local area. The objectors have mainly focussed on the inappropriate massing, design and siting of the proposed flatted block. However, consideration must be given to the development as a whole and whether the design is appropriate in this location and context.
- 8.13 The application site is currently vacant and contributes little to the character and appearance of the area. In addition, should the site remain vacant and in this condition it is likely that it will have a long term negative impact on the character and amenity of the local area. Even prior to the clearance of the site it contributed little to the appearance of the area, as it comprised a number of poorly maintained

buildings of varying quality, in uses which were not entirely compatible with the surrounding residential area.

- 8.14 Within Scotland the traditional approach to building design primarily takes the form of buildings with pitched roofs. However, this does not limit building design to only comprise of buildings with pitched roofs. Variations in design, form and material finish contribute towards a rich, diverse and interesting urban realm. Development which is of a strong modern design and reflects the locale is likely to be supported, provided all other matters have been successfully resolved. Flat roofs are often used to create a contemporary building form which in turn reduces the scale of the proposal in terms of height.
- 8.15 In locations where the character of the area and adjacent buildings is of particular importance, such as within a conservation area, it is more important to conserve and protect that character. However, where an area has not been designated as a conservation area, or has no overriding defining character, it provides more scope to introduce innovative and distinctive design solutions.
- 8.16 With regards to the proposed development the applicant has taken the character of the locale into consideration and demonstrated this through a considerate design. The historic core of Newtongrange comprises of rows of single storey facing brick built former miners' cottages, with two storey facing brick-built buildings located at prominent positions along Main Street and at The Square. This is such a strong character that it has influenced the layout and form of the ongoing residential development to the south-east of the application site. The scale, siting and material finish of the development proposal have clearly been influenced by the historic centre of Newtongrange. The residential development further evolves the historic layout, form and design and is a modern interpretation of the original core of Newtongrange.
- 8.17 The applicant has designed the residential development so as to refer to the wider context which includes increasing the height of buildings within more prominent locations in the area. While three storey buildings are not widespread in the area they are not uncommon. There are a number of buildings over two storeys in prominent locations in close proximity to the application site, such as the flats on the former cinema site in Newtongrange (three storeys), the flats on St Luke's Way (three storeys) and the flats on Blackcot Road, Mayfield (four storeys). The flatted development comprises a three storey element to the south-east corner of the site and steps down to two storeys to the south-east side (closest to Bryans Farmhouse) and the north-east (towards the police station) which visually respects the surrounding buildings.
- 8.18 The use of facing brick as the primary building material on the block of flats visually links the development proposal to the characteristics of

Newtongrange. Although flat roof buildings are not common within the immediate locale there are a number of flat roofed buildings within the area which demonstrate that they are not non-existent. Both the nearby existing Newbattle High School, and its replacement, are flat roof buildings, along with both the adjacent police station and residential properties on Morris Road which also utilise flats roofs on parts of these buildings. There are no planning policies that dictate against the use of flat roof buildings and the Scottish Government website on 'Inspirational Designs' highlights numerous examples of modern flat roof buildings successfully contributing to their surroundings.

- 8.19 The visual scale and siting of the flatted building is not considered to be overbearing of the streetscape. The primary use of brick is appropriate and reflects the materials used within the locale. Overall, in terms of design, the proposed flats make a distinct, positive contribution towards the locale with a design which draws from historic characteristics of Newtongrange.
- 8.20 The proposed row of terraced houses appears to cause less concern to the objectors in terms of design, despite the roof design of these units also not matching that of the buildings immediately adjacent on Reed Drive. The houses are traditional in form but with a contemporary design. These houses will not detract from the character or appearance of the area.
- 8.21 The development proposal includes details of boundary treatments so as to clearly define the site. To the north-east boundary from the front elevation of the terraced dwellinghouses to the rear of the application site there will be a 1.8 metre high timber fence. To the south-west boundary there will be a 1 metre high railing which will connect to the neighbouring boundary treatment and will then connect to the rest of the boundary treatment which will comprise of a 0.5 metre high brick wall with 0.5 metre high railings above which will continue around the site boundary from the south-west around the corner of the site to the southern side of the vehicle access pend at the eastern side of the application site. The proposed boundary treatment reflects the character of the residential development and defines the site.

#### Impact on Amenity

- 8.22 In addition to contributing to the contemporary design of the block of flats, the flat roof reduces the mass and height of the building and helps protect the amenity of the adjacent dwellinghouse.
- 8.23 The overshadowing of the Bryans Farmhouse property is calculated by using the 'sun on ground indicators'. This calculation shows that the shadow cast by the proposed block of flats is likely to fall on to the southern and eastern elevation of the house each morning until around 9.30am. By approximately 10am each day the shadow will fall on to the existing outbuilding. Between approximately 10am and 1pm the



shadow cast from the proposed block of flats will fall on to the outbuilding, thereby reducing the effectiveness of the solar panels which the neighbour has installed on the roof of this structure.

- 8.24 As mentioned above, the shadow cast by the block of flats is likely to impact on the kitchen window of the house until around 9.30am. The windows of the first floor bedrooms should be largely unaffected. In addition, it is likely that the impact of the three storey building, as proposed, would be similar to a more traditional two storey building with a pitched roof.
- 8.25 The two storey section of the block of flats is approximately 15 metres away from the closest windows on Bryans Farmhouse and approximately 13 metres from the small conservatory located on the southern elevation of Bryans Farmhouse. The three storey element of the flatted building is approximately 21m away from the closest windows on Bryans Farmhouse and 19 metres from the small conservatory on the southern elevation. The windows of the block of flats closest to Bryans Farmhouse serve a stairwell, en-suite toilets, kitchens and bedrooms. It is proposed to glaze some of the windows with obscured glass and direct some windows so that they are at an oblique angle to the farmhouse. It is recommended that obscured glazing be secured in the en-suite windows by condition and that it cannot be replaced at a later date with clear glass, in order to protect the privacy of the neighbouring property.
- 8.26 The windows of the terraced houses will not directly overlook the property at Bryans Farmhouse to a significant effect due to a combination of their orientation, the proposed erection of a fence and the use of obscured glazing. It is recommended that obscured glazing be secured in the bathroom windows by condition and that it cannot be replaced at a later date with clear glass, in order to protect the privacy of the neighbouring property. Some of the rear windows of this block have the potential to impact on the privacy of the properties to the rear, but the properties are located the requisite distance from the site boundary so as to comply with policy DP2 of the local plan. The rear gardens of the terraced houses are enclosed by a 1.8metre high fence which further reduces any overlooking concerns.
- 8.27 Bryans Farmhouse benefits from a large area of garden ground, most of which would be materially unaffected by the proposed development. The impacts on the amenity of the property at Bryans Farmhouse are not so sufficient to merit refusal of this planning application.
- 8.28 The same conclusion can be reached for the residential properties on Reed Drive. While there will be some overshadowing of the rear gardens of these properties early in the morning this will not last for long and does not result in such a poor level of amenity so as to warrant refusing the planning application.

- 8.29 The resident at Bryans Farmhouse has raised concerns regarding the potential impact of the development on the childminding business which she operates from the property. She is concerned that there will be an adverse impact on privacy. Given that the planning status of the property at Bryans Farmhouse is a dwellinghouse it has been assessed as such already within this report. Any use of the property as a childminding facility should be ancillary to the main use of the building as a house.
- 8.30 A large bin store has been located immediately adjacent to the vehicle access pend. This bin store should be of sufficient size to ensure that it can accommodate all bins related to this development. The bin store should be lockable, in the interests of security and safety.

#### Access and Transportation Issues

- 8.31 As part of the ongoing Newbattle High School redevelopment, the existing Bryans Road/Morris Road junction has been changed to a traffic signal controlled junction with additional traffic calming. These works will reduce vehicle speeds and provide improved pedestrian crossing facilities at this location. The proposed building is set back sufficiently from the junction and would not obstruct the existing visibility splay at the road junction.
- 8.32 The proposed development provides 30 off-street car parking spaces, which complies with the standards required. In addition, the developer proposes the provision of a cycle storage building for residents.
- 8.33 There is insufficient space within the parking and vehicle access area to accommodate a vehicle turning area. As a result larger vehicles, such as refuse vehicles will not be able to use the internal parking area. In any event the height of the access pend will restrict access by larger vehicles. Given the close proximity of the bin store to Morris Road the restricted access is unlikely to be an issue. While the pend height will restrict access for emergency vehicles it will be possible for fire crews to access the site.
- 8.34 The internal parking area and footpaths are to be illuminated by bollard-style lighting. The bollards within the parking area will not provide sufficient levels of light to ensure pedestrian safety. As a consequence the applicant will be required by condition to submit an amended lighting scheme.
- 8.35 There are bus stops located within close proximity to the application site on Bryans Road, where Lothian buses provide a no.33 and N3 (a night bus service). The available services provide transport to Edinburgh City Centre and to other parts of Midlothian. This is a regular bus service which runs 7 days a week.

### Sustainable Urban Drainage System (SUDS) and Flooding

- 8.36 The applicant has suggested that there will be two levels of treatment with regards to drainage. While it has been stated that there will be permeable paving over the car parking area and an attenuation storage/soakaway in the amenity area for the flats there is little supporting information which satisfies the Planning Authority that this would be sufficient. It is not clear where any drainage would flow to after attenuation; and whether it would be linked to the public drainage system. It can be made a condition of a grant of planning permission that details of SUDS be submitted for the prior approval of the Planning Authority.

### Coal

- 8.37 The Coal Authority has not objected to the application but has requested that additional information be submitted for assessment and approval. This can be secured by condition.

### Archaeology

- 8.38 It is noted that objectors have raised concerns regarding the impact that the development may have on any archaeological potential which the site may possess. The Council's Archaeological Advisor has recommended some survey work be carried out to ensure that the site is surveyed and any archaeological finds are recorded. The controls identified by the Council's Archaeological Advisor can be secured by condition.

### Developer Contributions

- 8.39 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:
- necessary to make the proposed development acceptable in planning terms (paragraph 15);
  - serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans;
  - relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19);
  - fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23);
  - be reasonable in all other respects.
- 8.40 In relation to Midlothian Council, policies relevant to the use of Section 75 agreements are set out in the Midlothian Local Plan (2008), the

proposed Midlothian Local Development Plan and Midlothian Council Developer Contributions Guidelines (Supplementary Planning Guidance) and Supplementary Planning Guidance on Affordable Housing both approved in March 2012. The following contributions are sought in respect of this application (*All contributions are based on BCIS TPI Q3 2015 (268) figures and are subject to indexation unless otherwise stated*):

- A financial contribution towards the provision of additional capacity at Newtongrange Primary School;
- A financial contribution is sought towards the additional capacity at Newbattle High School or another secondary high school in the event of a provision review;
- A financial contribution towards the provision of additional denominational capacity at the Dalkeith Schools Community Campus;
- A financial contribution towards the provision of community facilities;
- A financial contribution towards Border Rail;
- A contribution towards the provision of children's play facilities within Newtongrange;
- The provision of 25% affordable housing (on units 15 and 16) by means of commuted sum;

#### Biodiversity

- 8.41 Unfortunately all the existing buildings on site were demolished before the submission of this planning application or any biodiversity report was carried out with regards to assessing the buildings for bat roost potential. Ultimately it is the developer's responsibility to ensure that no bats, or their habitat, are harmed.

#### Other Matters

- 8.42 All material planning considerations raised by the representors are addressed above or as follows:
- 8.43 One objector has raised concerns regarding the stability of a retaining wall. Although this is not a planning matter, it is detailed on the submitted plans that the existing stone wall is to be retained and tied up (secured).
- 8.44 An objector has requested that the row of trees along the boundary with the properties on Reed Drive be retained. A condition will be used requiring landscaping details to be submitted to the Planning Authority for written approval and it is noted that the retention of trees is encouraged.
- 8.45 It is noted that concerns were raised in relation to the impact upon the solar panels attached to the south-east facing roof plane of an outbuilding at Bryans Farmhouse. The solar panels will see reduced

periods of direct sunlight which will reduce their efficiency for part of the day, however, this does not warrant the refusal of planning permission for the development proposal.

- 8.46 Overall, all relevant matters have been taken into consideration in determining this application. It is noted that planning application 15/00029/DPP was refused and dismissed at appeal in 2015. However, the applicant has amended the proposal so as to address the outstanding concerns raised by the Reporter appointed by the Scottish Ministers which justified the dismissal of the appeal. Therefore, it is concluded that in terms of design, appearance, layout, amenity ground, parking provision, effect upon residential amenity and all other material planning considerations that the proposal accords with the principles and policies of Midlothian Local Plan and is acceptable in terms of all other applicable material considerations. Therefore, it is recommended that the application is approved subject to conditions and the securing a legal agreement.

## **9 RECOMMENDATION**

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

*The proposed development accords with the Midlothian Local Plan (2008) and the proposed Midlothian Local Development Plan. The layout and detailed appearance of the development will add interest to the street scene and it will not have a significant adverse impact on the amenity of nearby properties. The presumption for development is not outweighed by any other material consideration.*

Subject to:

- i) the prior signing of a legal agreement to secure the provision of affordable housing, and contributions towards education provision, the Borders Rail line, children's play provision and maintenance of play equipment and community facilities. The legal agreement shall be concluded within six months. If the agreement is not concluded timeously the application may be referred back to Committee for reconsideration.
- ii) the following conditions:
  1. Development shall not begin until details of a scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
    - i existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;

- ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii proposed new planting in communal areas 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 the bin storage area;
- 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/buildings on adjoining plots are 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 and details of 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 details of car park and footpath lighting.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi).

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

***Reason:*** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies RP20 and DP2 of the adopted Midlothian Local Plan, policies DEV2, DEV6 and DEV7 of the proposed Midlothian Local Development Plan and national planning guidance and advice.*

2. Development shall not begin until samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

***Reason:*** *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies RP20 and DP2 of the Midlothian Local Plan, policies DEV2 and DEV6 of the proposed Midlothian Local Development Plan and national planning guidance and advice.*

3. The windows identified in yellow on approved drawing no. 14038/P25 shall be glazed with obscured glass. The obscured glass shall not be replaced with clear glass unless otherwise agreed in writing by the Planning Authority.

**Reason:** *In the interests of protecting the amenity of the neighbouring residential property.*

4. Details of the appearance of the proposed cycle store shall be submitted to and approved in writing by the Planning Authority prior to the commencement of development on site. Details shall include the internal provision of Sheffield storage racks.

**Reason:** *To ensure that adequate cycle parking facilities are provided on site in order to encourage sustainable forms of transport.*

5. The buildings permitted shall not be occupied or brought into use until vehicular, cycle and pedestrian access details and routes have been constructed in accordance with plans to be submitted and approved in writing. The plans shall include details of construction, visibility, traffic calming measures, lighting and signage.

**Reason:** *To ensure the future users of the buildings have safe and convenient access to and from the site.*

6. Development shall not begin until a scheme of archaeological investigation has been undertaken in accordance with details submitted to and approved in writing by the planning authority.

**Reason:** *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policy RP28 of the adopted Midlothian Local Plan and policies ENV24 and ENV25 of the proposed Midlothian Local Development Plan.*

7. No development shall take place on site until the applicants or their successors have submitted a detailed site investigation report, with regards coal mining legacy, following intrusive site investigation works, to the planning authority and that this report is agreed in writing by the planning authority. The site investigation report shall identify any need for remedial works to treat the areas of shallow mine workings and no development shall commence on site until the agreed mitigation measures have been carried out.

**Reason:** *The submitted Coal Mining Risk Assessment (Mineral Stability Desktop Report) identifies that further investigation work is required to be undertaken in order to establish the exact situation regarding coal mining legacy issues on the site. The above details*

*are required in order to ensure that the site can safely be developed.*

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 in the adopted Midlothian Local Plan and the Proposed Midlothian Local Development Plan and national planning guidance and advice.*

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

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

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

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

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

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



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

**Date:** 23 May 2017

**Application No:** 16/00809/DPP

**Applicant:** T and V Builders Ltd, 25 Lanark Road, Edinburgh,  
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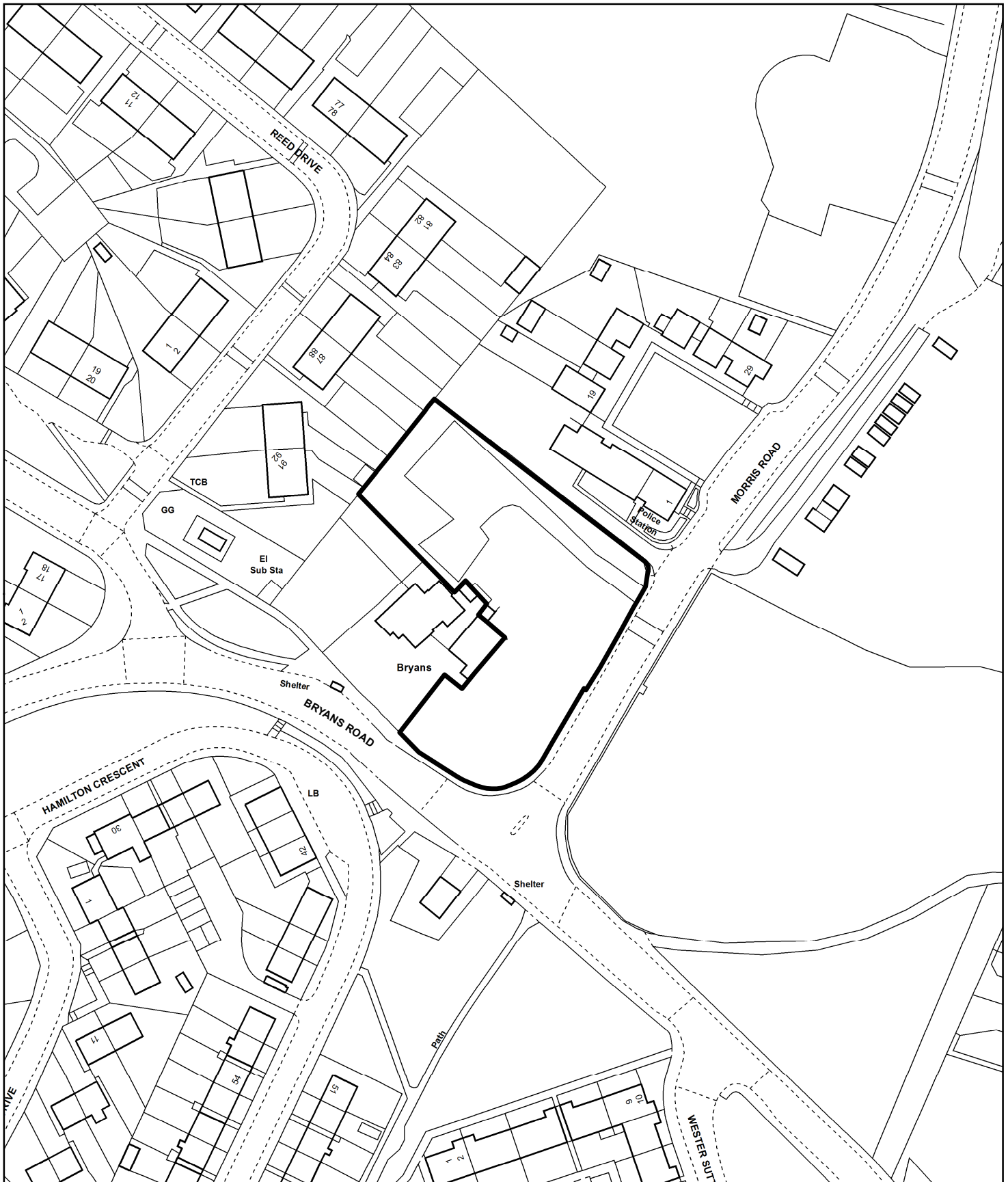
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**Validation Date:** 21<sup>st</sup> November 2016

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**Background Papers:** 07/00078/FUL & 07/00333/FUL & 15/00029/DPP &  
16/00207/DPP



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Land At Junction of Bryans Road and Morris Road,  
Newtongrange

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