



**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE
19/00099/PPP, FOR CLASS 4 (BUSINESS) USES WITH ANCILLARY
CLASS 1 (SHOPS), CLASS 2 (FINANCIAL, PROFESSIONAL AND OTHER
SERVICES) AND CLASS 3 (FOOD AND DRINK) USES; RESIDENTIAL
DEVELOPMENT; AND ASSOCIATED ACCESS, PARKING,
LANDSCAPING AND DRAINAGE INFRASTRUCTURE AT LAND TO THE
NORTH OF HARDENGREEN HOUSE, DALKEITH**

Report by Director of Education, Communities and Economy

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for planning permission in principle for Class 4 (Business) uses with ancillary Class 1 (Shops), Class 2 (Financial, professional and other services) and Class 3 (Food and drink) uses; residential development; and associated access, parking, landscaping and drainage infrastructure at land to the north of Hardengreen House, Dalkeith. The majority of the site forms part of the Council's economic land supply, allocated site e11; the remainder of the site is green belt.**
- 1.2 There have been 10 representations and consultation responses from the Coal Authority, Network Rail, the Scottish Environment Protection Agency, Scottish Water, SP Energy Networks, the Council's Archaeology Advisor, the Council's Head of Education, the Council's Environmental Health Manager, the Council's Land Resource Manager, the Council's Policy and Road Safety Manager, and Eskbank and Newbattle Community Council.**
- 1.3 The relevant development plan policies are policies 2, 5, 7 and 12 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT1, DEV2, ECON1, TRAN5, IT1, TCR2, ENV1, ENV10, ENV11, ENV18, ENV22 and ENV25 of the Midlothian Local Development Plan 2017.**
- 1.4 The recommendation is to refuse planning permission in principle.**

2 LOCATION AND SITE DESCRIPTION

- 2.1 The site is situated at the southern edge of Eskbank. The site is bound to the west by the Borders rail line, to the northeast by the car park for**

the Eskbank Railway Station and the solar farm associated with Edinburgh College, to the southeast by land associated with the children's nursery at Hardengreen House and to the south by a grazing field.

- 2.2 The 2.4 hectare site is generally level with small localised level changes. The majority of the site is agricultural ground, although it is not currently in use. There is an area of woodland in the eastern corner of the site. A redundant former steading building is situated at the southern edge of the site and there is an area of disturbed ground associated with the steading building. Core Path 4-52/b passes through the southernmost part of the site.

3 PROPOSAL

- 3.1 The application is for planning permission in principle. An indicative site layout and a design and access statement have been submitted with the application and describe the proposal as follows:

- Circa 3000sqm of commercial floorspace. This would be primarily Class 4 (Business) uses, i.e. office, research and development or light industry. The application also seeks consent for ancillary Class 1 (Shops), Class 2 (Financial, professional and other services) and Class 3 (Food and drink) uses; no indicative floorspace has been proposed for the ancillary uses. The indicative site layout shows the commercial development being served by a car park of 140 spaces. The commercial use would occupy the majority of allocated site e11;
- Circa 20 residential units (17 new units and 3 refurbished units) are proposed partly on the allocated economic site and partly on the green belt;
- Vehicular access via the existing access road that serves Edinburgh College and Eskbank Railway Station; and
- A sustainable urban drainage system (SUDS) infrastructure including a SUDS attenuation basin at the southern end of the site adjacent to the Borders railway line.

- 3.2 The application is accompanied by:
- A pre-application consultation (PAC) report;
 - A design and access statement;
 - A flooding, drainage and surface water strategy;
 - A transport statement;
 - A coal mining risk assessment;
 - A coal mining design assessment report; and
 - A coal authority non-residential mining report.

4 BACKGROUND

- 4.1 An outline application (reference 433/88) for residential development at Hardengreen was refused in July 1989. The site was immediately

adjacent to the current application site and includes land now occupied by Hardengreen Industrial Estate and Business Park, the Edinburgh College site, the Edinburgh College solar farm and Eskbank Railway Station.

- 4.2 An outline application (reference 0656/98) for residential development at Hardengreen was refused in February 2000 following an appeal for non-determination. The site included the current application site plus the land to the south (both the grazing field and the land associated with Hardengreen House).
- 4.3 Planning permission 05/00035/FUL for the conversion of former stables to form two dwellinghouses at Hardengreen Steading was granted in July 2005. The consent was not implemented and has now expired.
- 4.4 Planning permission 06/00697/FUL for the erection of a college campus, now known as Edinburgh College, was granted in April 2007. The development is complete and occupied.
- 4.5 Planning permission 12/00014/DPP for the formation of a car park and footpaths was granted in March 2012. This is the car park that serves Eskbank Railway Station. An application for planning permission was not required for the formation of the station platforms as this was consented via primary legislation (the Waverley Railway (Scotland) Act 2006).
- 4.6 Planning permission 12/00220/DPP for the erection of the solar farm associated with Edinburgh College was granted in June 2012. The development is complete and in use.
- 4.7 Planning permission 14/00554/DPP for the change of use from dwellinghouse to children's nursery at Hardengreen House was granted in October 2014. The nursery has been operational since 2015.
- 4.8 Planning permission 16/00758/DPP for the erection of a detached building to provide additional accommodation for the children's nursery at Hardengreen House was initially refused (on the grounds that the building would have a significant detrimental impact on the character and setting of the listed building). The applicant submitted a Notice of Review and planning permission was granted by the Local Review Body in March 2017.
- 4.9 A pre application consultation (reference 17/00670/PAC) for a mixed use development including classes 1, 2, 3, 4, 9 and 10 with associated access, car parking, open space and landscaping was carried out in August – October 2017. This consultation relates to the current application site.

- 4.10 As part of the application process for the current application an EIA screening was carried out to comply with the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. The screening conclusion was that an environmental impact assessment was not required.
- 4.11 The site area is 2.4 hectares. As the site area exceeds the 2 hectare threshold set out in Class 9 of the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 the application is considered to be a Major development.

5 CONSULTATIONS

- 5.1 The **Coal Authority** concurs with the recommendations of the Coal Mining Risk Assessment submitted with the application and has no objection to the proposed development subject to any grant of planning permission including conditions to secure a scheme of intrusive site investigations, a report of findings of the investigation and, if necessary, implementation of remedial works.
- 5.2 **Network Rail** does not object to the principle of the proposed development subject to any grant of planning permission including conditions to address the following matters:
- No development shall take place until a surface and foul water drainage scheme has been submitted to and approved in writing by the planning authority. No SUDS infrastructure shall be sited within 10 metres of the railway boundary;
 - No development shall take place until such time as a scheme of landscaping has been submitted to and approved in writing by the planning authority. Where trees/shrubs are to be planted adjacent to the railway boundary these should be positioned at a minimum distance from the boundary which is greater than their predicted mature height; and
 - No development shall take place until a noise impact assessment has been submitted to and approved in writing by the planning authority. Where a potential for noise disturbance is identified proposals for the attenuation of that noise shall be submitted to and approved in writing by the planning authority, and shall be implemented prior to the development being brought into use.

The response also advises that details of all changes in ground levels, laying of foundations and operation of mechanical plant in proximity to the rail line must be approved by Network Rail's Asset Protection Engineer prior to work commencing on site.

- 5.3 The **Scottish Environment Protection Agency** does not object to the application.
- 5.4 **Scottish Water** does not object to the application, but state that this does not confirm that the site can be serviced and that they will not

accept any surface water connections into their combined sewer systems.

- 5.5 **SP Energy Networks** does not object to the application, but reserve the right to protect and/or deviate their apparatus/cables at the applicant's expense.
- 5.6 The Council's **Archaeology Advisor** does not object to the application but recommends a 'Programme of Archaeological Works' (Trial Trench Evaluation) is necessary. The trial trench evaluation required is to be no less than 5% of the total site area. The requirement for this work can be secured by condition.
- 5.7 The Council's **Biodiversity** screening process identifies the biodiversity protections that apply to the site; woodland at the eastern corner of the site which forms part of an area of Ancient Woodland. No other biodiversity constraints were identified.
- 5.8 The Council's **Head of Education** advises that a development of 20 dwellings would give rise to seven primary school pupils and five secondary school pupils and advises that the applicant will be required to make a developer contribution to meet the provisional requirements. The site lies within the catchment area of King's Park Primary School, St David's RC Primary School, Dalkeith High School and St David's RC High School.
- 5.9 The Council's **Environmental Health Manager** has no objection to residential use at this location subject to the design and layout ensuring that the residential properties meet recognised noise and vibration guidelines. The commercial use should be appropriately conditioned with regard to noise, hours and odours in order to ensure that it is compatible with the proposed residential use and the adjacent college. Conditions should be attached to secure site investigations and mitigation measures to address any contaminated land issues that may be identified.
- 5.10 The Council's **Land Resource Manager** has identified that core path 4-52/b passes through the site. The route should remain open and unobstructed. It is recommended that the development be made sufficiently permeable to allow for future links and/or connections to the wider path network.
- 5.11 The Council's **Policy and Road Safety Manager** does not object to the application. With regards to surface water drainage the location of the sustainable urban drainage system (SUDS) basin will need to be amended to meet the requirements of Network Rail. Technical details, including cross-sections of the SUDS basin will be required; and the pumping stations required to pump foul and surface water drainage to Dalhousie Road will require HGV access for maintenance. With regard to transportation matters a direct cycling/pedestrian link should be

provided from the train station to the development; an appropriate level of cycle parking provision should be provided; and some of the parking spaces should be provide with publically available electric vehicle charging points.

5.12 Eskbank and Newbattle Community Council objects to the application on the following grounds:

1. The Midlothian Local Development Plan has recently been adopted and contains more than adequate provision for housing development and identifies part of the site as being green belt. No credible reason for departure from the plan has been provided;
2. Food outlets will undermine the viability of existing businesses in the area and in particular in Dalkeith town centre;
3. All of the proposed residential development will take place on existing green belt. This proposal does not satisfy a single one of the requirements in policy ENV1;
4. The design and access statement is extremely poor and includes no details of design at all.
5. It seems likely that the former stable block is within the curtilage of Hardengreen House and is therefore listed; the application should be advertised as involving a listed building;
6. The previously approved conversion scheme for the stable block has long lapsed and a new application would be required if the building was to be converted. The assertion that the proposed housing would support any conversion is spurious;
7. The sewage provision for the site should be addressed before any further consideration is given to the proposals; particular consideration should be given to the capacity of Scottish Water's network that will carry foul water drainage to the Roseberry Treatment Works; and
8. There are existing problems with traffic volume, speed, noise and safety on Dalhousie Road. Any additional traffic generated by the proposal would add to the current problems.

6 REPRESENTATIONS

6.1 There has been ten representations objecting on the following grounds:

- Development in the green belt is contrary to policy;
- The proposed access to the development would involve the use of Edinburgh College land that is currently used to accommodate a landscaping bund intended to screen the existing solar farm;
- The existing access and connecting roads are very congested at peak times;
- This application will put further pressure on dwindling countryside and open areas;
- Retail development at this location will undermine town centres;
- Development will exacerbate existing traffic problems on Dalhousie Road and at Eskbank Toll roundabout;
- The development will add to litter and pollution in the area;

- More time should be granted to enable local residents to comment on the application;
- There is no need for additional commercial units in the area as there are vacant units at Hardengreen Buisness Park;
- Open space should be preserved and enhanced to provide access for cycling and walking;
- Insufficient neighbour notification has been carried out;
- Local schools and health facilities are already at capacity;
- The development will have a detrimental impact on local wildlife.
- The Design and Access Statement is extremely poor and includes no details of design; and
- It seems likely that the steading is listed by virtue of being within the curtilage of a listed building; this will impose constraints on what can be developed.

7 PLANNING POLICY

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

Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan)

- 7.2 **Policy 2** (Supply and Location of Employment Land) states that the Strategic Development Plan supports the development of a range of marketable sites of the size and quality to meet the requirements of business and industry within the SESplan area. Local Development Plans will support the delivery of the quantity of the established strategic employment land supply as identified. Local Development Plans should also ensure they provide a range and choice of marketable sites to meet anticipated requirements.
- 7.3 **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.
- 7.4 **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.

- 7.5 **Policy 12 (GREEN BELTS)** requires Local Development Plans to define and maintain Green Belts around Edinburgh whilst ensuring that the strategic growth requirements of the Strategic Development Plan can be accommodated. Local Development Plans should define the types of development appropriate within Green Belts.

Midlothian Local Development Plan 2017 (MLDP)

- 7.6 Policy **STRAT1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, including sites in the established economic land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.
- 7.7 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.
- 7.8 Policy **ECON1: Existing Employment Locations** seeks to safeguard those sites allocated for economic land uses.
- 7.9 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.
- 7.10 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.11 Policy **TCR2: Location of New Retail and Commercial Leisure Facilities** states that the Council will apply a sequential town centre first approach to the assessment of such applications. The policy does not refer to or apply to food and drink uses or hot food takeaways.
- 7.12 Policy **ENV1: Protection of the Green Belt** advises that development will not be permitted in the Green Belt except for proposals that:
- A. are necessary to agriculture, horticulture or forestry; or
 - B. provide opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield; or
 - C. are related to other uses appropriate to the rural character of the area; or
 - D. provide for essential infrastructure; or
 - E. form development that meets a national requirement or established need of no other site is available.

Any development proposal will be required to show that it does not conflict with the overall objectives of the Green Belt which is to maintain the identity and landscape setting of Edinburgh and

Midlothian towns by clearly identifying their physical boundaries and preventing coalescence.

The policy states that housing will normally only be permissible where it is required for the furtherance of an established Green Belt activity. The applicant will be required to show the need for the new dwelling is permanent; cannot be made within an existing settlement; and that the occupier will be employed full-time in the associated countryside activity. A planning condition limiting the occupancy of the house is likely to be attached in the event of approval.

- 7.13 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.
- 7.14 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.
- 7.15 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 **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.

Scottish Planning Policy (SPP)

- 7.18 The **SPP (Scottish Planning Policy)** sets out Government guidance in relation to creating a successful sustainable place, supporting economic growth, regeneration and the creating of well-designed places. In relation to supporting business and employment the planning system should:
- Promote business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments as national assets;

- Allocate sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities; and
- Give due weight to net economic benefit of proposed development.

7.19 In relation to managing flood risk and drainage the SPP states that the planning system should promote avoidance of increase surface water flooding through requirements for Sustainable Urban Drainage Systems (SuDS) and that proposed arrangement for SuDS should be adequate for the development.

Historic Environment Policy for Scotland (HEPS)

- 7.20 Policy **HEP2** of the Historic Environment Policy for Scotland (HEPS) states that decisions affecting the historic environment should ensure that its understanding and enjoyment, as well as its benefits, are secured for present and future generations.
- 7.21 Policy **HEP3** of the Historic Environment Policy for Scotland (HEPS) states that plans, programmes, policies and strategies, and the allocation of resources, should be approached in a way that protects and promotes the historic environment. If detrimental impact on the historic environment is unavoidable, it should be minimised. Steps should be taken to demonstrate that alternatives have been explored, and mitigation measures should be put in place.
- 7.22 Policy **HEP4** of the Historic Environment Policy for Scotland (HEPS) states that changes to specific assets and their context should be managed in a way that protects the historic environment. If detrimental impact on the historic environment is unavoidable, it should be minimised.
- 7.23 Policy **HEP5** of the Historic Environment Policy for Scotland (HEPS) states that decisions affecting the historic environment should contribute to the sustainable development of communities and places.

Food and drink and other non-retail uses in Town Centres Supplementary Guidance

- 7.24 The Supplementary Guidance states that not all food and drink uses are provided within town centres; some uses aim to serve more local communities. Provision in local centres is in the interests of sustainability and convenience; it can also encourage small scale business. Food and drink uses will not be permitted outwith town centres and local centres unless it has been demonstrated that there will be no adverse impact on the vitality of nearby town centres.

8 PLANNING ISSUES

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

The Principle of Development: Green Belt

- 8.2 The southern portion of the site (an area of 7735sqm) is on land identified in the MLDP as forming part of the green belt. This area represents approximately 32% of the application site. The indicative layout provided with the application shows the green belt land being used for residential development, public landscaping and a SUDS basin. Development within the green belt will only be supported where it meets one of the following criteria:
- It is necessary to agriculture, horticulture or forestry; or
 - It provides opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield; or
 - It is related to other uses appropriate to the rural character of the area; or
 - It provides for essential infrastructure; or
 - It forms part of development that meets a national requirement or established need of no other site is available.
- 8.3 The proposed development within the green belt does not meet any of the above criteria; there is no policy support for the development within the green belt and the proposal is therefore contrary to policy ENV2 of the MLDP.
- 8.4 The green belt portion of the site is in poor condition (the ground has experienced significant disturbance due to the demolition of the majority of the steading buildings and due to works associated with the construction of the Borders railway); and its size and location make it unlikely that it would be viable for agricultural use. Whilst it is possible that a case could be made for amendment of the green belt boundary at this location, a planning application is not the appropriate method for considering this issue. If the applicant wishes to promote an amendment to the green belt boundary, and the allocation of the site, this should be carried out via the Development Plan process rather than on an ad hoc basis via a planning application.

Principle of Development: Economic Land Allocation

- 8.5 The remainder of the site is within the built-up area of Dalkeith and Eskbank. In addition it is an allocated site that forms part of the established economic land supply. The site is the remaining portion of

a larger site that was allocated in the Midlothian Local Plan 2008. The site was allocated to allow for expansion of the successful Hardengreen Industrial Estate; the majority of the site has been developed for the Edinburgh College, its related solar farm and Eskbank Railway Station car park. The Dalkeith/Eskbank settlement statement contained within the MLDP states that the application site is considered suitable for Class 4 (Business) and Class 5 (General Industry) uses.

- 8.6 The proposed Class 4 (Business) use is compatible with the allocated status of the site. An application relating only to the allocated site and including only Class 4 uses would be acceptable in principle; however the current application includes an indicative plan and a design and access statement that make clear that the applicant's aspirations for the site include some form of residential development on a portion of the allocated site. The indicative layout includes a residential area of 2630 sqm within the allocated site; this represents 19% of the allocated site included within the application.
- 8.7 SESplan policy 2 supports the development of a range of marketable sites of the size and quality to meet the requirements of business and industry within the SESplan area. Local development plans are required to deliver the quantity of strategic employment land as identified; policy STRAT1 of the MLDP seeks the early implementation of all committed development sites and related infrastructure, including sites in the established economic land supply. Residential development on the allocated site is contrary to policy 2 of SESplan and policy STRAT1 of the MLDP.
- 8.8 The design and access statement submitted in support of the application refers to the possibility of ancillary businesses and services being located in units closest to the station. These ancillary businesses and services would be a mix of Class 1 (Shops), Class 2 (Financial, Professional and Other Services) and Class 3 (Food and Drink). Class 2 uses are uses which provide services to visiting members of the public. Examples of Class 2 uses include offices of solicitors, accountants and estate agents; health centres; and surgeries for doctors, dentists and vets. Class 3 uses are uses for the sale and consumption of food and drink on the premises. Examples of Class 3 uses include restaurants, cafes and coffee shops; uses such as hot food takeaways and/or drive through restaurants are considered to be *sui generis* and do not fall within Class 3.
- 8.9 Modern industrial estate and business park developments do sometimes include uses outwith conventional Class 4 or Class 5 uses; small coffee shops or small Class 2 units can be successful additions to predominantly Class 4 or Class 5 developments and can enhance the appeal of such developments by offering employees access to useful services close at hand. Class 2 and Class 3 uses could also enhance the experience of rail travellers and could be a convenient

service for students attending Edinburgh College. To ensure that the services are clearly ancillary to the main Class 4 use it would be appropriate to condition the maximum size of each of the Class 1, 2 and 3 uses; a maximum gross external floor area of 125 sqm for each of Class 1, 2 and 3 would provide units that are clearly ancillary and of a scale that would not impact on the vitality and viability of local town centres.

- 8.10 The indicative site plan that has been submitted with the application shows a site layout that provides 140 car parking spaces. A Class 4 development with 3000 sqm of floorspace would be assessed against Scottish Government parking standards which would require a maximum of 100 spaces for a development of that scale. Whilst the site plan is indicative and would not be binding on any future layouts it would appear to have been prepared with the intention to provide parking provision similar to that required by national parking standards for non-food retail. If planning permission were granted it would be prudent to specify the parking standards that any development would be expected to comply with.

Drainage

- 8.11 The application is supported by a flooding, drainage and surface water strategy which is based on the indicative site layout. The strategy proposes that foul water would be pumped, from a pumping chamber at the western edge of the site, for a distance of approximately 380m to connect with the existing Scottish Water foul water network at Dalhousie Road. The consultation response from Eskbank and Newbattle Community Council has raised concerns about existing foul water drainage within the area. Whilst it is acknowledged that there are local concerns about this issue, it is a matter that is the regulatory responsibility of Scottish Water and as they have not objected to the application it would not be reasonable for the planning authority to refuse an application on this matter.
- 8.12 Assessment of surface water drainage capacity for new developments is a function that lies within the remit of the Council. The application is for planning permission in principle so finalised details of the scale and layout of the development are not provided; however the indicative information that has been provided raises fundamental issues in relation to the surface water drainage strategy. The proposed drainage strategy relies on an attenuation basin in the southern corner of the site, within the green belt, which would provide storage of surface water before discharging to the existing Scottish Water surface water sewer on Dalhousie Road via a pumping chamber.
- 8.13 The location of the attenuation basin is within 10m of Network Rail's boundary and is therefore contrary to one of the conditions that Network Rail have recommended. If the development cannot comply

with the conditions recommended by Network Rail then their response must be considered to be an objection to the proposal.

- 8.14 The consultation response from Scottish Water states that Scottish Water will not accept any surface water connections into their combined sewer systems. Whilst the site is largely within the built-up area and is adjacent to a developed area it is primarily a greenfield site; the response from Scottish Water confirms that such sites will not be considered for connection to the combined network and requests for connection will be refused. Given the consultation responses from both Network Rail and Scottish Water the Planning Authority considers that the drainage strategy provided does not satisfactorily demonstrate that the site can be drained of surface water in a manner that complies with current guidance.

Transportation

- 8.15 The majority of the site is an allocated economic site (with a site area of approximately 1.4 hectares); the settlement statement within the MLDP identifies the allocation as being suitable for either Class 4 (Business) or Class 5 (General Industry) uses. By way of comparison, the existing Hardengreen Industrial Estate/Business Park occupies an area of approximately 3.7 hectares and accommodates a mix of Class 4, Class 5, Class 6 (Storage or Distribution) and Class 11 (Assembly and Leisure) uses. The existing industrial estate/business park operates successfully without causing significant disruption to the local road network. Class 4 and Class 5 uses are higher trip generators than residential uses and accordingly the proposed scale of development does not raise significant issues in relation to its impact on the local road network.
- 8.16 The site is immediately adjacent to Eskbank Railway Station and has excellent public transport links to Edinburgh, other Midlothian towns and the Scottish Borders. The site has the potential to improve active travel links to the station and to provide connections with the existing core path network.

Impact on Hardengreen House (Listed Building)

- 8.17 Hardengreen House is a category C listed building whose curtilage abuts the south eastern boundary of the site; the building was listed on 5 August 1998. The oldest part of the building dates from 1796, there were extensions added in the 1830's and there has been further extensions and alterations since then. The building originally served as a farmhouse and the steading was situated in the green belt land that forms part of the application site; the building is now occupied by a children's nursery. The listing name refers only to Hardengreen House and the listing description, which does not have any statutory status, makes no reference to either the remaining part of the steading or the now demolished parts. Notwithstanding this fact, the remaining

steading building could still form part of the listing if it was considered to have been within the curtilage of the listed building at the time of listing.

- 8.18 The house was listed at the time that application 0656/98 was being assessed and Historic Scotland were consulted on the application. Their response (dated 20 August 1999) advised that the Historic Building Inspectorate had considered the proposal and concluded that they had no formal locus in the case and had no comments to make. As this response was provided approximately 1 year after the listing of the building it must be assumed that Historic Scotland was satisfied that the steading was not listed.
- 8.19 Whilst the steading is not listed there is still potential for the proposed development to have an impact on the setting of the listed building at Hardengreen House. The application is for planning permission in principle so were permission to be granted the finalised details of the site layout would be determined as part of subsequent Matters Specified in Conditions (MSC) application/s; the impact on the setting of the listed building would be a material consideration in the assessment of MSC applications. Hardengreen House sits within a generous plot with areas of woodland between the house and the application site; given the house's location within its curtilage and the available space within the application site the proposed development does not raise significant issues in relation to the setting of the listed building.
- 8.20 When considering the setting of the listed building it is also worth noting that there is an extant permission for the erection of a detached two storey nursery building with a contemporary design adjacent to Hardengreen House. The application was refused on the grounds of its impact on the character and setting of the listed building. However, the Local Review Body considered that the proposed building was compatible with the location and would not distract from the listed building; planning permission was granted by the Local Review Body.

Woodland

- 8.21 An area of woodland at the eastern corner (adjoining the bund for the solar farm to the northeast and woodland associated with Hardengreen House to the southeast) is identified by Scottish Natural Heritage as forming part of their Ancient Woodland Inventory. The area of woodland forms part of a larger area of woodland that extends from Hardengreen to Newbattle Road; the woodland is identified as being long-established (of plantation origin). The indicative site plan shows retention of the existing trees; if planning permission was granted the retention of the trees, once development commenced, could be secured via condition.
- 8.22 There is a Tree Preservation Order (TPO) that applies to the woodland at Hardengreen House. There is a small degree of overlap between the

TPO boundary and the application site boundary and one tree (a lime tree immediately adjacent to the steading building) protected by the TPO is within the application site boundary. The supporting information submitted with the application indicates that redevelopment of the steading building would be the subject of a separate planning application.

Core Path

- 8.23 Core Path 4-52/b passes through the site at the southernmost edge. The path links Dalhousie Road to the Dalkeith to Penicuik cycle route. The path is sited at the very edge of the site and it would be unlikely to be affected by development within the site; the indicative site plan identifies a potential route for a path to link the core path to the station.

Design and Access Statement

- 8.24 The application is supported by a document described as a design and access statement. Applications for planning permission in principle (PPP) do not assess details of design, these are considered in subsequent MSC applications, and there is no statutory requirement for an applicant to submit a design and access statement with a PPP application. The document submitted has relatively little detail in relation to design matters and focuses on broader planning policy issues. The information provided within the document is sufficient to assess the type of permission that is being applied for. If planning permission in principle was granted the detail of the layout, scale, design, finish materials and landscaping would be assessed in subsequent applications.

Neighbour Notification

- 8.25 Neighbour notification was sent to all notifiable addresses within 20 metres of the boundary of the application site. This neighbour notification complies with the statutory requirements set out in regulation 18 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

9 RECOMMENDATION

- 9.1 That planning permission be refused for the following reasons:
- 1. The proposed residential use is not in accordance with site e11's allocation in the development plan for Class 4 (Business) and Class 5 (General Industry) uses. The proposal is therefore contrary to policy 2 of the Edinburgh and South East Scotland Strategic Development Plan 2013; and to policies STRAT1 and ECON1 of the Midlothian Local Development Plan 2017.*

2. *The land not forming part of allocated site e11 is within the green belt. The proposed development does not comply with any of the justifications for development set out in policy ENV1 of the Midlothian Local Development Plan 2017. The proposal is therefore contrary to policy 12 of the Edinburgh and South East Scotland Strategic Development Plan 2013; and to policy ENV1 of the Midlothian Local Development Plan 2017.*
3. *It has not been demonstrated that the site can be drained of surface water in a manner that complies with Scottish Planning Policy, Scottish Water guidance and Network Rail requirements. The proposal is therefore contrary to policy ENV10 of the Midlothian Local Development Plan 2017.*

Dr Mary Smith
Director of Education, Communities and Economy

Date:	7 June 2019
Application No:	19/00099/PPP
Applicant:	Hardengreen Estates Limited, C/o Pritchett Planning Consultancy, PO Box 8052, Edinburgh, EH16 5ZF
Agent:	Phil Pritchett, Pritchett Planning Consultancy, PO Box 8052, Edinburgh, EH16 5ZF
Validation Date:	2 April 2019
Contact Person:	Graeme King
Tel No:	0131 271 3332
Background Papers:	17/00670/PAC



Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Application for planning permission in principle for Class 4 (Business) use with ancillary Class 1 (Shops), Class 2 (Financial, professional and other services) and Class 3 (Food and drink) uses; residential development; and associated access, parking, landscaping and drainage infrastructure Land to The North of Hardengreen House, Dalkeith

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