

# Notice of Meeting and Agenda



## Planning Committee

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

**Date:** Tuesday, 02 April 2019

**Time:** 13:00

### Director, Resources

**Contact:**

Clerk Name: Mike Broadway

Clerk Telephone: 0131 271 3160

Clerk Email: [mike.broadway@midlothian.gov.uk](mailto:mike.broadway@midlothian.gov.uk)

### Further Information:

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

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## **1 Welcome, Introductions and Apologies**

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## **2 Order of Business**

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

## **3 Declaration of Interest**

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Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## **4 Minute of Previous Meeting**

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- 4.1** Minute of Meeting held on 19 February 2019 - For Approval 5 - 12

## **5 Public Reports**

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- 5.1** Development Plan Scheme for Midlothian Number 11 – Report by Director, Education, Communities and Economy. 13 - 30

- 5.2** Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage – Report by Director, Education, Communities and Economy. 31 - 36

- 5.3** Appeals and Local Review Body Decisions - Report by Director, Education, Communities and Economy. 37 - 64

- 5.4** Supplementary Guidance: Resource Extraction – Report by Director, Education, Communities and Economy. 65 - 66

- 5.5** Supplementary Guidance: Food and Drink and Other Non-Retail Uses in the Town Centre – Report by Director, Education, Communities and Economy. 67 - 68

- 5.6** Tree Preservation Order for Trees at the Former Wellington School Site and on Land to the South and East of Ard Craig, Penicuik – Report by Director, Education, Communities and Economy. 69 - 84

Pre-Application Consultations - Reports by Director, Education, Communities and Economy

- 5.7** Proposed Erection of 64 Dwellinghouses; Car Parking; and Associated Works at Land South East of Tynewater Primary School, Crichton Road, Pathhead (19/00076/PAC). 85 - 88

Applications for Planning Permission Considered for the First Time – Reports by Director, Education, Communities and Economy.

- |             |   |           |
|-------------|---|-----------|
| <b>5.8</b>  | Application for Planning Permission for the Erection of a Community Facility incorporating Primary School; Early Years Provision; Library and Leisure Facilities at Land at Danderhall Primary School and Danderhall Recreation Ground, Edmonstone Road, Danderhall (18/00735/DPP). | 89 - 102  |
| <b>5.9</b>  | Application for Planning Permission in Principle for Residential Development and Associated Works at Site HS19 Land to the Northwest of Moat View, Roslin (18/00535/DPP).   | 103 - 134 |
| <b>5.10</b> | Application for Planning Permission for the Erection of 51 Dwellings; Formation of Access Roads and Car Parking and Associated Works on Land 65m West of Rosslyn Bowling Club, Main Street, Roslin (18/00703/DPP).  | 135 - 168 |

## **6 Private Reports**

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No Private Reports to be discussed at this meeting.

## **7 Date of Next Meeting**

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The next meeting will be held on Tuesday 14 May 2019 at 1.00 pm.

Plans and papers relating to the applications on this agenda can also be viewed online at [www.midlothian.gov.uk](http://www.midlothian.gov.uk).



# Minute of Meeting



## Planning Committee

Date	Time	Venue
19 February 2019	1.00 pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

### Present:

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

### In Attendance:

Mary Smith, Director, Education, Communities and Economy	Peter Arnsdorf, Planning Manager
Gordon Aitken, Democratic Services Officer	

## 1. Apologies

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Apologies for absence were intimated on behalf of Councillors Johnstone and Parry.

## 2. Order of Business

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The order of business was confirmed as outlined in the agenda.

## 3. Declarations of interest

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Councillor Milligan intimated a declaration of interest with regard to Item No. 5.6 insofar as he is a Non-Executive Member of the NHS Lothian Board who retained an interest in the application site it being a former NHS property. He would therefore withdraw from the meeting during discussion of this item of business

Councillor Alexander intimated a declaration of interest in the same item on the basis that she felt the granting of planning permission would have an effect on where she resided and therefore she felt she may not be able to be objective in considering the application.

## 4. Minutes of Previous Meetings

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The Minute of Meeting of the Committee which took place on 22 January 2019 was submitted for approval. The Committee unanimously approved the Minute and the Chair was authorised to sign it as a true record of the meeting.

## 5. Reports

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Agenda No	Report Title	Presented by:
5.1	Planning Performance Framework Annual Report 2017/18	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
<p>The Planning Manager spoke to the terms of a report which provided an update on the progress of work undertaken on the Planning Performance Framework (PPF) for Midlothian including feedback from the Scottish Government.</p> <p>He advised that of the 15 performance markers, 12 were rated as giving no cause for concern with the remaining 3 rated as areas for improvement. He noted that feedback on the ratings would help inform the content of the 2018/19 return due in July this year. He noted that the ratings demonstrated an improvement from the previous year's submission and the best PPF "score" Midlothian has achieved in the 6 years the framework has been the primary performance monitoring methodology.</p>		
<b>Decision</b>		
<p>The Committee noted the feedback from the Scottish Government on the Planning Performance Framework (PPF) for 2017/18.</p>		
<b>Action</b>		
<p>Director, Education, Communities and Economy; Planning Manager</p>		

Agenda No	Report Title	Presented by:
5.2	Midlothian Local Biodiversity Action Plan	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
<p>The Committee heard from the Planning Manager who spoke to the terms of a report which sought agreement to adopt the Midlothian Local Biodiversity Plan 2019/2024 (LBAP). He noted that the previous LBAP had been adopted in 2006 and was in need of review and that the new LBAP would focus on the following priorities for the period 2019 – 2024:</p> <ul style="list-style-type: none"> <li>• Supporting pollinators;</li> <li>• Encouraging homes for wildlife;</li> <li>• Enhancement of the water environment;</li> <li>• Tackling invasive non-native species;</li> <li>• Positive integration of people and nature and;</li> <li>• Protected sites and species</li> </ul>		
<b>Decision</b>		
<p>The Committee:</p> <ul style="list-style-type: none"> <li>(a) Adopted the Midlothian Local Biodiversity Action Plan 2019 – 2024;</li> <li>(b) Agreed that the Midlothian Local Biodiversity Action Plan 2019 – 2024 will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment and;</li> <li>(c) Instructed the Planning Manager to undertake the required notification/advertisement advising that the Midlothian Local Biodiversity Active Plan 2019 – 2024 will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment.</li> </ul>		
<b>Action</b>		
Director, Education, Communities and Economy; Planning Manager		

Agenda No	Report Title	Presented by:
5.3	Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
<p>The Planning Manager spoke to the terms of a report which provided an update with regard to major planning applications, formal pre-application consultations by prospective applicants and the expected programme of applications due for reporting to the Committee.</p>		
<b>Decision</b>		
<p>The Committee noted the major planning application proposals which are likely to be considered by the Committee in 2019 and the updates for each as noted in the report.</p>		
<b>Action</b>		
Director, Education, Communities and Economy; Planning Manager		

Agenda No	Report Title	Presented by:
5.5	Proposed residential development and erection of school, with associated engineering works, open space and landscaping at land east and west of Easthouses Road, Easthouses, Dalkeith (18/00962/PAC)	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
The Planning Manager spoke to the terms of a report which advised a pre-application consultation had been submitted regarding a proposed residential development and erection of a school with associated engineering works, open space and landscaping at land east and west of Easthouses Road, Easthouses, Dalkeith.		
<b>Decision</b>		
The Committee noted: <ul style="list-style-type: none"> <li>(a) the provisional planning position set out in this report; and</li> <li>(b) that the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.</li> </ul>		
<b>Action</b>		
Director, Education, Communities and Economy; Planning Manager		

Agenda No	Report Title	Presented by:
5.4	Proposed redevelopment of existing snow sports centre to include leisure facilities; tourist accommodation; hotel; function suite and ancillary retail and restaurants; formation of access and car parking at Midlothian Snow Sports centre, Biggar Road, Hillend (18/00970/PAC)	
<b>Outline of report and summary of discussion</b>		
The Planning Manager spoke to the terms of a report advising of a pre-application consultation submitted regarding the redevelopment of the existing snow sports centre to include leisure facilities, tourist accommodation, hotel, function suit and ancillary retail and restaurant at Midlothian Snow Sports Centre, Biggar Road, Edinburgh.		
<b>Decision</b>		
The Committee noted: <ul style="list-style-type: none"> <li>(a) the provisional planning position set out in the report and;</li> <li>(b) the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.</li> </ul>		
<b>Action</b>		
Director, Education, Communities and Economy; Planning Manager		

**Sederunt:** Prior to consideration of the following item, Councillors Alexander and Milligan who had previously intimated declarations of interest, left the meeting room and took no part in the consideration of the application.

Agenda No	Report Title	Presented by:
5.9	Application for Planning Permission considered at a previous meeting – in principle Planning Permission and Listed Building Consent for the conversion of listed buildings to dwellings and residential and commercial development in the grounds of the former Rosslynlee Hospital, Roslin (17/0980/PPP; 17/01001/DPP and 18/00061/LBC)	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
<p>The Chair noted that at the meeting of the Committee on 22 January 2019 consideration of the application was deferred to enable officers and the applicant to further negotiate on the level of developer contribution, the provision of affordable housing and highway infrastructure improvements.</p> <p>The Planning Manager spoke to the terms of the report where it was noted that, in January 2019, the Committee expressed a desire to see the restoration of the former Rosslynlee Hospital listed building but balanced the position with concern at the level of developer contribution proposed by the application, in particular with regard to meeting the educational requirements arising from the development. He advised that in response to the Committee’s concern the applicant is proposing to increase the developer contribution offer to fully cover the cost of meeting the educational requirements arising from the proposed development – this includes primary and secondary denominational and non-denominational provision and meeting the Council’s anticipated school transport costs over a defined time period. He further noted that in meeting the educational requirements, the applicant was not proposing to make a contribution towards community facilities, Borders Rail or rural public transport as required by Midlothian Local Development Plan 2017 (MLDP). Further the applicant is proposing to not provide any affordable housing units on site or make a commuted sum towards the Council’s own housing programme.</p> <p>After discussion, Councillor Smaill seconded by Councillor Hardie moved that the application be granted. As an amendment, Councillor Hackett, seconded by Councillor Muirhead moved that the application be refused on the terms of the report. Councillor Hackett further requested that a roll call vote be taken which was agreed by 6 Members of the Committee thereby satisfying the requirements of Standing Order 11.5(ii) for one-third of the Members present (or the nearest whole number to this) for a roll call vote.</p>		

On a vote being taken by way of a Roll Call, Members voted as follows:-

<b>Councillor</b>	<b>For Motion</b>	<b>For Amendment</b>
Councillor Baird	√	
Councillor Cassidy	√	
Councillor Curran		√
Councillor Hackett		√
Councillor Hardie	√	
Councillor Imrie	√	
Councillor Lay-Douglas	√	
Councillor McCall	√	
Councillor Munro	√	
Councillor Muirhead		√
Councillor Russell		√
Councillor Small	√	
Councillor Winchester	√	
Councillor Wallace	√	
<b>TOTAL</b>	<b>10</b>	<b>4</b>

#### Decision

The Committee:

- (a) noted the update as set out in the report;
- (b) granted planning permission and listed building consent as per the applications lodged;
- (c) agreed that the Planning Manager draft the relevant conditions to be attached to the grants in discussion with the applicants and that the final decision in relation to the conditions be delegated to the Chair to approve and;
- (d) requested the Planning Manager to pursue with the applicant the developer contributions as detailed within the report.

#### Action

Planning Manager

**Sederunt: Councillors Alexander and Milligan re-entered the meeting room**

Agenda No	Report Title	Presented by:
5.7	Application for Planning Permission for the Erection of 28 dwellinghouses and 44 flatted dwellings; formation of access roads and car parking and associated works at land east of Conifer Road, Mayfield, Dalkeith (19/00042/DPP)	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
The Planning Manager spoke to the terms of a report advising that an application had been submitted for the erection of 28 houses and 44 flats on land east of Conifer Road, Mayfield which is the site of the former Bryans Primary School.		
<b>Decision</b>		
The Committee agreed to grant the planning permission for the reasons as set out in the report.		
<b>Action</b>		
Planning Manager		

Agenda No	Report Title	Presented by:
5.8	Application For Planning Permission for the Erection of 5 dwellinghouses and 16 flatted dwellings, formation of access and associated works at Site HS22, land to the north of Kirkhill Road, Penicuik (18/00494/DPP)	Peter Arnsdorf
<b>Outline of report and summary of discussion</b>		
The Planning Manager spoke to the terms of a report advising that an application had been submitted for the erection of 5 houses and 16 flats on land to the north of Kirkhill Road, Penicuik.		
<b>Decision</b>		
The Committee agreed to grant the planning permission for the reasons as set out in the report.		
<b>Action</b>		
Planning Manager		

## **6. Exclusion of Members of the Public**

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In view of the nature of the business to be transacted, the Council agreed that the public be excluded from the meeting during discussion of the undernoted item, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in Part I of Schedule 7A to the Local Government (Scotland) Act 1973:-

6.1 Enforcement Report: Gorebridge – Report by Director, Education, Communities and Economy

The meeting terminated at 2.25 pm.





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## DEVELOPMENT PLAN SCHEME FOR MIDLOTHIAN NUMBER 11

Report by Director of Education, Communities and Economy

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### 1 PURPOSE OF REPORT

- 1.1 This report seeks approval for the Development Plan Scheme for Midlothian No. 11 (DPSM11) which is required to be published annually to satisfy legislative requirements.

### 2 BACKGROUND

- 2.1 Preparation of a development plan scheme is a statutory requirement. Each year local planning authorities are required to prepare and submit a Development Plan Scheme (DPS) to Scottish Ministers setting out their intentions with respect to preparing, reviewing and consulting on the development plans for its area over the coming twelve months. Ordinarily the DPS is published by the end of March each year but given the dates of the Committee cycles this year a draft version was submitted to Scottish Ministers to satisfy legislative requirements subject to the proviso that Council may decide to make changes and re-submit following the Committee's consideration of its DPSM11.

### 3 DEVELOPMENT PLAN SCHEME (DPS)

- 3.1 A DPS is required to contain:
- the proposed development plan programme (including the proposed timetable and details of what is likely to be involved at each stage of preparation or review); and
  - the participation statement (including an account of when, with whom and likely format consultation is likely to take place and the steps to be taken to involve the public at each stage).
- 3.2 After approving a DPS, the authority is required to publish it (including electronically), place it on deposit in public libraries and send it to Scottish Ministers (though for information only, not for approval). Consultation on the DPS is not required at present, although proposals for planning reform may change this.
- 3.3 The proposed DPSM11 is attached to this report as Appendix A. Other than the continuing programme of drafting and adopting supplementary guidance, there are no further tasks required in connection with the adopted Midlothian Local Development Plan 2017.

- 3.4 The DPSM11 sets out the timetable for the second Midlothian Local Development Plan (MLDP2). The timetable for MLDP2 is linked to the progress of the second Strategic Development Plan (SDP2), currently at examination and awaiting the Ministers final decision. However, delay in the SDP2 anticipated programme will affect the MLDP2 programme identified in the proposed DPSM11. SDP2 was submitted to the Scottish Government for examination in June 2017.
- 3.5 Scottish Government guidance is that local development plans should be replaced every five years, but Scottish Ministers also expect local development plans to be adopted within two years of SDP approval. In the view of the planning service, the latter expectation is optimistic at best. The timetable set out in the DPSM11 represents a more realistic programme which allows sufficient time for considered preparation of all the stages in MLDP2 and thorough public engagement.

#### **4 RECOMMENDATION**

- 4.1 It is recommended that the Committee:
- (a) approves the Development Plan Scheme for Midlothian No.11 (DPSM11) (appended to this report); and
  - (b) agrees to publish the DPSM11, place copies in all public libraries and formally submit a copy to Scottish Ministers.

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

**Date:** 22 March 2019  
**Contact Person:** Colin Davidson, Planning Officer  
colin.davidson2@midlothian.gov.uk  
**Tel No:** 0131 271 3470

**Background Papers:** Appendix A - Development Plan Scheme for Midlothian No. 11.

# Development Plan Scheme for Midlothian Number 11

Appendix A



March 2019



## 1. Introduction

This is the 11th **Development Plan Scheme** for Midlothian.

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

Midlothian forms part of the Edinburgh City Region and is covered by the Strategic Development Plan for Edinburgh and South East Scotland (approved July 2013). Figure 1 shows the extent of the Strategic and Local Development Plan boundaries. The Strategic Development Plan (SDP) sets out a spatial strategy for development and establishes the priorities for infrastructure across the region. It also informs the Local Development Plan which must be consistent with the SDP.

The replacement SDP2 was submitted to Ministers for approval in July 2018 and a decision is awaited. At the time of writing there is no indication of when this might be, but this DPS has assumed approval in Spring 2019. **Depending on when SDP2 is approved it may be necessary to review the LDP timetable and prepare the next Development Plan Scheme before March 2020.**

The Midlothian Local Development Plan (MLDP) was adopted in November 2017. The approval of SDP2 will trigger a requirement to review the MLDP; however ongoing delay increases uncertainty as to the specific requirements of MLDP2. Midlothian Council does not wish to issue a Main Issues Report for the second LDP until it has certainty with respect to the requirements of the Strategic Development Plan. This will be particularly important in terms of determining the requirement for housing land.

The Scottish Government has brought a Bill before Parliament to reform the planning system. Originally the Bill proposed to change many features of the current system, including

- removing the requirement to prepare Strategic Development Plans
- replacing Main issues Reports with a draft plan consultation stage
- introducing a longer 10 year timescale for Local Development Plans, rather than 5 years at present.

The Planning (Scotland) Bill has concluded the second Committee stage of Parliamentary scrutiny. Among other changes, the role of Strategic Development Plans is proposed to be re-instated. The ultimate content of the Act is uncertain, as there is a final stage of parliamentary scrutiny, where the Bill may be further amended. Midlothian Council expect that the consented legislation will be supported by further secondary legislation, including guidance on transitional arrangements.

## DPS11

Until replacement legislation is adopted the Council is required to prepare its next Local Development Plan on the basis of the existing regulations. Updates will be provided in subsequent Development Plan Schemes.

Notwithstanding the requirement in the Planning etc (Scotland) Act 2006 to prepare Local Development Plans at intervals of not more than 5 years, Scottish Ministers expect that Local Development Plans will be adopted within two years of the relevant Strategic Development Plan (SDP) being approved. Scottish Government guidance on development plans suggests that a normal local development plan process will take around 28 months.

Midlothian Council considers that adoption in 2022 is feasible (see timeline in Figure 2). Until November 2022, the adopted plan will still be less than 5 years old.

Figure 1 - SESplan and MLDP Boundaries



## 2. Midlothian Local Development Plan 2017

The adopted MLDP may be viewed online by clicking on this link [Development Plans and Policies](#) or in paper copy at any Midlothian library or at the Council's office in Fairfield House, Dalkeith. The MLDP allocates land for development, and contains policies which will be used to assess applications for planning permission. It also sets the context for Supplementary Planning Guidance and is accompanied by an Action Programme designed to assist the delivery of proposals in the plan.

There are a number of ongoing tasks associated with the adopted MLDP. In 2019 the Action Programme will be reviewed. The Action Programme (AP) is a requirement of the Planning Act, and identifies the actions which will help implement the policies and proposals of the plan. The current AP was adopted in February 2018, and must be updated at least every two years.

The Midlothian Local Development Plan requires Supplementary Guidance (SG) and planning guidance (pg) to be prepared. The Supplementary Guidance, once adopted has the same status as a policy in the plan. Planning guidance has a lesser status but will be a useful aid to applicants and to decision making on development proposals. The table below shows the planned SG and pg, and progress at March 2019. Approved guidance and emerging guidance subject to consultation may be viewed online through the [Midlothian planning portal](#)

Supplementary Guidance	Status
Midlothian Green Network	Adopted
Special Landscape Areas	Adopted
Resource Extraction	Adopted
Food & Drink and Other Non-retail Uses in Town Centres	Adopted
Wind Energy Development	In preparation
Development in the Countryside and Green Belt	In preparation
Community Heating	In preparation
Flooding and Water Environment	In preparation
Advertisements	In preparation

<b>Supplementary Guidance</b>	<b>Status</b>
Planning Obligations and Affordable Housing	In preparation
Quality of Place	In preparation

<b>Planning guidance</b>	<b>Status</b>
Open Space Standards	In preparation
Shop Front Design Guide	In preparation
Hillend Country Park	In preparation
Nature Conservation	In preparation
Dalkeith THI Homeowners' Guide	In preparation
Dalkeith Shop Front Design Guide	In preparation

Midlothian Council will also continue to carry out post-adoption monitoring of the MLDP.

### 3. Recent Progress and Milestones in Production of the Second MLDP

Although SDP2 is not yet approved, Midlothian Council has carried out some work to inform the preparation of the next Local Development Plan.

#### Activities carried out to support the Second Midlothian Local Development Plan

Since DPS10 was published in April 2018, the following activities have been carried out which contribute to the preparation of LDP2.

- Established liaison arrangements with community planning colleagues
- Carried out regular liaison meetings with Key Agencies
- Updated consultee database (GDPR compliant)
- Instituted a Midlothian Local Development Plan monitoring group
- Published Housing Land Audit 2018 and consolidated Employment Land Audit
- On-going collection of information to inform preparation of LDP2

The second SDP has been examined by the Directorate of Planning and Environmental Appeals (DPEA), and the report of examination was published in July 2018. Scottish Ministers must decide whether or not to modify the plan in the manner suggested by the reporters, or whether to make other changes. In preparing DPS10, Midlothian Council had expected that SDP2 would have been approved in Summer 2018. There is a limit to the progress that can be made on the replacement LDP while the strategic context is uncertain. A revised timetable has been prepared based on SDP2 approval in Spring 2019.

#### Proposed Milestones in Production of the Second Midlothian Local Development Plan

- WINTER 2019/20 - Publication of Main Issues Report
- AUTUMN 2020 - Publication of Proposed Midlothian Local Development Plan 2 for Representations
- SPRING 2021 - Submission of Plan to Scottish Ministers
- SUMMER 2021 to AUTUMN 2021 - Examination of Plan
- SPRING 2022 - Adoption of Plan

## 4. Participation Statement

A Participation Statement sets out how, when and with whom the Council will consult and engage on its Development Plan.

Independent planning Reporters will review the Council's engagement activities to see that they match what the Council said it would do in the Participation Statement. The timescale for activities may change depending on when SDP2 is approved.

As we move through the development plan timeline, future Participation Statements will include further detail but the Council's aims and objectives for managing the process are set out below.

## DPS11

**Aims**

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

**Our Approach**

- To seek to use best practice, looking at the approach of other organisations including Planning Aid for Scotland
- Produce information across a variety of formats, including our website, consultation portal and social media, alongside traditional written material
- To work closely with neighbourhood planning and community planning partnerships
- Develop relationships with the Key Agencies and other interested parties - we will explore the potential for co-production of parts of the second LDP
- Seek to continuously improve by carrying out annual review of our engagement activities
- Make information available as early as possible
- Use clear, plain language in all our material
- Allow for translation into main community languages on request
- To ensure that events and materials are accessible as far as is practicable
- To consider all engagement activity in the context of the Councils public sector equality duty
- Use graphics and maps where appropriate
- Provide events in communities throughout Midlothian

### Overview of Proposed Engagement Activities for the second Midlothian Local Development Plan

Activity	Description	What we plan to do	Timescale
Development Plan Scheme 11	Sets out the Council's programme for reviewing its development plans.	Publish online, place in libraries and distribute to Community Councils.	April 2019
Evidence gathering and early awareness raising for the second Local Development Plan.	Will set the context for the second LDP; outline requirements from SDP2 and emerging issues arising from current plan and committed development; seek contacts for future engagement; and to inform preparation of the Main Issues Report.	<p>Publish information online;</p> <p>Promote online engagement;</p> <p>Prepare stakeholder briefings;</p> <p>Carry out ongoing monitoring ahead of plan;</p> <p>Prepare up to date Housing Land Audit;</p> <p>Undertake review of Action Programme;</p> <p>Regular discussions with Key Agencies, Community Planning Partnership and Council service sections.</p> <p>Hold event with Community Planning/ Community Councils regarding new plan programme</p> <p>Maintain and Update consultation database (in accordance with the General Data Protection Regulations 2018) .</p> <p>Develop and deliver event(s) using the 'place standard'</p>	Throughout 2019

## DPS11

<p>Main Issues Report (MIR)</p>	<p>Will set out the Council's preferred development strategy and any identified reasonable alternatives along with its likely approach on policy matters. At MIR stage the Council has yet to come to a settled view on matters, so this is the main opportunity at which to influence the policy framework and development strategy of the Proposed Plan. The MIR will be accompanied by a Monitoring Statement and Environmental Report.</p> <p><b>The Main Issues Report is the most important consultation stage of the plan making process.</b></p>	<p>Publish MIR for consultation and place copies in libraries and at Council HQ.</p> <p>Publish online and distribute to Community Councils;</p> <p>Advertise publication to inform stakeholders how, where and when document may be viewed;</p> <p>Encourage engagement and feedback on MIR through social media activity, development plan portal, scheduled drop in events and discussions with key agencies, community councils and other stakeholders;</p> <p>Meet and discuss issues with stakeholder groups expressing interest/concern, on request;</p> <p>Send mailshot to customer database inviting comments/feedback.</p> <p>Prepare local media releases</p> <p>Email Council staff to raise awareness. Publish articles in e-staff newsletter</p> <p>Undertake neighbour notification of parties likely to be affected by preferred or reasonable alternative development options.</p>	<p>Winter 2019/ 2020</p>
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Proposed Plan	The Proposed Plan represents the settled view of the Council and is the Plan that the Council proposes to adopt. At this stage individuals or organisations can make representations to the content of the plan. Any unresolved representations will be considered by an independent planning reporter as part of an examination of the plan at a later date.	The Council anticipates the publication of the Proposed Plan to be around Autumn 2020. Further details about what type of activities, and how and when these will take place will be finalised and published in future development plan schemes, as we draw nearer to the events.	Autumn 2020
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**What is your view of our planned consultation activities? Please let us know if you have any suggestions to improve engagement**

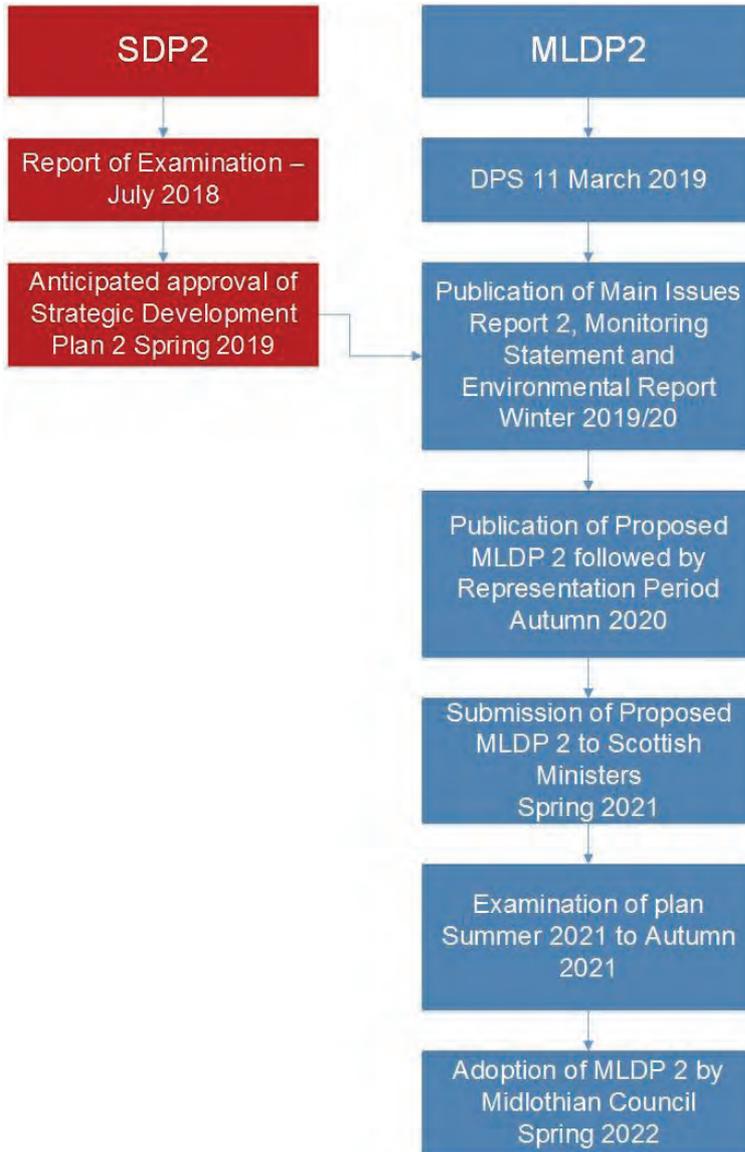
If viewing the DPS as a paper copy and you wish to respond to the above question, please see contact details in section 7, page 13.

## DPS11

## 5. Timetable

The timetable for the LDP is related to that of the **Strategic Development Plan** for South East Scotland. Figure 2 below indicates the timetable for both plans.

**Figure 2 - Programme for Midlothian Local Development Plan 2**



## 6. Register an interest

### Question 1

#### **Are you interested in being involved in the Second Midlothian Local Development Plan?**

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

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

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

## 7. Contact us

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

by email: [ldplan@midlothian.gov.uk](mailto:ldplan@midlothian.gov.uk)

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

If you want to talk about the next Local Development Plan for Midlothian please call 0131 271 3470

#### **If you want to find out more about Strategic Development plans, you can contact SESplan:**

by email: [contactus@sesplan.gov.uk](mailto:contactus@sesplan.gov.uk)

by writing: SESplan, Civic Centre, Howden South Road, Livingston, EH54 6FF

by phone: 01506 282883

## COMMUNICATING CLEARLY

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

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

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

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

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

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



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

Report by Director of Education, Communities and Economy

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### **1 PURPOSE OF REPORT**

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

### **2 BACKGROUND**

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

### **3 DEVELOPMENT PLAN UPDATE**

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

## **4 RECOMMENDATION**

- 4.1 The Committee is recommended to note the major planning application proposals which are likely to be considered by the Committee in 2019 and the updates for each of the applications.

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 22 March 2019  
**Contact Person:** Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk  
**Tel No:** 0131 271 3310

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

## APPENDIX A

### MAJOR APPLICATIONS CURRENTLY BEING ASSESSED

Ref	Location	Proposal	Expected date of reporting to Committee	Comment
17/00435/DPP	Land at Newbyres, River Gore Road, Gorebridge	Erection of 125 residential units; formation of access roads, SUDS features and associated works	Being held in abeyance	Pre-Application Consultation (13/00609/PAC) carried out by the applicants in August - November 2013. The application has been held in abeyance for a significant period of time whilst the applicant considers amending their layout.
18/00099/DPP	Land at Gore Avenue and Newbyres Crescent, Gorebridge	Erection of 46 flatted dwellings; 17 dwellinghouses and 12 extra care units associated works	Being held in abeyance pending additional information from the applicant	Pre-Application Consultation (17/00913/PAC) carried out by the applicants in November 2017 – February 2018. This application is being held in abeyance subject to the applicant submitting additional information regarding mine gas mitigation measures.
18/00403/DPP	Land between Rosewell Road and Carnethie Street, Rosewell	Erection of 100 dwellinghouses and associated works	May 2019	Pre-Application Consultation (15/00774/PAC) carried out by the applicants in September 2015 – December 2015.
18/00495/DPP	Land west of Burnbrae Terrace Bonnyrigg	Erection of resource facility including offices; skills training suites, stores, workshops, ambulance depot and enterprise units; formation of car parking, access roads and external storage areas; and associated works	June 2019	Pre-Application Consultation (17/00721/PAC) carried out by the applicants in September 2017 – December 2017. Additional information from the applicant in relation to noise mitigation, the operation of the facility and other environmental matters has been recently submitted and is subject to consultation.
18/00528/S42	Land at Calderstone, Biggar Road, Lothianburn	Section 42 Application to amend conditions 3, 4, 5, 6 and 10 of planning permission 15/00113/PPP, for the erection of hotel (to amend the phasing of the development)	Being held in abeyance pending additional information from the applicant	Section 42 applications do not require to go through the Pre-Application Consultation process. The conditions relate to the phasing of development, landscaping, building design and layout and transportation matters. Awaiting the submission of an Environmental Statement.

18/00628/S42	Land at Calderstone, Biggar Road, Lothianburn	Section 42 Application to amend conditions 4 and 5 of planning permission 15/00113/PPP, for the erection of hotel (to amend the phasing of the development)	Being held in abeyance pending additional information from the applicant	Section 42 applications do not require to go through the Pre-Application Consultation process. The conditions relate to the landscaping and building design and layout. Awaiting the submission of an Environmental Statement.
18/00535/PPP	Land north west of Moat View, Roslin	Residential development and associated works	April 2019	Pre-Application Consultation (18/00139/PAC) carried out by the applicants in February 2018 – May 2018.  This application is reported to this meeting of the Committee.
18/00703/DPP	Land 65m west of Rosslyn Bowling Club, Main Street, Roslin	Erection of 51 dwellings and associated works	April 2019	Pre-Application Consultation (17/00693/PAC) carried out by the applicants in September 2017 – November 2017.  This application is reported to this meeting of the Committee.
18/00735/DPP	Land at Danderhall Primary School and Danderhall Recreation Ground, Edmonstone Road. Danderhall	Erection of a community facility incorporating primary school; early years provision; library and leisure facilities.	April 2019	Pre-Application Consultation (18/00350/PAC) carried out by the applicants in May 2018 – August 2018.  This application is reported to this meeting of the Committee.
18/00740/DPP	Part of Site Hs11, Dalhousie South, Bonnyrigg	Erection of 248 dwellinghouses and associated works	May 2019	Pre-Application Consultation (17/00402/PAC) carried out by the applicants in May 2018 – August 2017. A separate planning permission in principle application (18/00743/PPP) has been submitted for the provision of affordable housing on the wider Hs11 site.
19/00112/PPP <i>New addition to the table</i>	Land at the former Monktonhall Colliery Site, Monktonhall Colliery Road, Newton, Danderhall	Erection of a community facility incorporating secondary and primary school; early years provision; family learning provision; library, leisure and healthcare facilities, sports pitches and associated works.	June 2019	Pre-Application Consultation (18/00558/PAC) carried out by the applicants in August 2018 – October 2018.

**APPENDIX B**

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

<b>Ref</b>	<b>Location</b>	<b>Proposal</b>	<b>Date of PAC submission</b>	<b>Earliest date for receipt of planning application and current position</b>
16/00830/PAC	Land east of junction with Greenhall Road Barleyknowe Road Gorebridge	Residential development  This site is not allocated for housing	24 November 2016	10/02/17 - no application yet received. A pre-application report was reported to the January 2017 meeting of the Committee.
17/00296/PAC	Land to the east of Lawfield Road and to the north of Ash Grove, Mayfield	Residential development  This site is not allocated for housing	19 April 2017	06/07/17 - no application yet received. A pre-application report was reported to the June 2017 meeting of the Committee.
17/00367/PAC	Site Hs12 Hopefield Farm 2 Bonnyrigg	Residential development  The site is identified for an indicative 375 residential units in the MLDP.	9 May 2017	02/08/17 - no application yet received. A pre-application report was reported to the August 2017 meeting of the Committee.
17/00606/PAC	Land south east of Auchendinny, The Brae, Auchendinny (Site Hs20)	Residential development  The site is identified for an indicative 350 residential units in the MLDP.	27 July 2017	20/10/17 - no application yet received. A pre-application report was reported to the November 2017 meeting of the Committee.
17/00663/PAC	Land bounded by A7, Stobhill Road and Pentland Avenue, Gorebridge	Mixed use development comprising residential and commercial land uses	16 August 2017	09/11/17 - no application yet received. A pre-application report was reported to the October 2017 meeting of the Committee.
17/00670/PAC	Land to the north of Hardengreen House, Dalkeith	Mixed use development including Class 1 (Shops); Class 2 (Financial, Professional and Other Services); Class 3 (Food and Drink); Class 4 (Business); Class 9 (Houses); and Class 10 (Non-Residential Institutions).	22 August 2017	15/11/17 - no application yet received. A pre-application report was reported to the October 2017 meeting of the Committee.
18/00894/PAC	Land at Wull Muir, Gorebridge	Erection of up to 9 wind turbines (wind farm)	9 November 2018	02/02/19 - no application yet received. A pre-application report was reported to the January 2019 meeting of the Committee.

18/00962/PAC	Land east and west of Easthouses Road, Easthouses	Residential development and erection of school, with associated engineering works, open space and landscaping	14 December 2018	09/03/19 - no application yet received. A pre-application report was reported to the February 2019 meeting of the Committee.
18/00970/PAC	Midlothian Snow Sports Centre	Redevelopment of existing snowsports centre to include leisure facilities; tourist accommodation; hotel; function suite and ancillary retail and restaurant; formation of access and car parking	21 December 2018	16/03/19 - no application yet received. A pre-application report was reported to the February 2019 meeting of the Committee.
19/00012/PAC	Land east of Salters Road, Dalkeith	Mixed use development comprising film and TV studios including workshops/offices; reception/commissary; gatehouse; backlot; trailer park; film academy and associated student accommodation; and associated access, parking and infrastructure	9 January 2019	04/04/19 - no application yet received. A pre-application report was reported to the January 2019 meeting of the Committee.
19/00076/PAC	Land south east of Tynewater Primary School, Crichton Road, Pathhead	Erection of 64 dwellinghouses; car parking and associated works	1 February 2019	27/04/19  This pre application consultation is reported to this meeting of the Committee.
19/00106/PAC <i>New addition to the table</i>	Land north of Oak Place, Mayfield, Dalkeith	Residential development  The site is identified for an indicative 63 residential units in the MLDP.	8 February 2019	04/05/19  This pre application consultation will be reported to the May meeting of the Committee.
19/00126/PAC <i>New addition to the table</i>	Former Lothianburn, Golf Club, 106 Biggar Road, Edinburgh	Mixed use development comprising mountain bike trail centre, indoor and outdoor leisure uses, food and drink, professional services, retail, visitor accommodation and associated works	14 February 2019	10/05/19  This pre application consultation will be reported to the May meeting of the Committee.



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## APPEALS AND LOCAL REVIEW BODY DECISIONS

Report by Director of Education, Communities and Economy

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### 1 PURPOSE OF REPORT

- 1.1 This report informs the Committee of notices of reviews determined by the Local Review Body (LRB) at its meeting in March 2019; and two appeal decisions received from Scottish Ministers.

### 2 BACKGROUND

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

### 3 PREVIOUS REVIEWS DETERMINED BY THE LRB

- 3.1 At its meeting on 5 March 2019 the LRB made the following decisions:

	<b>Application Reference</b>	<b>Site Address</b>	<b>Proposed Development</b>	<b>LRB Decision</b>
<b>1</b>	18/00581/DPP	Land at 39 The Brae, Auchendinny, Penicuik	Erection of dwellinghouse	Permission refused at LRB meeting of 05.03.2019
<b>2</b>	18/00747/S42	Sainsburys, Straiton Mains, Loanhead	Application to remove a condition from a grant of planning permission requiring landscaping	Permission refused at LRB meeting of 05.03.2019
<b>3</b>	18/00750/DPP	36 Cowden Crescent, Dalkeith	Formation of driveway and erection of retaining walls	Permission refused at LRB meeting of 05.03.2019

## **4 APPEAL DECISIONS**

- 4.1 Appeals against refusals of planning permission for two applications forming a single development proposal for the erection of four dwellinghouses (one application for a single dwellinghouse and the second for three dwellinghouses) on land to the north, south and west of Airybank, Quarrybank, Cousland have been upheld subject to securing developer contributions on the three dwellinghouse application. The Reporter appointed by the Scottish Ministers concluded that the proposed development is compatible with its setting and that it “would not detract materially from the existing character and amenity of the area”. A copy of the appeal decisions accompanies this report.

## **5 RECOMMENDATION**

- 5.1 The Committee is recommended to note the decisions made by the Local Review Body at its meeting in March 2019 and the appeal decisions by Scottish Ministers.

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 22 March 2019  
**Contact Person:** Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk  
**Tel No:** 0131 271 3310

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



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Decision by Richard Hickman, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-290-2049
- Site address: Land adjoining Airybank House, Quarrybank/Kilns Road, Cousland, EH22 2QP
- Appeal by Midlothian Developments against the decision by Midlothian Council
- Application for planning permission 18/00592/DPP dated 13 August 2018 refused by notice dated 22 November 2018
- The development proposed: Erection of one dwellinghouse
- Application drawings : See list in annex B at the end of this decision notice
- Date of site visit by Reporter: 4 February 2019
- A claim for an award of expenses against the council is the subject of a separate decision.

Date of appeal decision: 12 March 2019

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## Decision

I allow the appeal and grant planning permission subject to the conditions listed in annex A below. Attention is drawn to the advisory notes at the end of the notice.

## Reasoning

1. I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise.
2. Airybank House is a large fairly new house located on the northwest side of the village of Cousland. It occupies a spacious site, with a line of trees along the northwest perimeter where it adjoins farmland. The house proposed in this application would occupy part of the open ground curving round to the west and north of the house. A separate application for three detached houses on the remaining parts of this area has been refused, and is the subject of a separate appeal (ref PPA-290-2048).
3. The proposal is for a large mainly two storey house (type Y) that would provide 4 bedrooms as well as extensive public rooms. It would be located near the centre of the open ground referred to above, with another new house proposed to the northeast and two to the south. All four new houses would share the access that already serves Airybank House.
4. The reasons for refusal are :



(a) The proposed house is incompatible with the edge-of-village setting and the wider settlement of Cousland due to the scale, massing, form and design and would consequently have a detrimental impact on the character and appearance of the area, contrary to policies DEV2 and STRAT2 of the Midlothian Local Development Plan 2017 and Scottish Planning Policy.

(b) It has not been demonstrated to the satisfaction of the council that the proposed development would not have a detrimental impact on European Protected Species and is therefore contrary to policy ENV15 of the Midlothian Local Development Plan 2017.

5. Representations received from neighbouring proprietors, and on behalf of the Cousland Village Hall Association Committee, object to the proposal on a number of grounds, including that :

- The scale and design of the proposal does not reflect the character of the area and would be out of keeping with the village;
- The new houses would be too close together, and to existing houses, giving rise to problems of overlooking and loss of privacy;
- Potential effects on trees and wildlife, including protected species;
- Unstable ground conditions on the site;
- Loss of rural view;
- A community survey shows opposition to two storey houses, which are considered to be out of character with the village.

6. Other representations do not oppose the principle of residential development, provided that it respects the character of the village, or give support.

7. Policy DEV2 (Protecting Amenity within the Built-Up Area) states that development within existing built up areas will be permitted unless it is likely to detract materially from the existing character and amenity of the area. Policy STRAT2 (Windfall Housing Sites) states that development on infill sites within built up areas will be permitted provided that five specified criteria are met. These cover safeguarding of valuable public and private space; avoiding conflict with established land uses in the area; that it has regard to the character of the area in terms of scale, form, design and materials; meets traffic and parking requirements; and accords with other relevant policies and proposals, covering a wide range of matters including a requirement for developer contributions to ensure that appropriate provision is made where a need arises or for the provision of essential infrastructure to enable new development to take place, as well as matters relating to the layout and landscaping of new development.

8. Policy ENV15 (Species and Habitat Protection and Enhancement) precludes development that would affect a species protected by European or UK law unless (among other things) a species protection plan has been submitted which includes details of possible adverse impacts of development, and appropriate and effective mitigation is proposed and agreed; and in the case of European Protected Species, the development is not detrimental to the maintenance of the species at a favourable conservation status.

9. These policies embrace most of the matters raised in the representations. Thus the determining issues in this appeal are whether or not the proposal would be in accordance

with the policies cited in the reasons for refusal, and whether material considerations would justify a different outcome.

Reason (a) : Residential policy and design considerations

10. The main points put forward in support of the appeal in relation to reason (a) are:

- The appeal site is located within the Cousland settlement boundary where policies DEV2 and STRAT2 permit infill development provided that various specified criteria are met. The proposal would meet these criteria as:
- it is not a valuable area of public or private open space;
- the proposed residential use would be compatible with the established neighbouring uses which are also residential;
- the council has no objection in principle to the use of the land at Airybank House for 4 new houses, reflecting the development plan position;
- there is no predominant architectural style in Cousland, and modern designs have been permitted elsewhere in the village, including a large conspicuous house on the western approach to the village;
- the proposed new house would be seen in the context of Airybank House, which is a large house, and not in the context of the housing area to the east which is physically and visually separated by the intervening road and trees;
- the layout arrangement that is proposed is dictated by the shape of the site and the position of the existing access driveway;
- there would be adequate separation from neighbouring existing houses;
- the proposed finishing materials would be in keeping with other recent developments in the village;
- the proposed access arrangements are acceptable to the council's Road Safety Manager – it is intended that the existing gates at the entrance to the Airybank House driveway will be removed, and the internal access road constructed to adoptable standards;
- the existing tree belts on the perimeter of the site would be retained and strengthened, as set out in the landscape strategy report;
- the appellant is content to make financial contributions to improvements in infrastructure or services arising from the development (policies IMP1 and IMP2);
- policy DEV3 (Affordable and Specialist Housing) is considered to be neither necessary nor appropriate;
- the development would meet the sustainability principles listed in policy DEV5, and the layout and design criteria listed in policy DEV6, where relevant.

11. The main points made by the council in support of the decision to refuse permission are :

- There is no objection in principle to the development of the land at Airybank House for four new houses, reflecting the development plan position;
- the proposed large house (type Y) would be at odds with the character of the surrounding area and the scale of other buildings in Cousland, which are predominantly one or 1.5 storeys in height;

- Airybank House, the largest house in the village, is an exception to this character, and should not be taken as a reference point to define the character of Cousland;
- the proposed house would be highly visible due to the scale and design, incongruous in appearance, and would be detrimental to the character of this semi-rural edge-of-village area;
- the Policy and Road Safety Manager is content that the proposal would not have a significant impact on highway safety, but more visitor parking should be provided within the layout, as well as a pedestrian crossing to link with the existing footway network in Beech Grove.

12. I note that the principle of the development of the two appeal sites for a combined total of four houses is accepted by the council. Residential use would be compatible with existing nearby land uses.

13. The key matter of disagreement is whether the large house that is proposed in this application would be likely to detract materially from the existing character and amenity of the area (according to the council and local residents) or would be sufficiently separated from the main part of the village so that it would not affect the character of the wider area, and would complement the existing large house already in place on adjacent land (according to the appellant).

14. As part of my site visit, I gave special attention to the degree of physical and visual separation between the appeal site and the adjacent sections of the village in Beech Grove (on the opposite side of Quarrybank/Kilns Road). I also looked carefully at how the new house would be likely to appear in views on the approach to the village from the west and north.

15. Existing trees along the northeast boundary of the site (adjacent to plot 1) and flanking Airybank House, which are to be retained, provide a strong visual screen that separates this pocket of land from the housing estate on the opposite side of the road at Beech Grove. While these latter houses are predominantly 1.5 storeys in height, I agree with the appellant that the existence of the proposed additional large houses, including that which is the subject of this appeal, to the west and north of Airybank House would not have a significant impact on the character of the Beech Grove houses, due to the degree of visual separation provided by the trees, even in winter.

16. With regard to the views from the country roads approaching the village from the west and north, I again agree with the appellant that the existing tree belts to the west and north of the appeal site, which are to be retained, would provide a high degree of screening. There might well be glimpses of the upper parts of the new house, but I do not think that would be out of place or unacceptable in these views. Most people using these roads would be well aware that they were approaching the village, and this is particularly true of the western approach road where the large modern house mentioned in the previous paragraph dominates the approach vista.

17. The proposed house would be well separated from the four houses to the south and east of plot 3, so that issues of inappropriate size, loss of privacy and overlooking would not arise as a result of the proposed single house.

18. For these reasons, I am satisfied that the proposed new house would not detract materially from the existing character and amenity of the area, neither of the village as a whole nor that of the nearby properties. I cannot agree with the council that it would be highly visible in most views from the road network, nor incongruous in the context of the setting adjacent to Airybank House.

19. I note the local concerns about possible ground stability and contamination problems on the site, but the Coal Authority does not share these concerns and the council has proposed conditions to safeguard the situation.

20. I agree with the council's Policy and Road Safety Manager that a road crossing point should be provided (at the developer's expense) to facilitate safe pedestrian movement from the new house to the rest of the village. The house would have a large front forecourt, having a stated capacity of 4 parking spaces, so I do not think that additional visitors' parking spaces are necessary.

21. The appellant recognises the importance of retaining and strengthening the tree belts on the perimeter of the site, and this can be covered in planning conditions.

22. For all these reasons, I conclude that the proposal would be in accordance with local development plan policies DEV2 and STRAT2, and the related subsidiary policies, including DEV6 (Layout and Design), DEV7 (Landscaping), ENV7 (Local Landscape Character), and ENV11 (Trees and Woodland). Policies DEV5 (Sustainability), TRANS5 (Electric Vehicle Charging), and IT1 (Digital Infrastructure) can be achieved through the detailed design and planning conditions. Policies ENV15 (Species and Habitats), IP1 and IMP2 (achieving necessary infrastructure improvements) are considered below.

#### Reason (b) European Protected Species

23. The second reason for refusal relates to the potential presence of bats in the locality.

24. The appellant has commissioned a series of bat surveys. The resulting reports confirm that there is a very limited bat presence on the site, consisting of a very modest non-breeding summer roost which is not of significant conservation status. Such roosts are apparently a common occurrence throughout Scotland, and the Scottish Natural Heritage Species Licensing Team is unlikely to require a licence to be obtained. A licence application can be made only after full planning permission has been obtained.

25. The bat specialists recommend that the roost tree should be retained, that no development takes place within 30 metres of the roost, that this area is fenced off, and that bat boxes are provided. The proposed layout can achieve this.

26. The council is satisfied that this matter can be adequately addressed through a revised or corrected bat statement and planning conditions.

27. I have considered the results of the bat survey reports that have been submitted. The sequence of observations confirms that there is only a very limited use of the trees at the appeal site by bats, such that it has very limited conservation status for the observed species. The reports recommend protection and mitigation measures which can be readily

accommodated within the proposed scheme. I am therefore satisfied that, if these measures are carried out, the development would not be detrimental to the maintenance of the species at a favourable conservation status. Consequently the proposal would meet the requirements of local development plan policy ENV15.

28. The proposed works may require a licence from Scottish Natural Heritage. If so, application should be made after planning permission has been granted. That is a matter for the appellant.

29. On this basis, and subject to the issue of a licence if necessary, I am satisfied that the proposal would not affect the favourable conservation status of the bat presence on or near the site, so that the requirements of both the local development plan and European law relating to protected species would be met.

### Conclusion on planning merits

30. For the reasons explained above, I am satisfied that the proposal would be acceptable in terms of scale and design; impact on the character of the area and the amenity of neighbouring dwellings; potential impact on European protected species; and the other matters covered by the various development plan policies that have been considered. I conclude that the proposal would be in general accordance with the policies of the local development plan.

31. I have considered the other matters put forward in opposition to the proposal, including the apparent consensus that new housing development in Cousland should be limited to low rise designs. While this might be appropriate as a general principle for the village, I am satisfied that the proposal under consideration is sufficiently separated visually from the main part of the village to ensure that this larger house would not have an adverse visual effect on the character of the village. I find that these other considerations do not alter my conclusion that it is appropriate to approve the present proposal.

32. It is therefore necessary for me to consider what planning conditions should be attached to this permission. There is no request from the council for a contribution to education facilities, as this is a proposal for only a single house.

### Planning conditions

33. The council has supplied a list of recommended conditions in appendix 3 of the council's appeal documentation.

34. I have reviewed the list of proposed conditions and am satisfied that they are appropriate and necessary.

*Richard Hickman*

Reporter

## Annex A : List of conditions

1. Development shall not begin until a revised scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i. existing and finished ground levels and floor levels for all buildings 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 including trees, shrubs, hedging and grassed areas;
  - iv. location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
  - v. schedule of plants to comprise species, plant sizes and proposed numbers/density;
  - vi. programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping shall be completed prior to the houses being occupied;
  - vii. drainage details and sustainable urban drainage systems to manage water runoff; and
  - viii. an updated tree survey for all trees within the site, including those adjacent to the site access. This shall include a tree constraints plan for trees to be retained and Root Protection Areas and locations of protective fencing of Construction Exclusion Zones to be overlaid on the landscape plans.

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. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird nesting season (March-August) and bat roosting period (April – September).

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

2. Development shall not begin until temporary protective fencing is erected around all trees on the site to be retained. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the tree canopy unless otherwise agreed in writing with the local planning authority. No excavation, soil removal or storage shall take place within the enclosed area.

**Reason:** *To ensure the development does not result in the loss or damage of a tree which merits retention in accordance with policy ENV11 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

3. 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:** *In the interest of protecting the character and appearance of the surrounding area so as to comply with policies DEV2 and DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

4. Development shall not begin until details of the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i. existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
  - ii. proposed vehicular, cycle and pedestrian access;
  - iii. proposed roads (including turning facilities), footpaths and cycle ways;
  - iv. proposed visibility splays, any traffic calming measures and lighting;
  - v. proposed construction traffic access and haulage routes;
  - vi. proposed car parking arrangements, including visitor parking; and
  - vii. a pedestrian crossing point, to be established at a suitable point at the access to the application site, providing a link over Cousland Kilns Road to the existing footway in Beech Grove.

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

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

5. The dwellings hereby approved shall not be occupied until vehicular, cycle and pedestrian access details and routes hereby approved have been constructed.

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

6. The updated tree survey required in condition 1viii shall include all trees by the site access and the north and west of the site and indicate any necessary works to facilitate construction access and means of protection during construction.

**Reason:** *To ensure that existing trees are protected and retained.*

7. Prior to the commencement of development, an updated site plan shall be submitted clearly showing the location of the bat roost within the north of the site and a 30 metre Construction Exclusion Zone from this bat roost.

**Reason:** *To protect protected species from disturbance from construction.*

8. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
- i. the nature, extent and types of contamination and/or previous mineral workings on the site;
  - ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
  - iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
  - iv. the condition of the site on completion of the specified decontamination measures.

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

9. On completion of the decontamination/ remediation works required in condition 8 and prior to any dwellinghouse being occupied, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No part of the development shall be occupied until this report has been approved by the planning authority.

**Reasons for conditions 8 and 9:** *To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment; to ensure the remediation works are undertaken.*

10. The houses shall not have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the planning authority.

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

11. 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 any 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.*

12. Development shall not begin until an updated bat report is undertaken by a qualified ecologist and any mitigation measures identified implemented in accordance with

details to be submitted and approved in writing by the planning authority. The updated investigation shall be carried out within the 6 months prior to development commencing.

**Reason:** *In the interests of safeguarding protected species in accordance with policy ENV15 adopted Midlothian Local Development Plan 2017 and to ensure that an up to date understanding of these species on the site is available prior to development commencing.*

13. 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 Midlothian Local Development Plan 2017.*

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

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

<b>Annex B : List of approved drawings</b>	Drawing No/Scale
Location Plan	PL(00).1 1:1250
Site Plan	PL-02-01 1:1250
Proposed Floor Plan (House Type Y)	BW01HB 1:100
Proposed Floor Plan (House Type Y)	BW02 HB 1:100
Proposed Elevations (House Type Y)	BW03 HB 1:100
Proposed Cross Sections (House Type Y)	BW05 HB 1:100

### Advisory notes

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

4. **Application to Scottish Natural Heritage:** If required, the appellant should make application to Scottish Natural Heritage for a licence to carry out works in the vicinity of the bat roost.

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Notice of Intention by Richard Hickman, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-290-2048
- Site address: Land adjoining Airybank House, Quarrybank/Kilns Road, Cousland, EH22 2QP
- Appeal by Midlothian Developments against the decision by Midlothian Council
- Application for planning permission 18/00593/DPP dated 14 August 2018 refused by notice dated 22 November 2018.
- The development proposed: Erection of 3 detached dwellinghouses
- Application drawings : Listed in annex B
- Date of site visit by Reporter: 4 February 2019
- A claim for an award of expenses against the council is the subject of a separate decision

Date of notice: 12 March 2019

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## Notice of Intention

For the reasons given below I am minded to allow the appeal and grant planning permission subject to the conditions listed in annex A below, following the signing and registering or recording of a planning obligation under section 75 of the Town and Country Planning (Scotland) Act 1997, covering the matters listed in annex C below .

## Reasoning

1. I am required to determine this appeal in accordance with the development plan unless material considerations indicate otherwise.
2. Airybank House is a large fairly new house located on the northwest side of the village of Cousland. It occupies a spacious site, with a line of trees along the northwest perimeter where it adjoins farmland. The three houses proposed in this application would occupy part of the open ground curving round to the west and north of the house. Two house types are proposed : House type Y would be located on plots one and three, at the ends of the development area, with house type X in between on plot two. A separate application proposes a fourth house that would occupy the remainder of this area, on a rather larger plot situated between plots one and two. This is the subject of a separate appeal (PPA-290-2049). All four new houses would share the access that already serves Airybank House.

3. House type X is a 1-2 storey design that would provide four bedrooms. House type Y is a much larger mainly two storey design that would also provide 4 bedrooms as well as extensive public rooms. It should be noted that the submitted plans for the proposed type Y house are for the house on plot one, towards the north end of the site. The type Y house on plot 3 is shown on the layout plan as “handed” (ie it is a mirror image of the house on plot one).

4. The reasons for refusal are :

(a) The proposed houses are incompatible with their edge-of-village setting and the wider settlement of Cousland due to their scale, massing, form and design and would consequently have a detrimental impact on the character and appearance of the area, contrary to policies DEV2 and STRAT2 of the Midlothian Local Development Plan 2017 and Scottish Planning Policy.

(b) It has not been demonstrated to the satisfaction of the council that the proposed development would not have a detrimental impact on European Protected Species and is therefore contrary to policy ENV15 of the Midlothian Local Development Plan 2017.

5. Representations received from neighbouring proprietors, and on behalf of the Cousland Village Hall Association Committee, object to the proposal on a number of grounds, including that :

- The scale and design of the proposal does not reflect the character of the area and would be out of keeping with the village;
- The new houses would be too close together, and to existing houses, giving rise to problems of overlooking and loss of privacy;
- Potential effects on trees and wildlife, including protected species;
- Unstable ground conditions on the site;
- Loss of rural view;
- A community survey shows opposition to two storey houses, which are considered to be out of character with the village.

6. Other representations do not oppose the principle of residential development, provided that it respects the character of the village, or give support.

7. Policy DEV2 (Protecting Amenity within the Built-Up Area) states that development within existing built up areas will be permitted unless it is likely to detract materially from the existing character and amenity of the area. Policy STRAT2 (Windfall Housing Sites) states that development on infill sites within built up areas will be permitted provided that five specified criteria are met. These cover safeguarding of valuable public and private space; avoiding conflict with established land uses in the area; that it has regard to the character of the area in terms of scale, form, design and materials; meets traffic and parking requirements; and accords with other relevant policies and proposals, covering a wide range of matters including a requirement for developer contributions to ensure that appropriate provision is made where a need arises or for the provision of essential

infrastructure to enable new development to take place, as well as matters relating to the layout and landscaping of new development.

8. Policy ENV15 (Species and Habitat Protection and Enhancement) precludes development that would affect a species protected by European or UK law unless (among other things) a species protection plan has been submitted which includes details of possible adverse impacts of development, and appropriate and effective mitigation is proposed and agreed; and in the case of European Protected Species, the development is not detrimental to the maintenance of the species at a favourable conservation status.

9. These policies embrace most of the matters raised in the representations. Thus the determining issues in this appeal are whether or not the proposal would be in accordance with the policies cited in the reasons for refusal, and whether material considerations would justify a different outcome.

#### Reason (a) : Residential policy and design considerations

10. The main points put forward in support of the appeal in relation to reason (a) are:

- The appeal site is located within the Cousland settlement boundary where policies DEV2 and STRAT2 permit infill development provided that various specified criteria are met. The proposal would meet these criteria as:
  - it is not a valuable area of public or private open space;
  - the proposed residential use would be compatible with the established neighbouring uses which are also residential;
  - the council has no objection in principle to the use of the land at Airybank House for 4 new houses, reflecting the development plan position;
  - there is no predominant architectural style in Cousland, and modern designs have been permitted elsewhere in the village, including a large conspicuous house on the western approach to the village;
  - the proposed new houses would be seen in the context of Airybank House, which is a large house, and not in the context of the housing area to the east which is physically and visually separated by the intervening road and trees;
  - the layout arrangement that is proposed is dictated by the shape of the site and the position of the existing access driveway;
  - there would be adequate separation from neighbouring existing houses;
  - the proposed finishing materials would be in keeping with other recent developments in the village;
  - the proposed access arrangements are acceptable to the council's Road Safety Manager – it is intended that the existing gates at the entrance to the Airybank House driveway will be removed, and the internal access road constructed to adoptable standards;
  - the existing tree belts on the perimeter of the site would be retained and strengthened, as set out in the landscape strategy report;
  - the appellant is content to make financial contributions to improvements in infrastructure or services arising from the development (policies IMP1 and IMP2);

- policy DEV3 (Affordable and Specialist Housing) is considered to be neither necessary nor appropriate;
- the development would meet the sustainability principles listed in policy DEV5, and the layout and design criteria listed in policy DEV6, where relevant.

11. The main points made by the council in support of the decision to refuse permission are :

- There is no objection in principle to the development of the land at Airybank House for four new houses, reflecting the development plan position;
- while the smaller house type (X) might be acceptable on the site, the proposed larger houses (type Y) would be at odds with the character of the surrounding area and the scale of other buildings in Cousland, which are predominantly one or 1.5 storeys in height;
- Airybank House, the largest house in the village, is an exception to this character, and should not be taken as a reference point to define the character of Cousland;
- the proposed houses would be highly visible due to their scale and design, incongruous in appearance, and would be detrimental to the character of this semi-rural edge-of –village area;
- the Policy and Road Safety Manager is content that the proposals would not have a significant impact on highway safety, but more visitor parking should be provided within the layout, as well as a pedestrian crossing to link with the existing footway network in Beech Grove.

12. I note that the principle of the development of the two appeal sites for a combined total of four houses is accepted by the council. Residential use would be compatible with existing nearby land uses.

13. The key matter of disagreement is whether the large houses that are proposed would be likely to detract materially from the existing character and amenity of the area (according to the council and local residents) or would be sufficiently separated from the main part of the village so that the proposed houses would not affect the character of the wider area, and would complement the existing large house already in place on adjacent land (according to the appellant).

14. As part of my site visit, I gave special attention to the degree of physical and visual separation between the appeal site and the adjacent sections of the village in Beech Grove (on the opposite side of Quarrybank/Kilns Road) and the four houses to the south and east of plot 3. I also looked carefully at how the new houses would be likely to appear in views on the approach to the village from the west and north.

15. Existing trees along the northeast boundary of the site (adjacent to plot 1) and flanking Airybank House, which are to be retained, provide a strong visual screen that separates this pocket of land from the housing estate on the opposite side of the road at Beech Grove. While these latter houses are predominantly 1.5 storeys in height, I agree with the appellant that the existence of the proposed additional large houses to the west and north of Airybank House would not have a significant impact on the character of the

Beech Grove houses, due to the degree of visual separation provided by the trees, even in winter.

16. The four houses to the south and southeast of the appeal site consist of a semi-detached pair of traditional cottages, a modern bungalow, and a large modern house of contemporary design situated in a very prominent position at the western entry to the village. The village hall is a low key building located adjacent to these houses. I do not think that the introduction of the new houses to the north would appear visually out of place in the context of this variety of buildings, and would not be readily visible from the nearby roads.

17. With regard to the views from the country roads approaching the village from the west and north, I again agree with the appellant that the existing tree belts to the west and north of the appeal site, which are to be retained, would provide a high degree of screening. There might well be glimpses of the upper parts of the new houses, but I do not think that would be out of place or unacceptable in these views. Most people using these roads would be well aware that they were approaching the village, and this is particularly true of the western approach road where the large modern house mentioned in the previous paragraph dominates the approach vista.

18. Turning to the subject of privacy, overlooking, and whether the new houses would be on cramped sites that would bring them too close to neighbouring properties and each other, I note that the type Y houses at each end of the development site would occupy large plots with plenty of amenity space. The smaller type X house would be on a smaller but adequate plot within the centre of the development site where it would have no impact on the amenity of the four houses to the south. It is the type Y house on plot 3, at the southern end of the site, which is closest to these houses.

19. The appellant has supplied details of the separation distances between this proposed new house and the three adjoining houses. The eastern façade of the new house would be about 17m from the mutual rear boundary with the cottages in Kilns Road/ Quarrybank, which are in turn located some 20 plus metres from the boundary, giving a combined distance between the buildings of 40m or more. In any event, no windows are proposed on either floor of the new house gable that would face these cottages.

20. With regard to the southern elevation, the nearest section of this façade would be about 16m from the mutual boundary, with the flank of the existing house a similar distance away, giving a separation distance of around 30m between the façades. A high and substantial hedge separates the two properties, giving plenty of privacy between the gardens. Although the design of house type Y includes a first floor balcony, this would face away from the existing house to the south, due to the reversal of the house plans.

21. For these reasons, I am satisfied that the new houses that are proposed would not detract materially from the existing character and amenity of the area, neither of the village as a whole nor that of the nearby properties. I cannot agree with the council that they would be highly visible in most views from the road network, nor incongruous in the context of the setting adjacent to Airybank House.

22. I note the local concerns about possible ground stability and contamination problems on the site, but the Coal Authority does not share these concerns and the council has proposed conditions to safeguard the situation.

23. I agree with the council's Policy and Road Safety Manager that a road crossing point should be provided (at the developer's expense) to facilitate safe pedestrian movement from the new houses to the rest of the village. Each house would have a large front forecourt, having a stated capacity of 4 parking spaces for each house, so I do not think that additional visitors' parking spaces are necessary.

24. The appellant recognises the importance of retaining and strengthening the tree belts on the perimeter of the site, and this can be covered in planning conditions.

25. For all these reasons, I conclude that the proposal would be in accordance with local development plan policies DEV2 and STRAT2, and the related subsidiary policies, including DEV6 (Layout and Design), DEV7 (Landscaping), ENV7 (Local Landscape Character), and ENV11 (Trees and Woodland). Policies DEV5 (Sustainability), TRANS5 (Electric Vehicle Charging), and IT1 (Digital Infrastructure) can be achieved through the detailed design and planning conditions. Policies ENV15 (Species and Habitats), IP1 and IMP2 (achieving necessary infrastructure improvements) are considered below.

#### Reason (b) European Protected Species

26. The second reason for refusal relates to the potential presence of bats on the site.

27. The appellant has commissioned a series of bat surveys. The resulting reports confirm that there is a very limited bat presence on the site, consisting of a very modest non-breeding summer roost which is not of significant conservation status. Such roosts are apparently a common occurrence throughout Scotland, and the Scottish Natural Heritage Species Licensing Team is unlikely to require a licence to be obtained. A licence application can be made only after full planning permission has been obtained.

28. The bat specialists recommend that the roost tree should be retained, that no development takes place within 30 metres of the roost, that this area is fenced off, and that bat boxes are provided. The proposed layout can achieve this.

29. The council is satisfied that this matter can be adequately addressed through a revised or corrected bat statement and planning conditions.

30. I have considered the results of the bat survey reports that have been submitted. The sequence of observations confirms that there is only a very limited use of the trees at the appeal site by bats, such that it has very limited conservation status for the observed species. The reports recommend protection and mitigation measures which can be readily accommodated within the proposed scheme. I am therefore satisfied that, if these measures are carried out, the development would not be detrimental to the maintenance of the species at a favourable conservation status. Consequently the proposal would meet the requirements of local development plan policy ENV15.

31. The proposed works may require a licence from Scottish Natural Heritage. If so, application should be made after planning permission has been granted. That is a matter for the appellant.

32. On this basis, and subject to the issue of a licence if necessary, I am satisfied that the proposal would not affect the favourable conservation status of the bat presence on the site, so that the requirements of both the local development plan and European law relating to protected species would be met.

### Conclusion on planning merits

33. For the reasons explained above, I am satisfied that the proposal would be acceptable in terms of scale and design; impact on the character of the area and the amenity of neighbouring dwellings; potential impact on European protected species; and the other matters covered by the various development plan policies that have been considered. I conclude that the proposal would be in general accordance with the policies of the local development plan.

34. I have considered the other matters put forward in opposition to the proposal, including the apparent consensus that new housing development in Cousland should be limited to low rise designs. While this might be appropriate as a general principle for the village, I am satisfied that the proposal under consideration is sufficiently separated visually from the main part of the village to ensure that these larger houses would not have an adverse visual effect on the character of the village. I find that these other considerations do not alter my conclusion that it is appropriate to approve the present proposal.

35. It is therefore necessary for me to consider what planning conditions and obligations should be attached to this permission.

### Planning conditions and obligations

36. The council has supplied a list of recommended conditions and planning obligations in appendix 3 of the council's appeal documentation.

37. I have reviewed the list of proposed conditions and am satisfied that they are appropriate and necessary.

38. With regard to planning obligations, the consultation reply from the council's education service staff dated 30 August 2018 explains the basis for the contributions towards education requirements. The second part of appendix 3 sets out draft Heads of Terms for an agreement under section 75 of the act to secure these contributions.

39. Given the apparent capacity limitations at the relevant schools, I recognise the need for the council to secure these contributions by means of a section 75 or similar agreement.

### Intended decision

40. For all these reasons, I am minded to allow the appeal and grant planning permission. However I conclude that a planning obligation should be completed in order to secure the potential need for the items listed in annex C below. I will accordingly defer determination of this appeal for a period of 12 weeks to enable the relevant planning obligation (either an agreement with the planning authority or a unilateral obligation by the appellant under section 75 of the Town and Country Planning (Scotland) Act 1997 or some suitable alternative arrangement as may be agreed by the parties) to be completed and registered or recorded, as the case may be. If, by the end of the 12 week period, a copy of the relevant obligation with evidence of registration or recording has not been submitted to this office, I will have to consider whether planning permission should be refused or granted without a planning obligation.

*Richard Hickman*

Reporter

### **Annex A : List of conditions**

1. Development shall not begin until a revised scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i. existing and finished ground levels and floor levels for all buildings 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 including trees, shrubs, hedging and grassed areas;
  - iv. location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
  - v. schedule of plants to comprise species, plant sizes and proposed numbers/density;
  - vi. programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping shall be completed prior to the houses being occupied;
  - vii. drainage details and sustainable urban drainage systems to manage water runoff; and
  - viii. an updated tree survey for all trees within the site, including those adjacent to the site access. This shall include a tree constraints plan for trees to be retained and Root Protection Areas and locations of protective fencing of Construction Exclusion Zones to be overlaid on the landscape plans.

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. Any tree felling or vegetation removal proposed as part of

the landscaping scheme shall take place out with the bird nesting season (March-August) and bat roosting period (April – September).

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

2. Development shall not begin until temporary protective fencing is erected around all trees on the site to be retained. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the tree canopy unless otherwise agreed in writing with the local planning authority. No excavation, soil removal or storage shall take place within the enclosed area.

**Reason:** *To ensure the development does not result in the loss or damage of a tree which merits retention in accordance with policy ENV11 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

3. 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:** *In the interest of protecting the character and appearance of the surrounding area so as to comply with policies DEV2 and DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

4. Development shall not begin until details of the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i. existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
  - ii. proposed vehicular, cycle and pedestrian access;
  - iii. proposed roads (including turning facilities), footpaths and cycle ways;
  - iv. proposed visibility splays, any traffic calming measures and lighting;
  - v. proposed construction traffic access and haulage routes;
  - vi. proposed car parking arrangements, including visitor parking; and
  - vii. a pedestrian crossing point, to be established at a suitable point at the access to the application site, providing a link over Cousland Kilns Road to the existing footway in Beech Grove.

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

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

5. The dwellings hereby approved shall not be occupied until vehicular, cycle and pedestrian access details and routes hereby approved have been constructed.

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

6. The updated tree survey required in condition 1viii shall include all trees by the site access and the north and west of the site and indicate any necessary works to facilitate construction access and means of protection during construction.

**Reason :** To protect the trees on the site during and after construction.

7. Prior to the commencement of development, an updated site plan shall be submitted clearly showing the location of the bat roost within the north of the site and a 30 metre Construction Exclusion Zone from this bat roost.

**Reason:** To protect protected species from disturbance from construction.

8. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
  - i. the nature, extent and types of contamination and/or previous mineral workings on the site;
  - ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
  - iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and
  - iv. the condition of the site on completion of the specified decontamination measures.

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

9. On completion of the decontamination/ remediation works required in condition 8 and prior to any dwellinghouse being occupied, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No part of the development shall be occupied until this report has been approved by the planning authority.

**Reasons for conditions 8 and 9:** *To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment; to ensure the remediation works are undertaken.*

10. The houses shall not have an under-building that exceeds 0.5 metres in height above ground level unless otherwise agreed in writing by the planning authority.

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

11. 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 any 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.*

12. Development shall not begin until an updated bat report is undertaken by a qualified ecologist and any mitigation measures identified implemented in accordance with details to be submitted and approved in writing by the planning authority. The updated investigation shall be carried out within the 6 months prior to development commencing.

**Reason:** *In the interests of safeguarding protected species in accordance with policy ENV15 adopted Midlothian Local Development Plan 2017 and to ensure that an up to date understanding of these species on the site is available prior to development commencing.*

13. 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 Midlothian Local Development Plan 2017.*

14. Development shall not begin until details of the provision and use of electric vehicle charging stations throughout the development have been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in

accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

<b>Annex B : List of approved drawings</b>	Drawing No/Scale
Location Plan	PL(00).1 1:1250
Site Plan	PL-01-01 1:100
Proposed Floor Plan (House Type X)	BW01 B 1:100
Proposed Elevations (House Type X)	BW02 B 1:100
Proposed Floor Plan (House Type Y)	BW01B 1:100
Proposed Floor Plan (House Type Y)	BW02 B 1:100
Proposed Elevations (House Type Y)	BW03 B 1:100
Proposed Cross Sections (House Type Y)	BW04 B 1:100
Proposed Cross Sections (House Type Y)	BW05 B 1:100
Elevations, Floor Plan and Section (Garage)	101 A 1:100

**For Annex C see following pages**

**Annex C : Draft heads of terms for section 75 or similar agreement**

**MIDLOTHIAN COUNCIL**

**Town & Country Planning (Scotland) Act 1997  
Section 75 Agreement**

**Draft Heads of Terms**

Version 1: 8 January 2019

- |            |    |                                    |  |
|------------|----|------------------------------------|--|
| <b>1.0</b> | 1. | Parties                            | <p><b>Local Planning Authority</b> - Midlothian Council<br/> <b>Landowners/ Developer</b> – Midlothian Developments<br/> <b>Agent</b> – Andrew Bennie Planning Ltd</p>   |
| <b>2.0</b> | 2. | The Land                           | Land at Airybank, Quarrybank, Cousland   |
| <b>3.0</b> |    | <b>The Planning Application(s)</b> | <p>Planning Application references 18/00592/DPP and 18/00593/DPP</p>   |
| <b>4.0</b> |    | <b>The Development</b>             | <p>The applications together propose detailed planning permission for 4 residential units in total. If the Council is to be minded to grant planning permission for the development it will be necessary for the applicants to enter into a Section 75 planning obligation in respect of the following areas</p> <ul style="list-style-type: none"> <li>• Education provision</li> <li>• Children’s Play</li> </ul>  |
| <b>5.0</b> |    | <b>Developer Contributions</b>     | <p>In accordance with Midlothian Council’s, Developer Contributions Guidelines (Supplementary Planning Guidance) and the Proposed Midlothian Local Development Plan 2014 the following contributions are sought in respect of land at. All contributions are based on BCIS TPI 2Q 2017 (324) figures and are subject to indexation unless otherwise stated. The SPG provides that contributions in relation to developments of 3-9 dwellings will be sought but that there will be an exemption from contributions for the first two units. In this instance which is a 4 unit development, contributions would be sought from 2 of those units.</p> |

DRAFT



3.

**(a) Denominational Primary** The Head of Education has advised that additional capacity will be required at St David’s RC Primary school in Dalkeith

A contribution per unit is sought for **£493**  
Based on the 2 units a total contribution is sought of **£986**

**(b) Secondary capacity** The Head of Education has advised that the proposed development lies within the catchment area of Dalkeith High School. The Head of Education has advised that as a result of new housing development in the Dalkeith area, additional non denominational secondary capacity will be required

A contribution per unit is sought for **£8,298**  
**Based on the 2 units a total contribution is sought of £16,596**

**Children’s Play** A contribution of **£2,415** towards children’s play provision in Cousland is required based on £345 per child bed space with 7 child bed spaces being contained in the two contributing units

**Issuing of Planning Permission** Planning permission shall be issued within 5 days of written acknowledgement by the Keeper of the Registers of Scotland that the agreement has been registered.

The contribution payments are required as follows:

Either a payment of the whole sum due via a Section 69 payment to release the planning permission. The whole sum due as identified above (£19,997) would need to be indexed to the index point at the time of payment.

Or if via Section 75 the whole sum (£19,997) on commencement of development – subject to the indexation provisions as below

**Interest**

**Indexation** Cash contributions not received by the due time shall be subject to additional interest in accordance with the provision of the Late Payment Act 1996.

**Fees** Those contributions subject to indexation are calculated as at BCIS 2Q2017 (324) and shall be subject to further indexation using the BCIS All in Tender Price Index up to the date of due

payment.

Developers shall be required to pay the Council's legal fees on terms as agreed with the Council's Principal Solicitor.

These Heads of Terms are subject to completion of formal legal documentation as deemed appropriate by the parties' solicitors, subject to a general agreement between the parties.

Matthew Atkins, Lead Officer Planning Obligations

Tel: 0131 271 3027

Dated: 8 January 2019

### Advisory notes

- 1. The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 2. Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 3. Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).
- 4. Application to Scottish Natural Heritage:** If required, the appellant should make application to Scottish Natural Heritage for a licence to carry out works in the vicinity of the bat roost.



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## **SUPPLEMENTARY GUIDANCE: RESOURCE EXTRACTION**

Report by Director of Education, Communities and Economy

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### **1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to update Committee on the adoption of the Resource Extraction Supplementary Guidance.

### **2 BACKGROUND**

- 2.1 At its meeting of 22 January 2019 Committee agreed to adopt the Resource Extraction Supplementary Guidance following a formal consultation process which ran from 7 September to 12 October 2018 and agreed that the supplementary guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment. In addition the Committee:
- a. instructed the Planning Manager to undertake the required notification/advertisement advising that the Resource Extraction Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
  - b. instructed the Planning Manager to notify the Scottish Ministers of the Council's intention to adopt the Resource Extraction Supplementary Guidance; and
  - c. required notification of the outcome of the notification to the Scottish Ministers.
- 2.2 The notification/advertisement referred to in paragraph 2.1a was published in the Midlothian Advertiser newspaper on 31 January 2018. The advertisement was required to comply with Strategic Environmental Assessment legislation and regulations and was for information purposes only.
- 2.3 In line with paragraph 2.1b Scottish Ministers were informed of the Council's intention to adopt the supplementary guidance. Scottish Ministers informed the Council by letter dated 19 February 2019 that they did not propose to issue a direction in relation to the guidance and that the Council is free to adopt the guidance. The adopted version of the Resource Extraction Supplementary Guidance document is on the Council's website.

### **3 RECOMMENDATION**

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

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 22 March 2019  
**Contact Person:** Colin Davidson, Planning Officer -  
[colin.davidson2@midlothian.gov.uk](mailto:colin.davidson2@midlothian.gov.uk)  
**Tel No:** 0131 271 3470  
**Background Papers:** MLDP 2017 adopted 7 November 2017.



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## **SUPPLEMENTARY GUIDANCE: FOOD AND DRINK AND OTHER NON-RETAIL USES IN TOWN CENTRES**

Report by Director of Education, Communities and Economy

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### **1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to update Committee on the adoption of the Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance.

### **2 BACKGROUND**

- 2.1 At its meeting of 20 November 2018 the Committee agreed to adopt the Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance following a formal consultation process which ran from August to October 2018 and agreed that the supplementary guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment. In addition the Committee:
- a. instructed the Planning Manager to undertake the required notification/advertisement advising that the Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
  - b. instructed the Planning Manager to notify the Scottish Ministers of the Council's intention to adopt the Midlothian Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance; and
  - c. required notification of the outcome of the notification of the Scottish Ministers procedure.
- 2.2 The notification/advertisement referred to in paragraph 2.1a was published in the Midlothian Advertiser newspaper on 28 February 2019. The advertisement was required to comply with Strategic Environmental Assessment legislation and regulations and was for information purposes only.
- 2.3 In line with paragraph 2.1b Scottish Ministers were informed of the Council's intention to adopt the supplementary guidance. Scottish Ministers informed the Council by letter dated 4 March 2019 that they

did not propose to issue a direction in relation to the guidance and that the Council is free to adopt the guidance. The adopted version of the Food and Drink and Other Non-Retail Uses in Town Centres Supplementary Guidance is on the Council's website.

### **3 RECOMMENDATION**

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

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 22 March 2019  
**Contact Person:** Mhairi-Anne Cowie, Planning Officer  
Mhairi-Anne.Cowie@midlothian.gov.uk  
**Tel No:** 0131 271 3308  
**Background Papers:** MLDP 2017 adopted 7 November 2017.



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## **TREE PRESERVATION ORDER FOR TREES AT THE FORMER WELLINGTON SCHOOL SITE AND ON LAND TO THE SOUTH AND EAST OF ARDCRAIG, PENICUIK**

Report by Director of Education, Communities and Economy

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### **1 PURPOSE OF REPORT**

- 1.1 This report seeks the Committee's approval to 'confirm' a Tree Preservation Order (TPO) issued on land at the former Wellington School site and on land to the south and east of Ard Craig, Penicuik.

### **2 BACKGROUND**

- 2.1 At its meeting of 28 August 2018 the Committee agreed:
- a) to the issuing of a TPO to protect the trees at the former Wellington School site and on land to the south and east of Ard Craig; and
  - b) to receive a further report to consider confirming the TPO once the owner of the land and other interested parties have had the opportunity to make comment.
- 2.2 The TPO came into effect on 5 December 2018 and continues in force for six months (until 5 June 2019) or until the Order is 'confirmed'. The TPO comprises six tree groups and four individual trees. The total area of tree cover within the proposed TPO is approximately 2.03 hectares (20,300sqm).
- 2.3 Following the service of the TPO the landowners were given the opportunity to make representation. Furthermore, in accordance with the Regulations, a notice was published in the Midlothian Advertiser on Thursday 13 December and displayed at Penicuik Library, citing a five week period for any comments to be submitted for consideration (this represented an extended period from the statutory 28 day period, to compensate for Council office closures over the Christmas period).
- 2.4 The Council has received no written representations in connection with the TPO and therefore it is reasonable to conclude that the trees are a valuable amenity worthy of preservation for the future and should be protected by a Tree Preservation Order under Section 160(3) of the Town and Country Planning (Scotland) Act 1997 and The Town and

Country Planning (Tree Preservation Orders and Trees in Conservation Areas) (Scotland) Regulations 2010.

### **3 PROCEDURE**

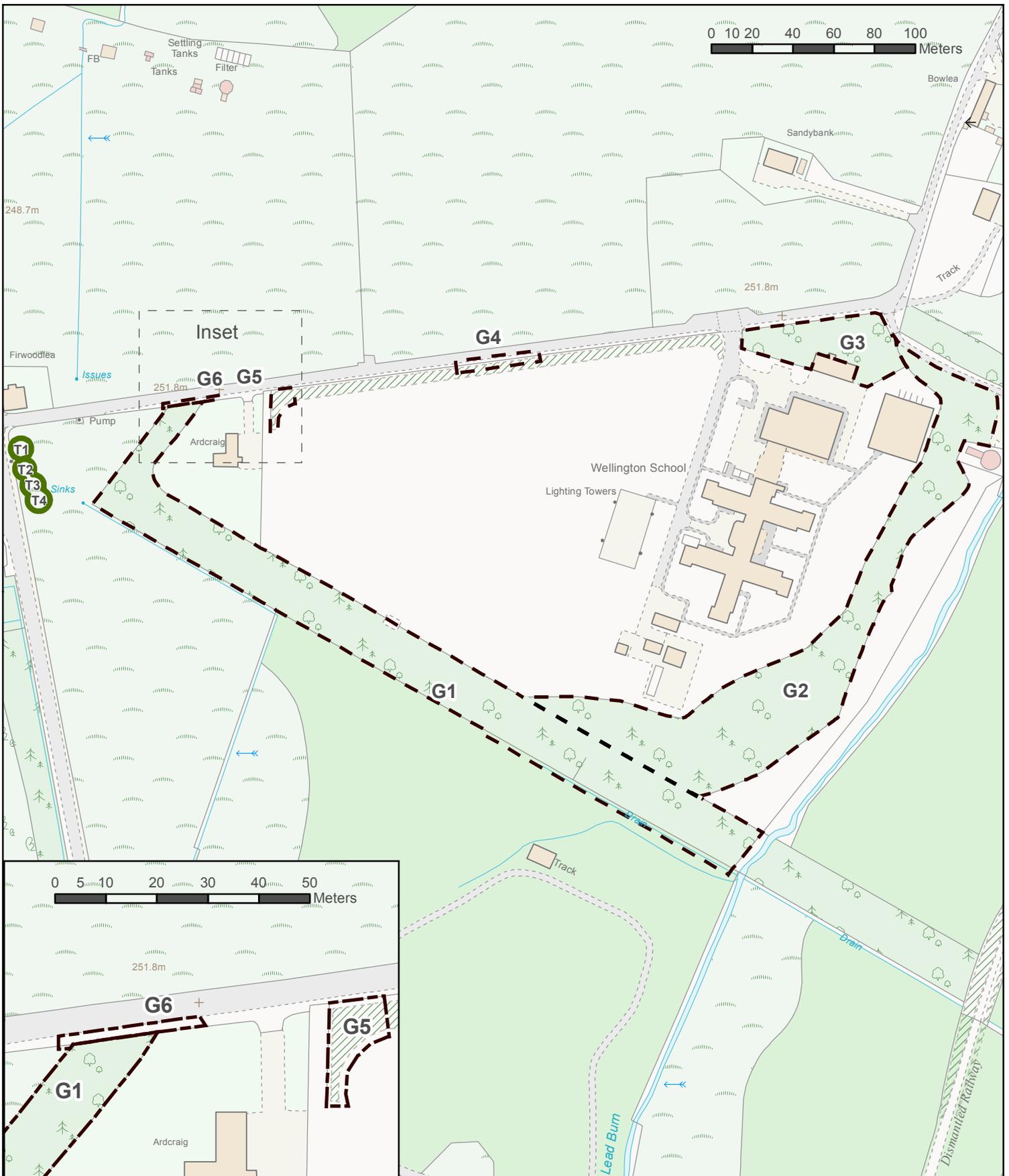
- 3.1 The TPO will continue to remain in effect to the end of the six month period (ending 5 June 2019). If the local planning authority wishes the TPO to stay in effect beyond the six months it must 'confirm' the order.
- 3.2 To 'confirm' the Order the LPA must register the TPO in the Land Registry of Scotland, place a copy on its own TPO register and notify the Forestry Commission Scotland (soon to be rebranded as *Scottish Forestry*), interested persons and any person who has made a representation (in this case no representations were received).
- 3.3 The report to Committee at its meeting of 28 August 2018 set out the planning reasons for issuing the TPO - there has been not material change in circumstances and no change in the planning position and as such it is appropriate to 'confirm' the TPO.

### **4 RECOMMENDATION**

- 4.1 It is recommended that the Committee agrees to confirm the Tree Preservation Order.

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 22 March 2019  
**Contact Person:** Ellie Mills, Landscape Officer  
Ellie.Mills@midlothian.gov.uk  
**Tel No:** 0131 270 6763  
**Background Papers:** Committee Report dated 28 August 2018, attached as Appendix A



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

### Land at the Former Wellington School

**This is the plan relative to the Midlothian Council Tree  
Preservation Order No.1 of 2018**

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File No. Tree Preservation Order 1 of 2018

Scale 1:2,500 (Inset: 1:1000)





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## **TREE PRESERVATION ORDER FOR TREES AT THE FORMER WELLINGTON SCHOOL SITE AND ON LAND TO THE SOUTH AND EAST OF ARDCRAIG, PENICUIK**

Report by Head of Communities and Economy

---

### **1 PURPOSE OF REPORT**

- 1.1 This report seeks the Committee's approval to issue a Tree Preservation Order (TPO) on land at the former Wellington School site and on land to the south and east of Ard Craig, Penicuik.

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

- 2.1 The site comprises trees and groups of trees on land at the former Wellington School and on land to the south and east of Ard Craig (residential property off the A701) between the A701 and the Lead Burn. The site is approximately 3km south of Penicuik and 2km south west of Howgate. The Lead Burn runs to the east and south east of the site.
- 2.2 The total area of tree cover within the proposed TPO is approximately 2.03 hectares (20,300sqm<sup>2</sup>).
- 2.3 The Wellington School buildings, outbuildings, playing fields and grounds remain in situ but are currently disused. The 'brown field' nature of site means the land is identified in the Midlothian Local Development Plan 2017 (MLDP) as an additional housing opportunity. The land occupied by the buildings and playing fields are not included within the proposed tree preservation order site.
- 2.4 The site is located in an elevated position and is predominantly surrounded by countryside, with the exception of the disused school site, and individual dispersed rural residential properties.

### **3 PROPOSAL**

- 3.1 It is proposed to create a tree preservation order covering six tree groups and four individual trees as shown on the attached site plan and photographs and as described below:-
- 3.2 Tree Group 1 is a mature mixed species shelterbelt of predominantly mature Beech trees and Scots Pine, planted after 1853 and before

1895. This is indicated by historic Ordnance Survey maps of the area. This tree group is a defining element in the landscape helping to create the character of the local area. It consists of an area over 300 metres long and 30 metres wide comprising mature Beech trees with Scots Pine along to its southern edge, and a wider mix of younger trees species including Alder, Oak, Birch, Beech and Pine on wet ground to the south east towards the Lead Burn, sheltered by a line of mature Beech trees.

- 3.3 Tree Group 2 comprises plantation woodland of mixed species located on an east facing bank to the east of the former Wellington School buildings. This woodland was most likely planted at the time that the school was built in order to provide screening and shelter, and continues to perform that role. This group consists mainly of Spruce, Sycamore, Alder, Fir and Pine and Ash.
- 3.4 Tree groups 3, 4 and 6 also comprise mature roadside Beech trees. These groups are the remains of a historic series of mixed species linear shelterbelt plantations, roadside avenues and tree lines all planted around same period which would have sheltered the land and defined the character of the area between Springfield farm to the south west and Howgate to the north east. Many of these shelterbelts and roadside trees have been lost over time. Remaining fragments include individual trees and small groups, and a beech avenue at Rosemay Farm (400 metres to the south west) which is protected under Tree Protection Order 1 of 2014. Tree group 3 is a mixed species group located to the north of the former Wellington School buildings and includes some original mature roadside Beech (dating pre-1895) with the addition of younger mixed species including Willow, Sycamore, Rowan, Goat Willow and Norway Maple. The younger trees were most likely planted around the time that the school was built.
- 3.5 Tree group 5 is a group of medium aged mixed species at the north west corner of the former Wellington School playing fields. Species include Rowan, Sycamore and Nordmann Fir.
- 3.6 Individual trees 1 to 4 are a row of four mature Sycamore to the east of the A701 at the junction with the access road to the former Wellington School.

#### **4 BACKGROUND**

- 4.1 The identification of the former Wellington School site and the neighbouring land for housing development in the MLDP has the potential of placing pressure on the identified trees and groups of trees. It is therefore appropriate to protect the identified trees because of their importance in the local landscape.

## 5 PROCEDURES

- 5.1 The provision for issuing a Tree Preservation Order is set out in the Town and Country Planning (Scotland) Act 1997, as amended by the Planning etc. (Scotland) Act 2006 and the Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010. A planning authority may make a TPO if it appears to them to be “expedient in the interest of amenity and/or that the trees, groups of trees or woodlands are of cultural or historic significance” (Scottish Government Planning Circular 1/2011: Tree Preservation Orders).
- 5.2 Following the service of a TPO the owner of the land and other interested parties have the opportunity to make representation. However there is no right of appeal against a Tree Preservation Order.
- 5.3 The TPO shall be in effect for six months, during which time representations from the owner of the land and other interested parties will be considered. If the local planning authority wishes the TPO to stay in effect beyond the six months it must ‘confirm’ the order.

## 6 PLANNING ISSUES

- 6.1 The tree groups and individual trees by means of their size, location and character form a visually prominent and important landscape feature in a landscape which is exposed and expansive. They are widely visible from the surrounding area, especially from the A701 and A6094 and are important in visual amenity terms and for biodiversity reasons.
- 6.2 The former Wellington School site is identified in the Midlothian Local Development Plan (2017) as Additional Housing Development Opportunity site AHs5, Wellington School. The land to the north of the site and of Wellington School is identified as the Wellington low density rural housing site under policy RD2 of the MLDP. The trees provide important visual screening and landscape softening of these sites and are important to the potential development of these sites. The trees act as a windbreak and create a more sheltered microclimate for adjacent sites, which in turn contributes to the setting and energy efficiency of dwellings. The Settlement Statement for the site AHs5 comments that *“the site (and extension) will require substantial landscape screening, to minimise the impact on the countryside location; therefore existing vegetation along all the boundaries should be maintained and enhanced as despite being open in places, this vegetation helps contain the site visually and against prevailing winds...”*
- 6.3 The trees form part of the landscape character of the area and date back to the period between 1853 and 1895. The issuing of TPO will be an important tool in protecting the trees aiding in the preservation of the historic landscape pattern.

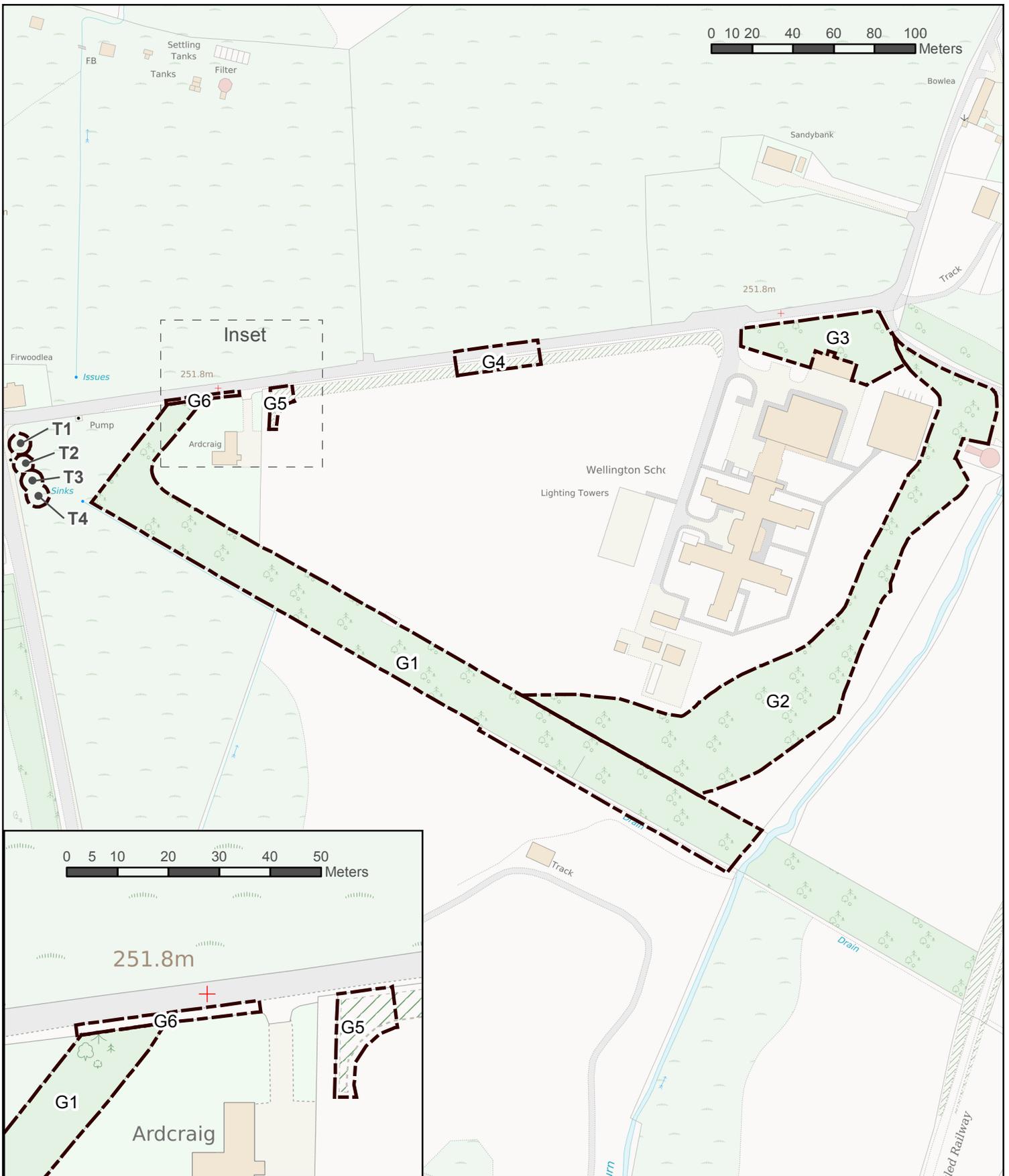
## **7 RECOMMENDATION**

7.1 It is recommended that the Committee:

- a) agrees to the issuing of a TPO to protect the trees at the former Wellington School site and on land to the south and east of Ard Craig;  
and
- b) to receive a further report to consider confirming the TPO once the owner of the land and other interested parties have had the opportunity to make comment.

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

**Date:** 16 August 2018  
**Contact Person:** Ellie Mills, Landscape Officer  
Ellie.Mills@midlothian.gov.uk  
**Tel No:** 0131 270 6763  
**Background Papers:**



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

Land at the former Wellington School Site and land to the South and East of Ard Craig, Penicuik  
**Key**  
 Individual Trees: T1-T4  
 Tree Groups: G1-G6

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File No. N/A  
 Scale: 1:2500 (Inset: 1:1000)



Site Photos: Proposed Tree Preservation Order; Former Wellington School Site

Group 1:-



Above: Group 1 viewed looking south from within former Wellington School Site



Above: View of Group 1 and Group 5 looking north-west within the former Wellington School Site



Above: Part of Group 1 (foreground) viewed looking south from within Wellington School Site. Beech trees in the foreground, Scots Pine to the rear. Filtered views through the trees towards Annsmill, the A701, and to TPO 1 Of 2014 Rosemay Farm on skyline.



Above: Group 1 viewed looking south-east from within former Wellington School site.



Above: View looking south-east from edge of Group 1, looking towards new development on A6094 and to ridge at Kingside Farm.



Above: View from within Group 1 looking north-west, showing mature beech trees on edge of south-east portion of the group

**Group 2:-**



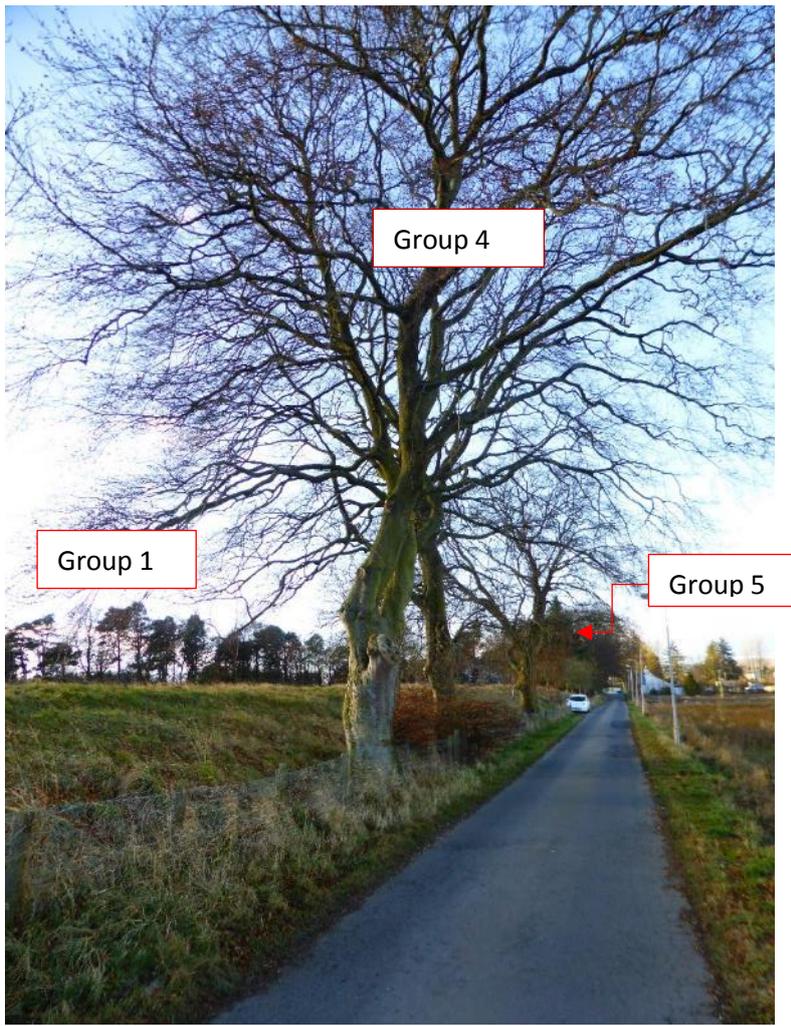
Above: Group 2 viewed looking north-west from the Lead Burn

**Group 3:-**



Above: Group 3 viewed looking west along access road to Wellington School

Group 4:-



Group 4 viewed looking west along access road from former Wellington School towards A701. Groups 1 and 5 are seen in the background.

Group 5:-



Group 5 viewed from within former Wellington School Site looking north

Group 6:-



Trees 1 to 4:-



Trees 1 to 4 viewed looking south west from access road to Wellington School. New housing on the A701 seen in the background.



Trees 1 to 4 viewed from A701 looking south east. Group 1 seen in background.





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**PRE - APPLICATION REPORT REGARDING ERECTION OF 64 DWELLINGHOUSES; CAR PARKING; AND ASSOCIATED WORKS AT LAND SOUTH EAST OF TYNEWATER PRIMARY SCHOOL, CRICHTON ROAD, PATHHEAD (19/00076/PAC)**

Report by Director of Education, Communities and Economy

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## **1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to advise the Committee of a pre application consultation submitted regarding the erection of 64 dwellinghouses; car parking and associated works at land south east of Tynewater Primary School, Crichton Road, Pathhead. The land comprises site h59 in the Midlothian Local Development Plan 2017 (MLDP).
- 1.2 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

## **2 BACKGROUND**

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre-application consultation for the erection of 64 dwellinghouses; car parking and associated works at land south east of Tynewater Primary School, Crichton Road, Pathhead was submitted on 1 February 2019.
- 2.3 As part of the pre-application consultation, a public event took place at Pathhead Community Hall on 15 March 2019, from 3pm to 7pm. On the conclusion of the public event and the 12 week pre application consultation engagement period the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's

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

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

### **3 PLANNING CONSIDERATIONS**

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP).
- 3.3 The site is situated at the south western edge of Pathhead. The site measures 2.9 hectares and is currently used as agricultural land. Vehicular access to the site is from Crichton Road via a 22m wide and 110 long strip of land. The main site is situated south east of Tynewater Primary School and is bounded to the north east by a footpath and by structure planting at Callender Park; and to the east and south east by fields.
- 3.4 The majority of the site (2.3 hectares) is identified within the MLDP as being an allocated housing site (site VH1 which was originally allocated in the 2008 Midlothian Local Plan) with an indicative capacity of 35 units. The remainder of the site (a strip of land along the south western edge of the site and including the vehicular access) is identified in the MLDP as being within the countryside. Any application will be subject to assessment against policies STRAT1: Committed Development; DEV2: Protecting Amenity within the Built-Up Area; DEV3: Affordable and Specialist Housing; DEV5: Sustainability in New Development; DEV6: Layout and Design of New Development; DEV7: Landscaping in New Development; DEV9: Open Space Standards; TRAN2: Transport Network Interventions; TRAN5: Electric Vehicle Charging; IT1: Digital Infrastructure; RD1: Development in the Countryside; ENV4: Prime Agricultural Land; ENV6: Special Landscape Areas; ENV9: Flooding; ENV10: Water Environment; ENV23: Scheduled Monuments; ENV25: Site Assessment, Evaluation and Recording; IMP1: New Development; IMP2: Essential Infrastructure Required to Enable New development to Take Place; and IMP3: Water and Drainage.
- 3.5 No specific development considerations are identified for the site in the MLDP.
- 3.6 If an application is submitted there will be a presumption in favour of residential development subject to securing developer contributions

towards infrastructure including education provision and affordable housing. The final number of dwellings will be subject to the details of the layout and form of the development secured by a subsequent planning application. That small part of the site, the strip of land to the south west, which is in the countryside is required to access the site and as such its use as such could be considered acceptable contrary to its allocation in the MLDP.

#### **4 PROCEDURES**

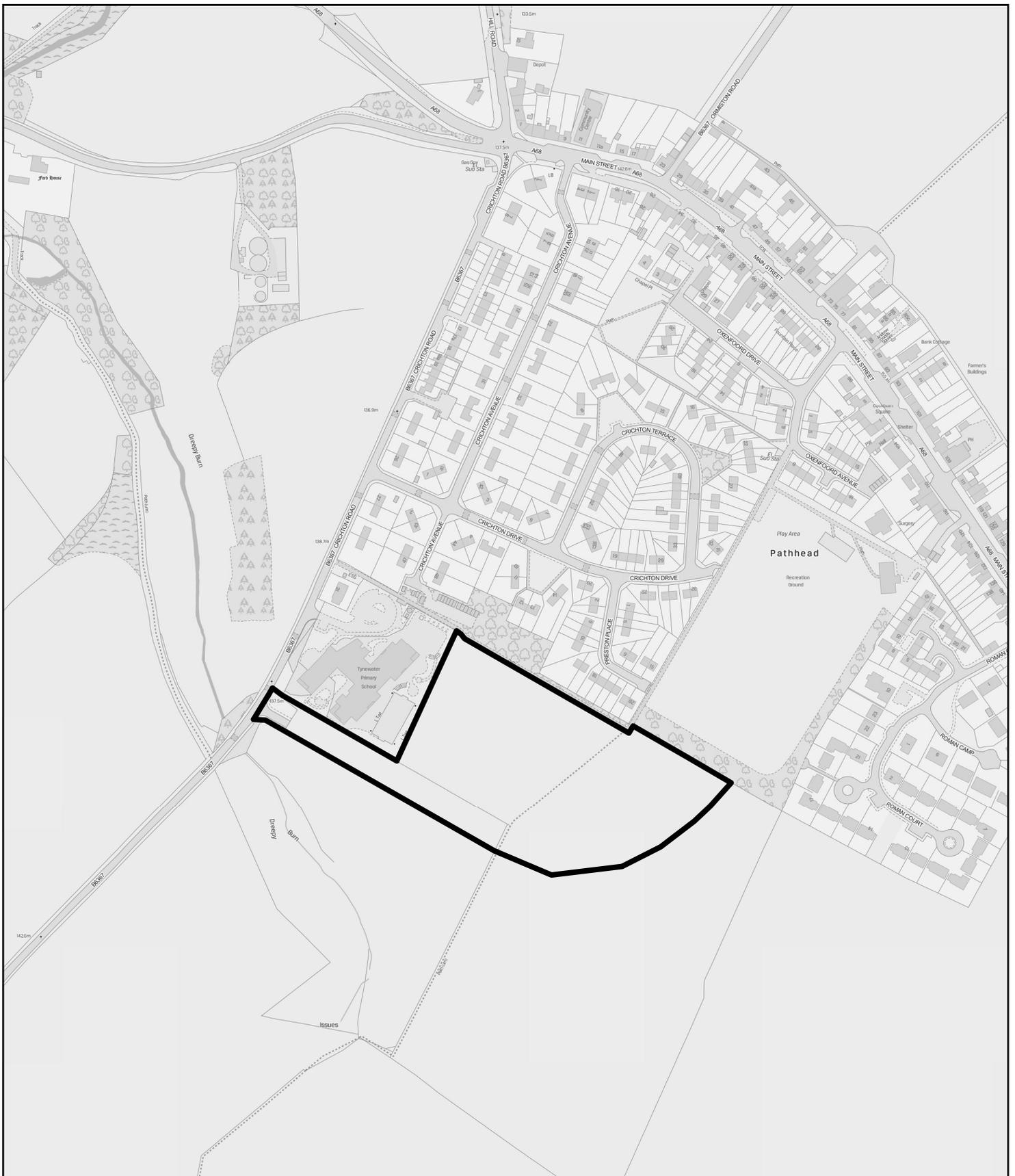
- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice'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

#### **5 RECOMMENDATION**

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

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 22 March 2019  
**Application No:** 19/00076/PAC  
**Applicant:** Muir Homes Ltd  
**Validation Date:** 1 February 2019  
**Contact Person:** Graeme King  
**Tel No:** 0131 271 3332



**Education, Economy  
& Communities**  
Midlothian Council  
Fairfield House  
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EH22 3AA

Proposal of application notice for erection of 64 dwellinghouses; car parking and associated works at Land South East of Tynewater Primary School, Crichton Road, Pathhead

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File No. 19/007076/PAC

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**APPLICATION FOR PLANNING PERMISSION 18/00735/DPP FOR THE ERECTION OF A COMMUNITY FACILITY INCORPORATING PRIMARY SCHOOL; EARLY YEARS PROVISION; LIBRARY AND LEISURE FACILITIES AT LAND AT DANDERHALL PRIMARY SCHOOL AND DANDERHALL RECREATION GROUND, EDMONSTONE ROAD, DANDERHALL**

Report by Director of Education, Communities and Economy

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**1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1 The application is for the erection of a community facility incorporating primary school; early years provision; library and leisure facilities at land at Danderhall Primary School and Danderhall Recreation Ground, Edmonstone Road, Danderhall. There have been no representations received and consultation responses from the Scottish Environment Protection Agency, the Coal Authority, Historic Environment Scotland, the Council's Archaeology Advisor, the Council's Environmental Health Manager and the Council's Policy and Roads Safety Manager.**
- 1.2 The relevant development plan policies are DEV2, DEV5, DEV6, DEV7, DEV8, DEV10, TRAN1, TRAN5, ENV9, ENV0, ENV11, ENV15, ENV22, ENV25 IMP1 and IMP3 of the Midlothian Local Development Plan 2017. The recommendation is to grant planning permission subject to conditions.**

**2 LOCATION AND SITE DESCRIPTION**

- 2.1 The 3.30 hectare site straddles Edmonstone Road and comprises the site of the existing Danderhall Primary School and grounds to the south of the road and the recreational ground to the north of the road. The southern part of the site (the existing school site) is bounded by housing. The northern part of the site (the recreation ground) is bound by woodland to the north and west and a social club (Danderhall Miners' Club), bowling green, sports facility, a play area and the recreational ground to the east.**
- 2.2 The Woolmet House Gateway and stone built boundary wall, a category A listed building, is located at the Danderhall Miners' Club in close proximity to the northern boundary of the site.**

- 2.3 There is a row of trees on the southern boundary of the site fronting onto Woolmet Crescent, a row of trees on the southern part of the recreation ground fronting Edmonstone Road and a cluster of trees in the north-eastern part of the existing school site.

### **3 PROPOSAL**

- 3.1 It is proposed to erect a community facility incorporating primary school; early years provision; library and leisure facilities. The building is situated along the eastern part of that part of the site to the south of Edmonstone Road (the existing school site). The building is 'C' shaped and fronts into the site. The rear elevation faces onto the gable elevations of the existing houses which run off Edmonstone Avenue.
- 3.2 The flat roof building is a mix of two storey and single storey with the differing components of the building being at different heights. The design and scale of the building absorbs the fluctuations in ground levels across the site. The building is a maximum of 11.5 metres above the existing ground levels. The northernmost part of the building contains the community facilities, the southernmost part of the building contains the nursery and early years provision and the central, main part of the building, contains a new three stream primary school.
- 3.3 The community facilities include a café, library, conference room, soft play provision and a servery. These facilities are located adjacent to the schools halls, dining room and expressive arts room.
- 3.4 The building is predominantly finished in white render with some areas, in particular two projections on the main elevation, being finished with a dark bronze/copper rain screen cladding. The building also incorporates large areas of glazing, in parts being two storey in height.
- 3.5 A car park for 124 spaces (including 8 disable parking spaces) and two bus parking spaces is proposed on part of the recreation ground to the north of Edmonstone Road. A further 10 car parking spaces are proposed as drop off points along Edmonstone Road in the southeast corner of the school site. Three zebra crossings and bus stops are also proposed along Edmonstone Road.
- 3.6 Outdoor play areas and educational space is to be provided in the central and eastern part of the site, in the area currently occupied by the Danderhall school building. This area will include a Multi-Use Games Area (MUGA), external play areas for various year groups, an amphitheatre, public plaza with public art and other areas of planting and hardstanding. The existing school building is to be retained until the new school is built. Some of the parking provision will be made available in advance of the new building being opened.
- 3.7 The application is accompanied by:
- A design and access statement;

- A drainage assessment;
- A site investigation report; and
- An initial assessment for roosting bats.

#### 4 BACKGROUND

- 4.1 The applicant carried out a pre application consultation (18/00350/PAC) for the erection of a community facility incorporating primary school; early years provision; library and leisure facilities in May – August 2018. The pre application consultation was reported to the Committee at its meeting in August 2018.

#### 5 CONSULTATIONS

- 5.1 The **Scottish Environment Protection Agency (SEPA)** does not object to the application. As a result of the levels on the site, the proposed primary school and nursery building will be built into the slope and therefore it is expected that the design and construction of the building will take account of the risk of surface water runoff ponding around the building, which can be a consequence when finished floor levels are below adjoining ground levels. A sustainable urban drainage system should be designed to treat surface water runoff from the impermeable surfaces of the development and to attenuate the runoff to ensure that the development does not lead to an increase in flood risk.
- 5.2 The **Coal Authority** does not object to the application.
- 5.3 **Historic Environment Scotland (HES)** does not object to the application and advise that the proposed development does not have an unacceptable impact on the setting of the A-listed Woolmet House Gateway and boundary wall. However, consideration should be given to the potential risk of damage to the listed structures caused by construction and other large vehicles turning at the proposed carpark entrance.
- 5.4 The Council's **Archaeology Advisor** confirms that an initial desk-based appraisal has been undertaken to consider the proposed developments possible impact on the historic environment. As a consequence a programme of archaeological works is required.
- 5.5 The Council's **Environmental Health Manager** does not object to the application. However, it is recommended that conditions are attached to any granted of planning permission requiring the treatment of the ground conditions following a site investigation, for the prior approval of lighting details and in relation to noise regulation.
- 5.6 The Council's **Policy and Road Safety Manager** does not object to the application.

## 6 REPRESENTATIONS

6.1 No representations have been received.

## 7 PLANNING POLICY

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

### Midlothian Local Development Plan 2017 (MLDP)

- 7.2 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.
- 7.3 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.4 Policy **DEV6: Layout and Design of New Development** requires good design and a high quality of architecture, in both the overall layout of developments and their constituent parts. The layout and design of developments are to meet listed criteria.
- 7.5 Policy **DEV7: Landscaping in New Development** requires development proposals to be accompanied by a comprehensive scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment.
- 7.6 Policy **DEV8: Open Spaces** seeks to protect and enhance existing identified (in the proposals map) open spaces within settlements.
- 7.7 Policy **DEV10: Outdoor Sports Facilities** seeks to protect outdoor sports facilities from re-development except in certain circumstances: where the proposed development is ancillary to the principle use of the site as an outdoor sports facility; the loss is only minor and would not affecting its overall use; the outdoor sports facility is to be replaced either by a new facility of comparable or greater benefit for sport or upgrading of an existing facility on the same site or nearby; or where the sports pitch needs assessment, open space audit and consultation with Sportscotland identify a clear excess of provision to meet the existing or anticipated demand in the area and the overall quality of provision in the locality will be maintained.
- 7.8 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.9 Policy **TRAN 5: 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 **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.11 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environmental.
- 7.12 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.
- 7.13 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.14 Policy **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.
- 7.15 Policy **ENV22: Listed Buildings** does not permit development that would adversely affect the character or appearance of a listed building, its setting or any feature of special architectural or historic interest.
- 7.16 Policy **ENV25: Site Assessment, Evaluation and Recording** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.
- 7.17 Policy **IMP1: New Development** ensures that appropriate provision is made for a need which arises from new development.
- 7.18 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

## **8 PLANNING ISSUES**

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

### The Principle of Development

- 8.2 The site is located within the built up area of Danderhall where there is a presumption in favour of appropriate development. The application site to the south of Edmonstone Road is an established school site and is situated within a predominantly residential area where the proposed school development would be compatible to the neighbouring land uses subject to the details of the proposed development complementing the character of the area and protecting the amenity of existing neighbouring properties. The consultations carried out have not highlighted any overriding reasons as to why the site could not be redeveloped for the proposed community facilities.
- 8.3 That part of the proposal (the formation of a car park) on the land to the north of Edmonstone Road (the recreation ground), on the opposite side of the road from the existing Danderhall Primary School, will result in the loss of a kick about area. This area is not sufficient to accommodate a formal sports pitch and has not been identified in the Council's draft Sports Pitch Needs Assessment. The proposed development compensates for the loss of the kickabout area by incorporating enhanced sports facilities and open space provision. Furthermore, the two existing football pitches on the recreation ground, the Bowling Green, the other sports facilities and play area is to be retained. At the pre application consultation event there was a strong view expressed by local residents that the loss of the kick about area was acceptable in preference to the provision of a substantial car park to help mitigate parking and school drop off problems.

### The Layout, Form and Design of Development

- 8.4 The proposed building is positioned along the eastern part of the existing school site. This is to enable the building to be constructed whilst the existing school remains open. Although this is not the ideal design approach, it is acceptable, and in this case leads to a good form of development. This is because the eastern part of the site is the widest part of the site and as such the buildings scale and form sits comfortably within the site complementing its surroundings. Furthermore, the positioning of the building means it looks out onto the developments play areas and the substantial and interesting areas of open space which will be used by the community outwith the traditional school day. The provision of the open space in front of the building helps to create a sense of place and grandeur which promotes the site as a community building.

- 8.5 The proposed car park is located on the northern side of Edmonstone Road and accessed from this road. The low level form of the car park sits comfortably with the neighbouring recreation ground and it is incorporated into this setting by landscaping. This is an acceptable location for the car park and in urban design terms its discrete location means it does not detract from the attractiveness of the proposed building. The car park will be required to provide electric vehicle charging points.
- 8.6 The redeveloped school site will have a number of pedestrian access points off Edmonstone Road all leading towards the building entrances and facilities. A vehicular access into a service yard is identified to the north of this part of the site away from the main pedestrian access points – this acceptable.
- 8.7 The proposed new building is attractive, with good proportions and a mix of modern materials. The two wings of the ‘C’ shaped building are enhanced with copper coloured glazing which will mark out the structure as a local landmark building – this is appropriate considering the community use of the building. The main central elevation is modern, flat roofed and finished with white render. The windows form an attractive fenestration pattern, which has an overall vertical emphasis. The rear elevation is less detailed than the front but still incorporates similar windows and the copper coloured cladding. The quality of the glazing is integral to the success of the design and can be secured by a condition on a grant of planning permission. In general terms the building is of a high quality design, however the entrance points to the school and nursery are passive features and do not provide the focal points you would expect on such a building, this is a missed opportunity which can be resolved with minor modifications to the buildings design.
- 8.8 The height of the building fluctuates, but is at a maximum of 11.5 metres high. The building will be the tallest building in the local area, however this can be considered a positive because of the end use of the building. Its relationship to the neighbouring properties at Edmonstone Avenue is considered acceptable on the basis that these residential properties sit perpendicular to the community building. Based on this configuration (the gable ends of the residential properties face the proposed building) and a separation distance of over 10 metres, the relationship is acceptable and will not result in a sense of overbearing to the properties in Edmonstone Avenue.

#### Other Planning Considerations

- 8.9 The MUGA is located to the front of the new building and has floodlighting and is enclosed by a high fencing (3m). The fencing is weldmesh and is fairly lightweight and transparent in appearance. The positioning of the MUGA, play areas and other open space in front of

the building means that there is good passive surveillance of the facilities from the building and other public areas such as nearby roads and footpaths. The existing solid, heavy palisade fencing around the site is to be replaced by a more lightweight transparent weldmesh fence. There is some scope to introduce planting on the sites boundary; albeit with care to ensure the passive surveillance is not unduly restricted. Securing successful boundary treatment could supplement the attractiveness of the proposed building.

- 8.10 The applicant has carried out an initial bat roost potential assessment of the site and concluded that the existing building has a high bat roost potential. Further survey and assessment work is to be carried out this summer and prior to any demolition work. If bats or bat roosts are located within the building mitigation measures will need to be taken in accordance with European Protected Species legislation. New development needs to make provision for biodiversity enhancement through the incorporation of bird and bat boxes, biodiversity friendly planting and the incorporation of green roofs (where appropriate), in accordance with development plan policy and the Council's biodiversity aspirations.
- 8.11 The category A listed gateway and boundary wall close to the parking area is not affected by the proposed development. Historic Environment Scotland have no objection to the proposals.
- 8.12 The applicant has submitted a preliminary drainage plan which shows attenuation and treatment cells under some of the play areas and adjacent to the parking area (to the rear of existing trees).
- 8.13 The Council's Environmental Health Manager has identified a potential noise concern which may arise from the use of plant and machinery. Experience from other education and community sites suggest the risk is low. Considering the site is owned by the Council and in its control, it is in its interest to mitigate any noise matters which may arise and as such it is not necessary to impose a noise regulating planning condition. The fall-back protection for local residents is that unacceptable noise levels can be investigated and considered as a statutory noise nuisance under separate legislation and be liable to action from the Council.

## **9 RECOMMENDATION**

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

*The site is located within the settlement boundary of Danderhall and on a site with an established educational and community use and as such there is presumption in favour of an appropriate educational and community use development. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan*

*policies. The presumption for development is not outweighed by any other material considerations.*

subject to 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 bin stores or any other ancillary structures;
  - v schedule of plants to comprise species, plant sizes and proposed numbers/density;
  - vi programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the building coming into use. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August);
  - vii drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
  - viii proposed car park configuration and surfacing;
  - ix proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
  - x proposed play equipment; and
  - xi proposed cycle parking facilities.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird nesting season (March-August) and bat roosting period (April – September).

***Reason:*** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies DEV2,*

*DEV6 and DEV7 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

2. Development shall not begin until temporary protective fencing is erected around all trees on the site to be retained. The fencing shall be positioned in circumference to the trunk at a distance from it which correlates to the trees canopy unless otherwise agreed in writing with the local planning authority. No excavation, soil removal or storage shall take place within the enclosed area.

***Reason:*** *To ensure the development does not result in the loss or damage of a tree which merits retention in accordance with policy ENV11 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

3. 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. The external wall finish detailed on the elevation drawings, namely the rain screen TECU cladding panel identified as dark bronze/copper shall be used as the finish material. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

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

4. Development shall not begin until details of the site access, roads, footpaths, cycle ways and transportation movements have been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
  - ii proposed vehicular, cycle and pedestrian access;
  - iii proposed roads (including turning facilities), footpaths and cycle ways;
  - iv proposed visibility splays, traffic calming measures, lighting and signage;
  - v proposed construction traffic access and haulage routes;
  - vi a green transport plan designed to minimise the use of private transport and to promote walking, cycling and the use of public transport;
  - vii proposed car parking arrangements;
  - viii a programme for completion for the construction of access, roads, footpaths and cycle paths; and

- ix proposed on and off site mitigation measures identified by the traffic assessment submitted with the application, in particular the removal of the existing horizontal traffic calming features and the introduction of 3 raised zebra crossings on Edmonstone Road, the introduction of a parking layby and the removal/remarking of existing restrictions.

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

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

- 5. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
  - i. the nature, extent and types of contamination and/or previous mineral workings on the site;
  - ii measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
  - iii measures to deal with contamination and/or previous mineral workings encountered during construction work; and
  - iv the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes; 1) the measures to decontaminate the site shall be fully implemented as approved by the planning authority; and 2) a validation report shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme and the planning authority have confirmed the validation.

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

- 6. Development shall not begin until a programme of archaeological works has been completed in accordance with a written scheme of

investigation comprising a trial trench evaluation and a desk-based/archive assessment. The written scheme of investigation shall be approved in writing by the planning authority and carried out by a professional archaeologist prior to any construction works or pre commencement ground works taking place. There shall be no variation therefrom unless otherwise agreed in writing by the planning authority.

**Reason:** *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policy ENV25 of the Midlothian Local Development Plan 2017.*

7. Development shall not begin until details of a sustainability/biodiversity scheme for the site, including the provision of bricks and boxes for bats and swifts 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 DEV5 of the Proposed Midlothian Local Development Plan 2017.*

8. Prior to the commencement of development a bat survey shall be carried out of the existing building. The bat survey shall include a full Preliminary Roost Assessment of the site and bat activity surveys. It shall be carried out in accordance with the letter dated 21 November 2018 from Stuart Spray Wildlife Consultancy submitted by the agent on 21 January 2019. The Bat survey shall include a report and if necessary a Bat Mitigation Plan and the preparation of a license application to Scottish Natural Heritage to disturb a European Protected Species. All mitigation measures recommended by the report shall be complied with.

**Reason:** *The existing school buildings have bat roost potential. The new building is to be erected prior to the demolition of the existing. Bats are a European Protected species and a detailed bat survey is required prior to the development commencing in order to protect the species.*

8. 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 2017.*

9. Development shall not begin until details of the floodlighting system and any security lights to be installed within the site have been submitted to and approved in writing by the planning authority. The floodlights and security lights shall be designed and installed such that there is no direct illumination of any neighbouring sensitive property and the lamp design shall be such that the actual lamps and inner surface of the reflectors are not visible from neighbouring houses which have a garden boundary with the application site. In addition, the lighting shall be designed to minimise the spillage of light up into the sky. The floodlighting system shall be fitted with an automatic cut out to ensure that the system cannot operate after 9pm. 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.

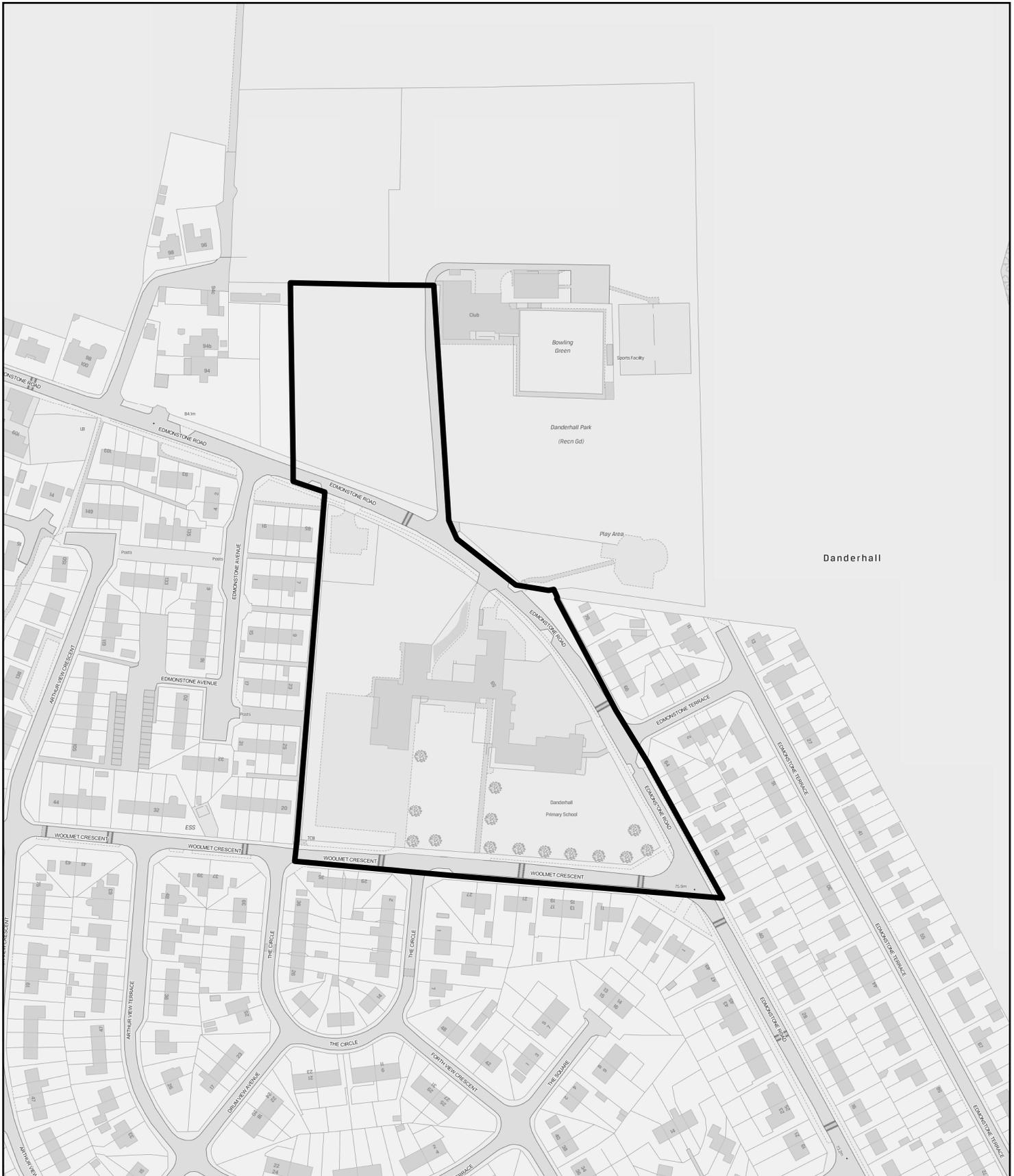
**Reason:** *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies DEV2 and DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

10. Amended proposals showing more prominent entrances to both the school and nursery shall be submitted to and approved in writing by the planning authority prior to development commencing. 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:** *The entrances to these two important parts of the building are not considered to be sufficiently prominent.*

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 22 March 2019  
**Application No:** 18/00735/DPP  
**Applicant:** Midlothian Council  
**Agent:** AHR  
**Validation Date:** 27 September 2018  
**Contact Person:** J Learmonth  
**Tel No:** 0131 271 3311  
**Background Papers:**



Danderhall



**Education, Economy  
& Communities**  
Midlothian Council  
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Erection of community facility including primary school;  
nursery; library and leisure facilities at Danderhall Primary  
School, 59 Edmonstone Road, Danderhall

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**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE 18/00535/PPP FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED WORKS AT SITE HS19 LAND TO THE NORTHWEST OF MOAT VIEW, ROSLIN, MIDLOTHIAN**

Report by Director of Education, Communities and Economy

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

- 1.1** The application is for planning permission in principle for residential development on land to the northwest of Moat View, Roslin. The site comprises the western part of allocated housing site Hs19 in the Midlothian Local Development Plan 2017. There have been 72 representations and consultation responses from the Scottish Environment Protection Agency, the Coal Authority, the Roslin & Bilston Community Council, the Council's Archaeology Advisor, the Council's Head of Education, the Council's Housing Planning and Performance Manager, the Council's Environmental Health Manager, the Council's Policy and Roads Safety Manager and the Council's Land Resource Manager.
- 1.2** The relevant development plan policies are policies 5 and 7 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT3, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.
- 1.3** The recommendation is to grant planning permission subject to conditions and the applicant entering into a Planning Obligation to secure contributions towards necessary infrastructure and the provision of affordable housing.

## **2 LOCATION AND SITE DESCRIPTION**

- 2.1** The site is located on the northern edge of Roslin, separated from the village by the disused rail line which is now Core Path 29. Core Path 27, which connects Roslin to a network of other paths in the wider countryside, with agricultural fields beyond bounds the site to the north. The Kill Burn cuts through the said agricultural fields. The site is approximately three quarters of allocated housing site Hs19 – the other quarter is the subject of a separate undetermined planning application (18/00703/DPP) for 54 dwellings and associated works and bounds the site to the east, beyond which is Main Street (the B7006). Core Path 29 with residential properties in Moat View beyond bound the site to the

south. Core Path 29 with a combination of woodland and housing, both constructed and under construction in the CALA Homes development known as Chapel Lawns beyond bounds the site to the southwest. Existing woodland bounds the site the west. The site is approximately 11.5 hectares.

- 2.2 The site comprises two gently sloping agricultural fields divided by a post and wire fence. The site falls gently from the south/southwest to east/northeast. A discontinuous tree lined hedgerow crosses the site from the southeast to the northwest near the centre of the site. Close to the northern end of the western boundary of the site there is a copse of mature trees. The site is enclosed to the north/northwest and along the western and south western edges by scrub and semi-mature trees. Additionally, the application site includes part of Core Path 29 and part of Core Path 27.
- 2.3 The existing built form of Roslin comprises primarily a mixture of mostly two-storey detached, semi-detached and terraced houses within good sized plots.

### **3 PROPOSAL**

- 3.1 The application is for planning permission in principle for residential development including the formation of two vehicular accesses, one from the south western boundary via the spine road within the neighbouring Chapel Lawns development, which is accessed off Penicuik Road (B7003), and the other from a point on the eastern boundary of the site via the proposed spine road within the neighbouring site the subject of planning application 18/00703/DPP, accessed from Main Street (B7006).
- 3.2 The applicant has submitted a masterplan comprising a design concept for the whole of site Hs19 and has superimposed onto its eastern part the proposed layout the subject of undermined planning application 18/00703/DPP. If the site were built out in accordance with the masterplan and the eastern part of site Hs19 built out as proposed in application 18/00703/DPP there would be a total of 272 dwellings built on site Hs19. The masterplan indicatively shows up to 221 dwellings on the site the subject of this application. The average housing density across the site is approximately 18 dwellings per hectare and comprises:

<u>House type:</u>	<u>Number</u>
<b>Private</b>	
4-bed detached	73
4-bed demi-detached	50
3-bed terrace	27
3-bed cottage flat	8
2-bed cottage flat	8
Total Private	<u>166</u>

## Affordable

2-bed flat	28
3-bed terrace	23
4-bed semi-detached	4

Total Affordable: 55

3.3 The following pedestrian connections are shown in the masterplan: (i) three connections to the north linking to Core Path 27; (ii) three connections to the south to Core Path 29; (iii) a link to Core Path 29 in the west; (iv) a cycleway/footway connection to the south west across Core Path 29 into the Chapel Lawns development; and (v) a cycleway/footway connection to the east onto the existing footway alongside the B7006.

3.4 The application is accompanied by:

- A pre-application consultation (PAC) report;
- A planning statement;
- A transportation assessment;
- A tree survey;
- A flood risk assessment;
- An ecological impact assessment;
- A coal mining risk assessment;
- An archaeological desk-based assessment;
- A drainage assessment report;
- A utilities appraisal;
- A geo-environmental & geotechnical phase 1 investigation report;
- A masterplan framework; and
- A construction traffic management plan.

## 4 BACKGROUND

4.1 The applicants carried out a pre-application consultation (18/00139/PAC) for a residential development and associated works in February – May 2018.

4.2 An Environmental Impact Assessment (EIA) Screening Opinion (18/00242/SCR) for residential development with associated access, open space and associated works was submitted in April 2018. It was determined that that an EIA was not required.

## 5 CONSULTATIONS

5.1 The **Scottish Environment Protection Agency (SEPA)** does not object to the application.

5.2 The **Coal Authority** does not object to the application subject to securing, by way of a condition on any grant of permission, a site

investigation and appropriate remediation measures to mitigate the sites coal mining legacy.

**5.3 Roslin & Bilston Community Council's** comments are summarised as follows:

- The application should be withdrawn and a fresh application submitted for the whole of site Hs19;
- The site entrance, through the adjacent site the subject of application 18/00703/DPP, onto the B7006 is flanked by two blind summits and floods on a regular basis. A separate site access direct from the B7006 should be provided (for residents and construction traffic);
- Concern at the existing capacity of the B7006 (for motor vehicles, pedestrians and cyclists) and its potential to accommodate traffic arising from housing sites Hs18 and Hs19;
- Increased traffic going through Roslin village will have an impact on highway safety, the operation of the bus services and safe routes to school (increased difficulties crossing the road);
- There should be no through road into the site via the existing Chapel Lawns development, creating a 'rat-run' linking the B7003 to the B7006;
- It is not possible to know how many houses are being proposed on site Hs19 as a whole – there is concern that the number of dwellings will exceed the indicative numbers in the MLDP;
- The application should not be approved until the details of the house designs, including proposed materials, have been submitted for consideration;
- There should be a good mix of housing including 25% affordable housing – there is a need for affordable housing in Roslin and Bilston;
- Three storey buildings would be inappropriate;
- All houses should be designed to enable 'care in the home' with level entry, doorways wide enough for wheelchairs, downstairs access to washing facilities (or a readily convertible room) and a downstairs room which can be used as a bedroom and is large enough to accommodate nursing equipment;
- Concern over traffic congestion in Roslin and along the A701; more should be done to reduce car based journeys;
- The traffic speed through Roslin should be reduced to 20mph;
- Appropriate opportunities/infrastructure for active travel should be provided;
- Dog waste bins should be provided;
- A footpath should be provided along the south side of the B7006 between the Bilston Roundabout on the A701 and the site;
- Appropriate onsite parking should be provided;
- Utilities (gas, electric, water, drainage and broadband) should be considered as part of the assessment and any required upgrades should be delivered by the developers;

- The development should include a strategy for energy efficiency, energy saving and resource conservation;
- Porous materials should be used throughout the site, all areas should have pavements which facilitate wheelchair access and the street design should be suitable for people with dementia;
- Tree-lined avenues and general tree planting is to be encouraged, existing trees need to be protected and appropriate separation between houses and trees should be secured;
- Land for food production should be incorporated into the scheme - allotments and community gardens;
- Additional health services should be provided/funded – local residents must be able to access the local medical centre;
- Developer contributions should be secured towards infrastructure and local services;
- A transport assessment which considers all the proposed residential developments in the area should be submitted for consideration; and
- Flood risk and the developments impact on archaeology shall be mitigated.

5.4 The Council's **Archaeology Advisor** informs that the site contains previously recorded archaeological sites and lies in close proximity to other known heritage assets, including the Inventory Battlefield site, the Battle of Roslin. Accordingly, the area is regarded as having archaeological significance with a high potential for the discovery of archaeological remains. As a consequence, there is a requirement for a programme of archaeological works to mitigate the impact of the proposed development upon the historic environment (a metal detecting survey and field evaluation by trial trenching of 5% of the total site area which should be reported upon initially through a Data Structure Report (DSR).

5.5 The Council's **Head of Education** estimates that an indicative 221 dwellings would give rise to 69 primary school pupils and 54 secondary school pupils and advises that the applicant will be required to make a developer contribution to meet the provisional requirements. The site is in the catchment area of Roslin Primary School, St Margaret's RC Primary School, Beeslack High School and St David's RC High School.

5.6 The **Midlothian Health and Social Care Partnership** was consulted on the application and has made no comment.

5.7 The Council's **Housing Planning and Performance Manager** advises that 1,371 households on the Council's Housing List have chosen Roslin as an area they would choose to live. The Council would like to see the provision of predominantly smaller units; one and two bedroom properties rather than the predominance of three and four bedroom properties indicatively referenced by the developer. Four in a block (cottage style) flats are preferable and avoid a requirement for a common stair and affords occupants their own private garden area. It would also help the estate to look 'tenure blind'. It would be preferable to see some of the

indicatively shown terraced housing as two bedroom properties. In the proposed plans the two bedroom dwellings are all flats and a significant proportion of those on the Housing List state a preference for a house rather than a flat.

- 5.8 The Council's **Environmental Health Manager** does not object to the application, subject to conditions being attached to any grant of planning permission ensuring that ground contamination remediation works are undertaken and the hours of construction are limited to reasonable working times.
- 5.9 The Council's **Policy and Road Safety Manager** does not object to the application subject to the following issues being considered in the Matters Specified in Conditions application/s if planning permission is granted:
- a. The spine road running through this site (linking the residential development to the west with the development on the eastern side which is the subject of an undetermined planning application (18/00703/DPP) should be designed as a 6m wide road with the remaining residential roads being designed as a minimum of 5.5m wide. Sections of shared surface could be used in certain areas of the development if required;
  - b. A formal vehicle turning head will be required at the end of adopted public roads;
  - c. Any traffic calming which is required within the development should be provided by vertical traffic calming features at suitable locations;
  - d. Residential and visitor car parking spaces are required to be provided to meet current Council standards;
  - e. A suitable level of electric vehicle charging points should be provided within the development;
  - f. Secure, covered, lockable cycle parking facilities will be required for each dwelling which does not have access to a private rear garden. The buildings should have lockable metal doors with an automatic internal light and floor drainage. The internal cycle storage should take the form of standard 'Sheffield' type rack which can accommodate two cycles each. These facilities should be sited in secure locations which can be overlooked by the properties they are serving;
  - g. The detailed design of the internal road alignment where it joins the Chapel Lawns road network and the eastern road network within the site the subject of an undetermined planning application (18/00703/DPP) will require consideration and may involve a change of surfacing material, vertical traffic calming features, road markings or similar traffic management features;

- h. The proposed public footpath shown running through the landscaped area between plot 214 and plot 99 should be formed as a 3m wide cycleway/footpath;
- i. The proposed footpath between plots 221 and 214 should be formed as a 3m wide cycleway/footpath to provide a more direct route for cyclists through the development;
- j. A raised zebra crossing style feature is shown where the internal road network crosses the existing cycleway/footway network. This may not be the best feature to use in this location and technical details of the proposed crossing point would be required;
- k. The existing footpath link running from plot 3 to the public footway on Moat View to the south will function as a main pedestrian/cycling route to the local primary school and formal street lighting should be installed on this link;
- l. The existing rural Core Path 27 runs along the northern boundary of this site and this residential development will result in an increase in the level of usage of this path. Details of how the core path is being integrated into the development should be provided;
- m. Four footway links are shown leading onto Core Path 29. These links should be formed as adoptable 3m wide cycleway/footpath links to allow their use by both cyclists and pedestrians; and
- n. Details of the proposed surface water management proposals (SUDS) for the site will be required, this would include technical details of the SUDS basin with sections showing the relationship of the basin to the roads/verge.

5.10 The following additional comments are made on the indicative masterplan:

- a. Some sections of footway are redundant and could be changed to grass verge;
- b. Some sections of road would be suitable to operate as a 'shared surface';
- c. The developer has indicated that they intend to provide a separate construction vehicle access to serve the site from the eastern section of the B7006. This would remove the need for construction vehicles to travel through the village and details of this access should be submitted for consideration;
- d. Some local residents have voiced concerns that the internal access road through this site could function as a 'rat run' linking the B7003 to the B7006. It would appear unlikely that this route

would prove attractive to passing traffic looking to travel from one side of Roslin to the other. The route through the development has been designed as a traffic calmed, non-direct route which would allow vehicles from the development to exit to the east or the west. The design also allows any delivery or service vehicles entering the development to continue through without being required to retrace their route and then travel through Roslin using Main Street/Penicuik Road. The creation of an artificial obstruction to traffic flow within the development, forming two cul-de-sacs, would result in additional wasted mileage with associated environmental impacts and potentially result in additional traffic using Main Street/Penicuik Road.

- 5.11 The **Council's Land Resources Manager** requests that both Core Path 27 and Core Path 29 remain open and unobstructed by the development and that the development is sufficiently permeable to not prejudice any future expansion of links and/or connections to the wider path network.

## 6 REPRESENTATIONS

- 6.1 There have been 72 objections all of which can be viewed in full on the online planning application case file. One of the objections is from the Chapel Lawns resident's group 'CLAIM' (Chapel Lawns Action in Midlothian) which was set up to represent the collective views of residents in the neighbouring Chapel Lawns CALA Homes development. A summary of the objections are as follows:

- The loss of green fields, the land is greenbelt and should not be built on – brownfield sites should be developed instead;
- Loss of views - views from properties in Marmion Avenue would be obstructed by the development;
- The existing mature trees and hedges on the site should be retained and safeguarded;
- More trees should be planted on the site than are indicated on the masterplan;
- There is not adequate school provision to serve the pupils that would result from the development;
- Increased strain on existing utilities and services;
- The proposed development will have a negative impact on tourist visits to Roslin Chapel;
- There are insufficient public amenities and services in Roslin (in particular health services/doctors surgeries);
- The existing road infrastructure does not have sufficient capacity to cope with the proposed increase in use resulting in increased congestion and road safety concerns;
- The development will spoil the village's rural character, erode its identity and increase coalescence with Bilston;
- The size and architectural form of the new housing will be at odds with the established character of Roslin;

- Loss of, and harm to wildlife habitat;
- Concern about the safety of children during periods of construction;
- A developer contribution should be sought for a new community hall in Roslin and/or for a new play park/skate park/bike trail;
- Inadequate details/information have been provided by the applicant regarding the delivery of essential infrastructure required to facilitate the development including education provision and roads;
- The vehicular access to the site should be from the east off the B7006 (Main Street) and not from the west as it would have to cross over the Moat View Path (Core Path 29);
- The developer should make a financial contribution towards the implementation of the Council's Active Travel Strategy, including improved bus services;
- Safety concerns over the SUDS basin, risk of children drowning;
- Loss of prime agricultural land which has the potential for being used for bio fuels;
- The development would spoil the entrance into Roslin;
- There is not a local housing shortage that justifies the scale of development proposed;
- Increased littering and dog fouling;
- The vehicular entrance to the development should be off a roundabout for reasons of road safety;
- The increase in traffic generate by the development would result in an increase in particulates in the air and thus a decrease in air quality;
- Loss of protected flora and fauna;
- The site is of archaeological significance and this should be taken into consideration in the determination of the application;
- The development should not disturb Roslin Moat Nature reserve;
- A new park should be provided within the development;
- A new leisure facility should be provided in the development;
- The access road crossing core path 29 will increase risks to cyclists, dog walkers, ramblers and children using the path;
- The Council's policy on core paths requires that they are not altered to be an urban roadside footway unless designed as a cycleway;
- Concerns over drainage and flooding;
- Settlement coalescence between Straiton, Loanhead, Bilston and Roslin should not be allowed to occur;
- The methodology and thus the conclusions of the traffic assessment submitted in support of the application is flawed;
- If a road within the proposed development extends up to the boundary with the neighbouring Chapel Lawns development and connects to Kilburn Wood Road within that development this would create a connecting road to/from the B7003 to the B7006. The resultant through road would become a rat run;
- There is no a need for the site to be accessed from the B7003 via Kilburn Wood Road within the CALA Chapel Lawns development. Instead the site should be accessed from the east off the B7006;

- The Chapel Lawns development at Kilburn Wood Drive was promoted by CALA as a small cul-de-sac that includes children's play area and public open space. The road is suitable for residential access and its designated narrowness was not intended for through traffic. The front gardens are not deep, have no walls or fencing and the finished road surface is to be mono-blocked eventually. Thereby it is unsuitable as a through road to serve the development the subject of the current application;
- The factor fees paid by residents of Chapel Lawn will increase owing to additional maintenance caused by the large volumes of construction traffic and domestic traffic associated with the proposed development using Kilburn Wood Drive;
- The masterplan does not show the proposed development integrating well with the existing settlement of Roslin;
- Loss of open space;
- Artic lorries should be prohibited from using the Roslin Glen road;
- The speed limit on existing roads in Roslin should be reduced to 20mph and speed bumps should be introduced in lieu of traffic islands;
- Too many houses are proposed for Roslin;
- Increased CO2 emissions will contribute to global warming;
- The construction jobs generated by the development will not benefit the local population;
- Concern about undue noise and disturbance during the period of construction;
- During the construction of the neighbouring CALA development there have been problems with flooding of neighbouring properties;
- With the amount of new development proposed in Roslin it is not possible to create sustainable communities;
- The size of and the location of the open space on the site as delineated in the masterplan would not mitigate against the loss of the site to development;
- The Midlothian Local Development Plan needs to be reconsidered in light of Brexit;
- Detrimental effect on the market value and rateable value of the houses in Kilburn Wood Drive;
- Concern that neighbour notification was not carried out comprehensively;
- Construction access should not be via Kilburn Wood Drive on grounds of road safety and residential amenity;
- If there is to be a through road from the neighbouring CALA Homes development (Kilburn Wood Drive) then the route should be meandering so as to prevent excessive vehicle speeds which would compromise road safety and to discourage rat running between the B7006 and the B7003;
- Concern about cumulative impact of traffic generated by the current application site and other allocated/consented housing sites in the west of Midlothian including Penicuik;
- The site is contaminated and there are unresolved ground conditions which are a risk to health. The risks are: (i) mine entries

within/near to the site; (ii) potential for mine gas migration to the surface; (iii) former railways; (iv) areas of infilled/made ground unsuitable for placement of foundations; (v) silage leachate; (vi) fly-tipping; (vii) Japanese knotweed;

- Loss of privacy for existing residences;
- The proposed development has not been designed/considered concurrently with the CALA- Kilburn Wood Drive development or the eastern part of site HS19 the subject of application 18/00703/DPP;
- Harm to landscape views of the Pentland Hills from the existing settlement;
- Access to the site via Chapel Lawns is contrary to the MLDP which requires the protection, safeguarding and enhancement of Core Path 29 and does not state that there is a requirement for a vehicular link to be formed between Chapel Lawns and allocated housing site Hs19;
- The introduction of a walking and cycling only link between Chapel Lawns and the application site would enhance the active travel network within the Roslin area, encouraging more trips on foot and by bike;
- The Council may be in breach of contract with a third party by entering into an agreement with the applicant - the University of Edinburgh, to permit rights of access over Core Path 29/title to part of Core Path 29 on which the link road would cross over. Additionally, the Council, by selling title to part of Core Path 29 is showing bias in favour of the University of Edinburgh over the concerns of the local community. The Council's decision to sell part of Core Path 29 to the applicant is pre-emptive of any decision on the current planning application. This therefore raises the question whether the Council can remain impartial in determining the application;
- A road link from the B7006 to the application site negates the need for a link further west to Chapel Lawns. A suitably worded planning condition should be imposed on a grant of planning application 18/00703/DPP to ensure that a link road on that site is provided early in the development in order to facilitate development of that neighbouring site and the site the subject of this current application concurrently and to ensure that such a road is open at all times; and
- A condition should be imposed requiring construction traffic to only access the current application site from the B7006.

## **7 PLANNING POLICY**

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

[Edinburgh South East Scotland Strategic Development Plan 2013 \(SESPlan\)](#)

- 7.2 **Policy 5 (HOUSING LAND)** requires Local Development Plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing requirements for each period.
- 7.3 **Policy 7 (MAINTAINING A FIVE YEAR HOUSING LAND SUPPLY)** states that sites for Greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying each of the following criteria: (a) The development will be in keeping with the character of the settlement and local area; (b) The development will not undermine Green Belt objectives; and (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

Midlothian Local Development Plan 2017 (MLDP)

- 7.4 Policy **STRAT3: Strategic Housing Land Allocations** states that strategic land allocations identified in the plan will be supported provided they accord with all other policies. The development strategy supports the provision of an indicative 260 housing units on the site (Hs19).
- 7.5 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.6 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.
- 7.7 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.
- 7.9 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.10 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space

standards as set out in Appendix 4 of that Plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan.

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

(including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.

- 7.19 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.20 Policy **ENV24: Other Important Archaeological or Historic Sites** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting.
- 7.21 Policy **ENV25: Site Assessment, Evaluation and Recording** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.
- 7.22 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.23 Policy **IMP1: New Development**. This policy ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.
- 7.24 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.
- 7.25 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

## National Policy

- 7.26 The **SPP (Scottish Planning Policy)** sets out Government guidance for housing. All proposals should respect the scale, form and density of their surroundings and enhance the character and amenity of the locality. The individual and cumulative effects of infill must be sustainable in relation to the social and economic infrastructure of a place, and must not lead to over-development.
- 7.27 The SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to be considered high quality, as such a development should be; distinctive; safe and pleasant; welcoming; adaptable; resource efficient; and, easy to move around and beyond. The aims of the SPP are developed within the local plan and local development plan policies.
- 7.28 The SPP states that *design is a material consideration in determining planning applications* and that *planning permission may be refused and the refusal defended at appeal or local review solely on design grounds*.
- 7.29 The SPP supports the Scottish Government's aspiration to create a low carbon economy by increasing the supply of energy and heat from renewable technologies and to reduce emissions and energy use. Part of this includes a requirement to guide development to appropriate locations.
- 7.30 The SPP notes that "high quality electronic communications infrastructure is an essential component of economic growth across Scotland". It goes on to state that
- "Planning Authorities should support the expansion of the electronic communications network, including telecommunications, broadband and digital infrastructure, through the development plan and development management decisions, taking into account the economic and social implications of not having full coverage or capacity in an area"*.
- 7.31 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.
- 7.32 **Designing Places, A Policy Statement for Scotland** sets out the six key qualities which are at the heart of good design namely identity, safe and pleasant environment, ease of movement, a sense of welcome, adaptability and good use of resources.
- 7.33 **The Scottish Government's Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

## 8 PLANNING ISSUES

- 8.1 The main issue to be determined is whether the proposal accords with the development plan unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

### The Principle of Development

- 8.2 The site is part (approximately three quarters) of a site allocated for housing (site Hs19) in the MLDP and is located within the built up area of Roslin where there is a presumption in favour of appropriate residential development. The indicative number of residential units allocated for site Hs19 in the MLDP is 260. The application is for an indicative 221 dwellings and the undetermined application on the neighbouring site, application 18/00703/DPP, is for 51 dwellings – an overall total of 272 dwellings. The increase in the number is acceptable subject to the layout, form and design of the proposed development being acceptable and the impact of the development on infrastructure, including education provision, being appropriately mitigated.

### Layout and Form of Development

- 8.3 The application is for planning permission in principle. This means that the detailed layout, form and design of the development would be subject to further applications (matters specified in conditions) and assessment if the proposal is granted planning permission. In this case conditions would be imposed requiring the following details to be submitted by way of an application:

- layout, form and design of any proposed buildings;
- proposed materials to be used in the construction of the dwellinghouses, ground surfaces and ancillary structures – including those to be used in the area of improved quality;
- details of landscaping and boundary treatments;
- provision of open space and play areas/facilities;
- percent for art;
- sustainable urban drainage systems;
- details of road, access and transportation infrastructure;
- sustainability and biodiversity details;
- archaeology mitigation details;
- the provision of broadband infrastructure; and
- ground conditions/mitigation of coal mining legacy.

- 8.4 The applicants have however submitted a masterplan setting out an indicative layout for the site. The masterplan shows an indicative 221 residential units on this application site and superimposes the proposed neighbouring development (also part of site Hs19) of 51 dwellings onto the plan. The masterplan gives an indication to the form the development will take, but should not be seen as a binding commitment

to the final layout. However the applicant is proposing a designed form of development and is seeking approval for their general approach, in particular, with regard the points of access, the general street alignment and the locations of the SUDS and open space.

- 8.5 The masterplan proposes a suburban layout of two storey dwellinghouses and flatted buildings of a similar density and character to the neighbouring residential estates. The density and layout is, in general terms, uniform across the site and would benefit from the introduction of some variation at the detailed stage to help create character areas within the development, which is appropriate for a development of this size. An area of improved quality comprising 20% of the dwellings is delineated. It comprises properties fronting onto the western end of the spine road and some properties fronting onto the principal area of open space – this is acceptable in principle but would need to be reviewed once a detailed layout has been agreed.
- 8.6 The layout includes two irregular width 'green' corridors; one in the western part of the site running in a northwest to southeast direction and incorporating a play park, an area of informal open space and landscaping. The second is in the eastern part of the site running in a southwest to northeast direction, co-located in this application site and that of application 18/00703/DPP, it incorporates informal play areas and a SUDS basin. These 'green' corridors and spaces provide good connectivity to Roslin and the surrounding countryside and good levels of amenity. Combined with a commitment to plant additional trees on the northwest boundary of the site to extend the existing area of woodland the overall landscape framework successfully incorporates the development into the landscape. The MLDP does not require open space within the site to be set aside for allotments/food growing.

#### Access and Transportation Issues

- 8.7 In some of the representations it is claimed that the Transportation Assessment (TA) submitted with the application is erroneous and cannot be relied upon. The Council's Policy and Road Safety Manager does not agree with this assertion. The TA demonstrates that the proposed access and road arrangements are acceptable in terms of meeting traffic capacity needs and promoting pedestrian and traffic safety.
- 8.8 The Council's Policy and Road Safety Manager's recommendations have either been addressed through changes made to the masterplan following negotiations with the applicant or can be secured by conditions imposed on a grant of planning permission in principle. Subject to these recommended controls there will be adequate and safe footpath and cycleway connections to/from the site to the existing footpath/cycleway network in Roslin.

### Access to Hs19 via the B7003 and Capel Lawns

- 8.9 The applicant, the University of Edinburgh (UoE), advises that in the sale of the land to the west of the application site (the CALA Homes development known as Chapel Lawns) the Deed of Conditions required the house builder to provide a 6m wide road between the B7003 (Penicuik Road) and Core Path 29 to allow full further vehicular and pedestrian access from site Hs19 to the B7003. Should the road not be completed by August 2019 the UoE retain the legal right to complete the road to ensure unhindered access. In addition to this legal right of access through the Chapel Lawns site the UoE purchased land from Midlothian Council in 2018. This agreement is that: (i) the acquired strip of land would be required for the purposes of construction of roads and pavements, the provision of street lighting, and the installation of services, all to an adoptable standard; (ii) whilst the roadworks are being undertaken, the UoE are to ensure that all reasonable steps are taken to maintain access over the existing Core Path and to make temporary access arrangements available to ensure use by members of the public at all times; (iii) following adoption of the road, the UoE are to re-convey to the Council for no consideration any part of the property which were not required for the road. The position as set out is noted in the assessment of the application, but it is a well established principle that access rights and land ownership are legal matters between parties and not material considerations in the assessment of a planning application.
- 8.10 The masterplan shows the principal (spine) road within the site extending up to the west boundary of the site and connecting to the principal road within the Chapel Lawns development, which is accessed off the B7003 Penicuik Road. It also shows the principal road within the site extending up to a point on the east boundary of the site and connecting to the principal road within the neighbouring development the subject of undetermined application 18/00703/DPP, which is accessed off the B7006 Main Street. This connectivity is good place-making and rational in traffic safety and access terms.
- 8.11 The unbroken route through the development has been designed as a traffic calmed, indirect route which would allow vehicles from the development to exit to the east or the west. This design allows delivery or service vehicles entering the development to continue through without being required to retrace their route and then travel through Roslin using Main Street /Penicuik Road. The provision of an unbroken route through the development accords with the Scottish Government policy document 'Designing Streets' which states that "connected or permeable networks encourage walking and cycling, and make navigation through places easier...generally recommend that streets with one-way operation are avoided. They require additional signage and result in longer vehicle journeys and higher speed."...Internally permeable neighbourhoods lacking direct connection with each other are to be avoided." Alongside the aforesaid through road there is delineated on the masterplan a cycleway/footway that would link the

existing footpath alongside the B7003 Penicuik Road with the existing footpath alongside the B7006 Main Street. The provision of this network accords with the principles of the MLDP which promotes enhanced connectivity. In allocating the site for housing the MLDP neither specifies nor excludes a stated point of access.

- 8.12 If the application site and the adjoining sites to the east and west were not connected the travel route of vehicles being driven westwards from the eastern part of site Hs19 and vice versa would be unduly circuitous resulting in longer car journeys which in turn results in higher vehicle CO2 emissions, poorer air quality and road congestion contrary to the MLDP and established good practice. The creation of an artificial obstruction to traffic flow within the development, forming two cul-de-sacs, would result in additional wasted mileage with associated environmental impacts and potentially result in additional traffic using Main Street and Penicuik Road.
- 8.13 The route through the development sites connecting the B7006 and B7003 is a circuitous route to deter it from being seen as a short cut or 'rat run' to avoid heavy traffic or delays on the main road through Roslin. It is anticipated that it will be more efficient for motorists leaving or joining the A701 to do so at the appropriate point and then travel between the Bilston Roundabout and the Gowkley Moss Roundabout. Some residents in the Chapel Lawns development are requesting that no access into the site is taken from the west via Chapel Lawns. In this scenario the only alternative access to the site would be from the east via the spine road proposed as part of the development the subject of undetermined planning application 18/00703/DPP and outwith this applicants control. If this development did not come forward, in full or in part, and the spine road was not formed up to and on the boundary with the current application site, the proposed development would not be deliverable and would effectively be 'landlocked'. The consequence of this could be significant for Midlothian as it would have an allocated housing site that potentially will not be developed in the MLDP period and as such the Council may have to identify an alternative, as yet unallocated, site to meet its housing requirements.

#### Core Path 29

- 8.14 The MLDP by way of its Midlothian Green Network Supplementary Guidance adopted in August 2018 states that the Council expects additions to the path network to have a surface suitable for the intended uses. The guidance does not state that existing core paths should not be upgraded. Neither does it state that existing core paths should not be crossed by new roads or footpaths.
- 8.15 Linking the spine road within the site to the spine road within the neighbouring Chapel Lawns development would require crossing over Core Path 29. This is acceptable and can be done without jeopardising highway safety or compromising the integrity of the Core Path such as to discourage walking and cycling in the Roslin area. It is probable that the intersection between the road and the Core Path would be laid out

in the form of a flat topped table. The intersection can be designed to ensure ease of access along the Core Path for pedestrians, cyclists and horse riders. The detailed design of the crossing; including its surfacing material is for consideration as part of a future matters specified in conditions application.

#### Construction Access

- 8.16 In response to concerns raised regarding construction traffic the applicant submitted a statement of intended construction traffic management measures comprising: (a) the formation of a construction access off the B7006 (Main Street) separate from the new residential access proposed in application 18/00703/DPP; (b) all HGV and abnormal load drivers to be restricted to a designated route when approaching and leaving the site, which will avoid traffic going through Roslin Village; (c) construction traffic to access the site from the direction of the A701 to avoid Roslin Village; (d) controls to be put in place with the agreement of the planning authority to manage construction activity (within set hours); and (e) the restriction of delivery times to the period 0900 to 1600 hours Monday to Friday and 0900 to 1300 on Saturdays. And where practical, the programming of deliveries to site is to be outwith school drop off and collection times.

#### Affordable Housing

- 8.17 The mix of affordable housing units delineated on the masterplan, although indicatively meeting the required 25% provision requirement, is not, according to the Council's Housing Planning and Performance Manager, the most optimum unit mix based on the choice of households on the Council Housing List. The Council is seeking a mix of properties which includes a plentiful supply of one and two bed properties. To ensure that 25% of the onsite units are affordable of a model which meets the local demand it is appropriate to condition/and or secure by planning obligation not only the volume, but also the unit types of the affordable units.

#### Ecology

- 8.18 The Ecology report submitted in support of the application makes the following conclusions/recommendations: (i) mitigation of any adverse impact on bat (especially for pipistrelles) roosts, foraging areas and commuting corridors needs to be provided; (ii) the status of badger impact can change quickly and monitoring through updated surveys will be required prior to and during construction; (iii) retention and enhancing boundary habitat and woodland plantations will reduce potentially adverse impacts by maintaining and increasing bird nesting resource and foraging opportunities (If trees are to be felled in-season surveys will be required prior to felling); (iv) all birds and their nests are protected from disturbance at all times of the year and ground works should be timed out with the main breeding season (April-August inclusive). If this is not practical, then pre-commencement

breeding bird surveys are a legal obligation; and (v) as an enhancement to biodiversity, erect four Starling and six Tree Sparrow nest boxes in suitable locations. Blue and greenspace habitat, habitat enhancements and householders' gardens will increase net biodiversity because they support a much wider range of species than improved pasture. The recommended mitigation measures can be secured by conditions imposed on a grant of planning permission.

#### Feasibility of Communal Heating System

- 8.19 In order for the Government's renewable energy and heat demand targets to be met, it is important that all types of new development consider the role they play in using heat from renewable sources. Paragraph 154 of SPP states that the planning system should support the transitional change to a low carbon economy including deriving "11% of heat demand from renewable sources by 2020" and supporting "the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity – and the development of heat networks". MLDP policy NRG6 states that community heating within new developments should be supported where technically and financially feasible. It remains to be demonstrated by the applicant that the proposed development does not offer the potential for a new district heating network to be created within the site. Therefore, it should be made a condition of a grant of planning permission that a feasibility study for the provision of a community heating system for the new development undertaken by a suitably qualified engineer commissioned by the applicant be submitted for the approval of the planning authority.

#### Developer Contributions

- 8.20 If the Council is minded to grant planning permission for the development it will be necessary for the applicant to enter into a Section 75 planning obligation in respect of the following matters:
- A contribution towards education (including nursery) provision;
  - A contribution towards the A701 Relief Road;
  - A contribution towards community facilities/space;
  - Provision of affordable housing; and
  - Maintenance of children's play areas/open space.
- 8.21 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

I am satisfied that the requirements set out for the proposed Planning Obligation meet the above tests.

### Other matters

8.22 The concerns raised by objectors about the existing capacity of general practice in Midlothian and the impact of new house building on health and care services is a matter which would need to be addressed by the Midlothian Health and Social Care Partnership through the provision of sufficient health service capacity. That can involve liaison with the Council as planning authority but it is not, on its own, a sufficient basis in itself on which to resist or delay the application.

8.23 The following matters which have been raised in representations which are not material considerations in the determination of the application are:

- Loss of views;
- Procedural matters which are specified by the Scottish Government in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013;
- Private access rights is a matter between parties;
- The supply of utilities (water, gas and electric) is governed by a separate regulator process between the developer and service providers;
- Impact on property values/prices;
- The content of the pre application consultation report submitted with the application;
- Alleged breaches of contract between the Council and a third party over rights of access over a Core Path;
- Prejudging an alternate application on a different site, submitted by a different applicant;
- The provision of dog waste bins and there subsequent emptying;
- There is no statutory requirement to consider the whole of Hs19 as one site/development – the separate landowners are entitled to submit two separate applications for the relevant pockets of land. It is for the Council to ensure there is an appropriate relationship between the sites;
- Internal building layouts and accessibility is a consideration for the building warrant process rather than planning application process;

- A decision with regard the preferred speed limit through Roslin is for the Council as highway authority rather than as a planning authority;
- The quality of the road surfaces is a matter for the Council as highway authority rather than as a planning authority;
- An alternative 'brownfield' site for housing development – the sites selection for housing was part of the development plan process;
- An assessment with regard the need for housing has been done through the development plan process;
- Littering;
- Dog fouling;
- Factoring fees;
- The impact, or not, of Brexit

## 9 RECOMMENDATION

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

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

Subject to:

- i) the prior signing of a legal agreement to secure the provision of affordable housing and contributions towards education provision, the A701 Relief Road, community facilities/space and the maintenance of children's play areas/open space.

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

- ii) the following conditions:
1. No more than 221 residential units shall be erected on the site unless otherwise agreed by way of a planning application. The following principles set out in the proposed indicative masterplan (Rev. K/28.02.19) are approved:
    - a. The vehicular points of access;
    - b. The landscape framework;
    - c. The siting of the open space, play area and SUDS basin; and
    - d. The primary street configuration and resulting housing pockets.

The housing mix, densities across the site and the detailed layout is not approved and is subject to matters specified in conditions application/s.

**Reason:** *The application has been assessed on the basis of a maximum of 221 dwellings being built on the site. Any additional dwellings would have a further impact on local infrastructure, in particular education provision, and additional mitigation measures may be required. Any such measures would need further assessment by way of a planning application.*

2. Development shall not begin until an application for approval of matters specified in conditions regarding the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of affordable housing, the provision of open space, children's play provision, structural landscaping, SUDS provision and transportation infrastructure.

The phasing of the transportation infrastructure shall include inter alia: (i) the construction of the principal (spine) road through the site up to and onto the boundary with the site to the east the subject of undetermined planning application 18/00703/DPP. The road shall connect to the principal (spine) road proposed in that application; and, (ii) the construction of the principal (spine) road through the site up to and connecting with the principal (spine) road within the neighbouring Chapel Lawns development to the west the subject of planning permission in principle 12/00743/PPP and matters specified in conditions approval 16/00299/MSC. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

**Reasons:** *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.*

*To ensure the proposed development is connected by road to the adjacent road network to the east and west providing a vehicular route connecting the B7006 and the B7003. If not connected the travel route of vehicles would be unduly circuitous thus resulting in longer car journeys and resultant higher vehicle CO2 emissions, poorer air quality and road congestion issues, contrary to adopted Midlothian Local Development Plan 2017 policy TRAN1 (sustainable travel).*

3. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for the site access, roads, footpaths, cycle ways and transportation

movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- i existing and finished ground levels for all roads, footways and cycle ways in relation to a fixed datum;
- ii the proposed vehicular, cycle and pedestrian accesses into the site;
- iii the proposed roads (including turning facilities), footpaths and cycle ways including suitable walking and cycling routes linking the new housing with the local primary school and the rest of Roslin;
- iv proposed visibility splays, traffic calming measures, Zebra crossing, lighting and signage;
- v proposed car parking arrangements;
- vi proposed cycle parking/storage facilities;
- vii proposed connections to Core Paths; and
- viii a programme for completion for the construction of access, roads, footpaths, cycle paths and associated works.

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

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

4. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- i existing and finished ground levels and floor levels for all buildings and roads in relation to a fixed datum;
- ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii proposed new planting in communal areas and open space, including trees, shrubs, hedging and grassed areas;
- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the houses on adjoining plots are occupied;

- vii drainage details and sustainable urban drainage systems to manage water runoff;
- viii proposed car park configuration and surfacing;
- ix proposed footpaths and cycle paths (designed to be unsuitable for motor bike use);
- x proposed play areas and equipment (to include 7 pieces of equipment);
- xi proposed cycle parking facilities; and
- xii proposed area of improved quality (minimum of 20% of the proposed dwellings).

The landscaping scheme shall incorporate the recommendation made in the tree report submitted with the application titled: "Tree Survey" by Alan Motion Tree Consulting Ltd, July 2018.

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 DEV2, DEV5, DEV6, DEV7 and DEV9 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

5. Development shall not begin on an individual phase of development (identified in compliance with condition 2) until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential units and other structures has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. These materials will also include those proposed in the area of improved quality (20% of the proposed dwellings). Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

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

6. Development shall not begin until an application for approval of matters specified in conditions for a scheme to deal with any

contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:

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

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

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

7. Development shall not begin until an application for approval of matters specified, 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 DEV6 and IMP1 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

8. Development shall not begin until an application for approval of matters specified in conditions for a programme of archaeological works (field evaluation by trial trenching) has been carried out at the site by a professional archaeologist in accordance with details submitted to and approved in writing by the planning authority. The area to be investigated should be no less than 5% of the total site area with an additional 2% contingency should significant archaeological remains be encountered.

**Reason:** *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with policy ENV25 of the Midlothian Local Development Plan 2017.*

9. Development shall not begin until an application for approval of matters specified in conditions setting out details, including a timetable of implementation, of high speed fibre broadband has been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each dwellinghouse. The delivery of high speed fibre broadband shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure.*

10. Development shall not begin until an application for approval of matters specified in conditions for a scheme of sustainability/biodiversity for the site, including the provision of house bricks and boxes for bats and birds throughout the development, a programme of ecological surveys (repeat survey work for bats and badgers no more than 12 months in advance of the commencement of development on the site) and management proposals for Invasive Non Native Species has been submitted to and approved in writing by the planning authority. The scheme shall incorporate the species mitigation recommended in sections 10.1.1, 10.1.2, and 10.1.3 of the Ecological Impact Assessment report prepared by Ironside Farrar, dated July 2018. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

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

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

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

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

13. No dwellinghouse on the site shall be occupied until a community heating scheme for the site and; if practicable, other neighbouring developments/sites, is approved in writing by the planning authority. The approved scheme shall be implemented in accordance with a phasing scheme also to be agreed in writing in advance by the Planning Authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

***Reason for conditions 12 and 13:*** To ensure the provision of a community heating system for the site to accord with the requirements of policy NRG6 of Midlothian Local Development Plan 2017 and in order to promote sustainable development.

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

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

15. Development shall not begin until an application for approval of matters specified in conditions for a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:
- i. Details of a construction access;
  - ii. signage for construction traffic, pedestrians and other users of the site;
  - iii. controls on the arrival and departure times for construction vehicles, delivery vehicles and for site workers (to avoid school arrival/departure times);
  - iv. details of piling methods (if employed);
  - v. details of any earthworks;
  - vi. control of emissions strategy;
  - vii. a dust management plan strategy;
  - viii. waste management and disposal of material strategy;
  - ix. a community liaison representative will be identified to deal with the provision of information on the development to the local community and to deal with any complaints regarding construction on the site;
  - x. prevention of mud/debris being deposited on the public highway;
  - xi. material and hazardous material storage and removal; and
  - xii. controls on construction, engineering and any other operations (to take place between 0700 to 1900hrs Monday to Friday and 0800 to 1300hrs on Saturdays).

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

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

16. Prior to the occupation of the first dwellinghouse the affordable housing mix in terms of; size of units (bedroom numbers), the type of units (dwellinghouses and/or flats) and the location of the units shall be approved in writing with the planning authority.

**Reason:** *To ensure 25% of the units on the site are affordable housing units in accordance with policy DEV3 of the Midlothian Local Development Plan 2017 and that the units are appropriate in terms of their size and type to meet local need.*

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 22 March 2019

**Application No:** 18/00535/PPP

**Applicant(s):** University of Edinburgh, Estates Department, Old College, South Bridge, Edinburgh, EH8 9YL

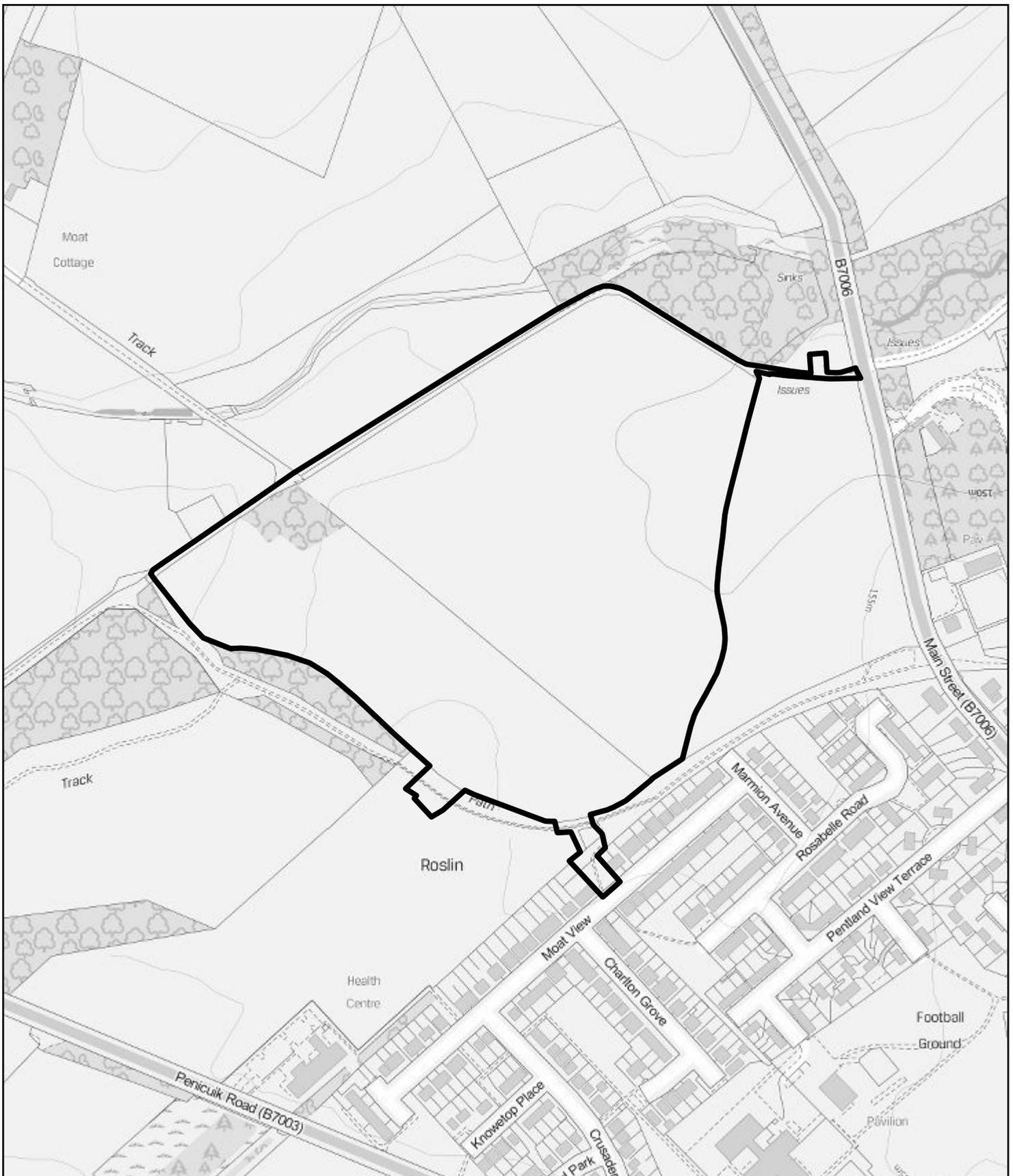
**Agent:** Albert Muckley, Ironside Farrar Ltd, 111 McDonald Road, Edinburgh, EH7 4NW

**Validation Date:** 24 July 2018

**Contact Person:** Adam Thomson

**Tel No:** 0131 271 3346

**Background Papers:** 18/00139/PAC, 18/00242/SCR & 18/00703/DPP



**Education, Economy  
& Communities**  
Midlothian Council  
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Application for planning permission in principle for residential development at Land North West of Moat View, Roslin

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**APPLICATION FOR PLANNING PERMISSION 18/00703/DPP FOR THE ERECTION OF 51 DWELLINGS; FORMATION OF ACCESS ROADS AND CAR PARKING AND ASSOCIATED WORKS ON LAND 65M WEST OF ROSSLYN BOWLING CLUB, MAIN STREET, ROSLIN**

Report by Director of Education, Communities and Economy

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

**1.1 The application is for the erection of 43 dwellinghouses and 8 flatted dwellings; the formation of associated access road; and a sustainable urban drainage system (SUDS) on land 65m west of Roslyn Bowling Club, Main Street, Roslin. The site comprises the eastern part of allocated housing site Hs19 in the Midlothian Local Development Plan 2017. There have been 19 representations and consultation responses from the Scottish Environment Protection Agency, the Coal Authority, the Roslin & Bilston Community Council, the Council's Archaeology Advisor, the Council's Head of Education, the Council's Housing Planning and Performance Manager, the Council's Environmental Health Manager, the Council's Policy and Roads Safety Manager and the Council's Land Resource Manager.**

**1.2 The relevant development plan policies are policies 5 and 7 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and Policies STRAT3, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, TRAN1, TRAN5, IT1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.**

**1.1 The recommendation is to grant planning permission subject to conditions and the applicant entering into a Planning Obligation to secure contributions towards necessary infrastructure and the provision of affordable housing.**

## **2 LOCATION AND SITE DESCRIPTION**

**2.1 The application site comprises approximately 3.19 hectares of agricultural land located to the northern edge of Roslin. The application site is separated from the village by the disused rail line which is now Core Path 29. The site comprises the eastern extremity of allocated housing site Hs19.**

- 2.2 Part of Core Path 27, which connects Roslin to a network of other paths in the wider countryside and the agricultural fields beyond, bounds the site to the north. The Kill Burn cuts through the said agricultural fields. The B7006 (Main Street) bounds the site to the east, beyond which is the land previously occupied by the Roslin Institute and which is now allocated housing site Hs18. Core Path 29, with residential properties in Moat View beyond, bound the site to the south. The remainder of allocated site Hs19, which is the subject of planning application 18/00535/PPP, bounds the site to the west, beyond which is the Chapel Lawn residential development site (by CALA Homes). This site is partly occupied and partly under construction.
- 2.3 The application site comprises part of a gently sloping agricultural field of grass. The site falls gently from south to north. The site is enclosed to the north and south boundaries by scrub and semi-mature trees. There is an existing mature hedge along the length of the eastern roadside boundary.
- 2.4 The existing built form of Roslin comprises primarily a mixture of mostly two-storey detached, semi-detached and terraced houses within good sized plots.

### **3 PROPOSAL**

- 3.1 The originally submitted planning application comprised a proposal for 54 dwellings, made up of 46 dwellinghouses and eight flats. The scheme has been amended to now comprise the erection of 43 two-storey houses; the erection of 8 two-storey cottage flats; the formation of a vehicular access off the B7006 (Main Street); the formation a primary road and secondary roads; and the formation of a SUDS basin in the north western part of the site.
- 3.2 The proposal consists of 38 detached house; five terraced houses; and, eight cottage flats. The proposed housing mix comprises eight two bed units; five three bed units; and 38 four bed units.
- 3.3 Seven different house/flat types are proposed. The buildings have a mixture of pitched roofs and hipped roofs. It is proposed to use dark grey roof tiles throughout. Render is proposed as the primary external wall finish material.
- 3.4 The applicant proposes on-site affordable housing. The affordable units comprise the eight proposed cottage flats and the five terraced houses. This equates to 25% of the proposed dwellings on this application site.
- 3.5 A new vehicular access is proposed off the B7006 (Main Street) at a point located centrally on the eastern boundary of the application site. The access road runs on an east/west axis, with the intention being

that this will also provide access to the remainder of the Hs19 allocated housing site to the west.

- 3.6 Given that the site forms an integral part of allocated site Hs19 it is accompanied by a masterplan that covers the whole of site Hs19. If the whole of site Hs19 were built out as delineated in the masterplan there would be a total of 272 units, which is 12 units more than the site allocation. On the basis of a development of this size the average housing density across the whole of site Hs19 would be some 19 dwellings per hectare. However, the density of the development the subject of this current application is lower, at 14 dwellings per hectare.
- 3.7 The application is accompanied by:
- A pre-application consultation (PAC) report;
  - A design and access statement;
  - A noise report;
  - A flood risk assessment report;
  - An arboricultural impact assessment;
  - A Site Investigation report;
  - A transport assessment;
  - An ecological report; and
  - An archaeological desk-based assessment.

#### **4 BACKGROUND**

- 4.1 The applicants carried out a pre-application consultation (17/00693/PAC) for a residential development and associated works in September – November 2018.

#### **5 CONSULTATIONS**

- 5.1 The **Scottish Environment Protection Agency (SEPA)** does not object to the application.
- 5.2 The **Coal Authority** advises that the application site does not fall within the defined Development High Risk Area and that a Coal Mining Risk Assessment is not required. If planning permission is granted it will be necessary to include the Coal Authority's Standing Advice on development in a low risk area within the decision notice as an informative note to the applicant in the interest of public health and safety
- 5.3 **Roslin & Bilston Community Council's** comments are summarised as follows:
- Request that a comprehensive masterplan be prepared, which considers the whole of the Hs19 site. The masterplan should take in to account the impacts on the local road network and the character of the surrounding area;
  - Development must be sensitive to Roslin's unique setting and history and development must not harm local tourism;

- The application proposes an unacceptable number and mix of units and does not comply with the MLDP allocation;
- Affordable housing should be better integrated within the development;
- Some of the proposed dwellings will have an unacceptable outlook;
- Better variety of house styles required;
- Dwellings should be energy efficient;
- Housing should complement or enhance the character of Roslin. This proposal is potentially contrary to policy DEV6;
- Houses along the eastern boundary of the site should be of a traditional design and constructed in traditional materials;
- Houses should be set further back along the spine road;
- Monoblock is not an appropriate surfacing material for the spine road;
- Road surfaces and other areas of surfacing should be porous;
- SEPA's concerns regarding groundwater in mine-workings and the open culvert should be addressed;
- The SUDS features on the two sites which make up Hs19 should be combined and the left-over space allocated for recreation;
- Houses and streets should be designed in order to be accessible for elderly and disabled;
- The temporary construction access is a road safety hazard;
- The removal of a hedge along the roadside boundary will breach the Wildlife and Countryside Act 1981.
- Footway links from the site to the B7006 are essential. The link must be behind the existing hedge;
- Consideration should be given to improving wider footway links;
- A roundabout should be provided at the access to the site;
- Hedges must not obstruct visibility splays;
- Works are required in order to ensure highway safety, including signal controlled pedestrian crossing;
- Development does not encourage sustainable modes of travel, particularly being remote from public transport corridors;
- Development will contribute to congestion;
- 'Attractive' access to public transport must be provided;
- Developers in the area must contribute to a range of road and access improvements, including: footway widening; a roundabout; new traffic island; pedestrian crossing; and improved routes to public transport.

5.4 The Council's **Archaeology Advisor** informs that the site contains previously recorded archaeological sites and lies in close proximity to other known heritage assets, including the Inventory Battlefield site, the Battle of Roslin. Accordingly, the area is regarded as having archaeological significance with a high potential for the discovery of archaeological remains. As a consequence, there is a requirement for a programme of archaeological works to mitigate the impact of the proposed development upon the historic environment (a metal detecting survey and field evaluation by trial trenching of 5% of the

total site area which should be reported upon initially through a Data Structure Report (DSR).

- 5.5 The Council's **Head of Education** advises that a development of 51 dwellings would give rise to 16 primary school pupils and 13 secondary school pupils and advises that the applicant will be required to make a developer contribution to meet the provisional requirements. The site is in the catchment area of Roslin Primary School, St Margaret's RC Primary School, Beeslack High School and St David's RC High School.
- 5.6 The **Midlothian Health and Social Care Partnership** was consulted on the application and has made no comment.
- 5.7 The Council's **Housing Planning and Performance Manager** confirms that he is satisfied with the proposed affordable housing layout on the site. The size breakdown of 62% 2 bed cottage flats and 38% 3 bed terrace is appropriate. His only comment is that he would like to see the delineation of gardens for the cottage flats as private gardens as this is a better option for cottage flats than a communal garden area. He notes that there appears to be an overhead power or telephone line that crosses over the garden area of one of the terraced houses. He requests that this arrangement be avoided to ensure that there aren't future management issues such as regular cutting back of trees to avoid touching the line.
- 5.8 The Council's **Environmental Health Manager** does not object to the application, subject to conditions being attached to any grant of planning permission ensuring that ground contamination remediation works are undertaken and the hours of construction are limited to reasonable working times.
- 5.9 A noise report has been prepared by KSG Acoustics, to support the planning application, with regards the potential for noise nuisance to the future occupants of the proposed dwellings from road traffic on Main Street. The Council's Environmental Health Manger has considered this report and has raised concerns regarding the external garden amenity noise criteria applied in the report. Rather than a design level to avoid 'the majority of people being seriously annoyed,' they advise that Midlothian Council's external daytime garden amenity standard in relation to anonymous noise 50 dB LAeq(16hr) is applied. They advise that an acoustic specialist identify noise mitigation measures necessary to ensure compliance with this standard. In addition, the Council's Environmental Health Manager advises that an acoustic specialist identify noise mitigation measures necessary to ensure compliance with the Council' internal standards, which are 35 dB LAeq(16hr) for daytime internal living apartment and 30 dB LAeq(8 hour) for night time in internal living apartments, which are consistent with that referred to in the acoustic report.
- 5.10 The **Council's Policy and Road Safety Manager** does not object to the application, subject to conditions being attached to any grant of

planning permission requiring the prior agreement of details of the SUDs basin and proposed surface water drainage system. In addition, with regards to the recommendation made within the Flood Risk Assessment report that an existing culvert under the track adjacent to the north of the site be upgraded to a minimum of a 1m diameter pipe to remove the over topping of the access track during flood conditions, he advises that technical details of the new culvert should be submitted for the prior approval of the planning authority in consultation with the Policy and Road Safety Manager.

- 5.11 The **Council's Land Resources Manager** requests that both Core Path 27 and Core Path 29 remain open and unobstructed by the development and that the development is sufficiently permeable to not prejudice any future expansion of links and/or connections to the wider path network.

## 6 REPRESENTATIONS

- 6.1 There have been 19 objections all of which can be viewed in full on the online planning application case file. One of the objections is from the Chapel Lawns resident's group 'CLAIM' (Chapel Lawns Action in Midlothian) which was set up to represent the collective views of residents in the neighbouring Chapel Lawns CALA Homes development. A summary of the objections are as follows:

- The masterplan submitted with the application does not demonstrate that there has been a cohesive, integrated approach to the development of site Hs19 and the Chapel Lawns development;
- The Council should be taking the lead of the masterplanning of the allocated housing sites in Roslin;
- Information has been submitted with the application to enable an informed assessment of the merits of the proposed development;
- There are insufficient public amenities and services; including health services in Roslin to meet the demand generated by the future occupants of the houses;
- The existing road infrastructure is not of a sufficient capacity to cope with the increase in use of them resulting from the development. The resultant increased congestion on neighbouring roads raises road safety concerns;
- Lack of services including, water, sewerage, retail facilities to support the proposed development;
- Would spoil the rural village character of Roslin;
- Insufficient health services including doctor's surgeries to meet the demand resulting from the development;
- Harm to/loss of wildlife habitat;
- Loss of trees;
- Loss of green space/green field;
- A brown field site should have been redeveloped for housing in lieu of the green field site;
- Concern about the safety of children during periods of construction;

- Harm to the character and visual amenity of the existing village or Roslin;
- The vehicular access to the site should be from the east off the B7006 and not from the west as it would have to cross over the Moat View Path (Core Path 29);
- Vehicular access across core path 29 should not be permitted as this would result in vehicle conflicts with ramblers, cyclists, dog walker and children;
- A crossing of core path 29 with a road would urbanise the core path, detrimental to its character;
- The crossing of core path 29 with a road would reduce the frequency of cycling and walking in Roslin, reducing safe access to local green space in Roslin;
- The severing of Core Path 29 with a through road would contravene the Council's Active Travel strategy and be in conflict with Core Path policy as laid down in the Land Reform Act 2003;
- The vehicular entrance to the site should be off a roundabout on the B7006 which could also serve the Roslin Institute (Hs18) site. There are road safety benefits to this as the roundabout would minimise the number of new vehicular accesses and would reduce vehicle speeds;
- Loss of protected flora and fauna;
- Would result in traffic congestion on existing roads in the vicinity of the site;
- Erode community identity;
- Loss of hedgerows and trees on the site that are a habitat to wildlife;
- Concerns over drainage and flooding;
- If a road within the proposed development extends up to the boundary with the neighbouring Chapel Lawns development and connects to Kilburn Wood Road within that development this would create a connecting road to/from Penicuik Road (B7003 and Main Street (B7006). The resultant through road would become a rat run;
- There is no a need for the site to be accessed from the B7003 via Kilburn Wood Road within the CALA Chapel Lawns development. Instead the site should be accessed from the east off the B7006;
- The Chapel Lawns development at Kilburn Wood Drive is promoted by CALA builders as a small cul-de-sac that includes a childrens play area and public open space. The road is suitable for residential access and its designated narrowness was not intended for through traffic. The front gardens are not deep, have no walls or fencing and the finished road surface is to be mon-blocked eventually. Thereby it is unsuitable as a through road to serve the development the subject of the current application. Moreover, there are safety concerns with the principal road in Chapel Lawns being used as a through adjacent to a childrens play area still to be formed in the Chapel Lawns development;
- No continuous cycle path is to be provided through Hs19 and the Chapel Lawns development;

- The factor fees paid by residents of Chapel Lawn will increase owing to additional maintenance caused by the large volumes of construction traffic and also domestic traffic associated with the currently proposed development being driven on roads within Chapel Lawns;
- Increase in air pollution and resultant health implications of emissions from construction traffic and also domestic traffic associated with the currently proposed development;
- Pedestrian and road safety concerns of Kilburn Wood Drive (Chapel Lawns) being used as a through road owing to the juxtaposition of that road to the central open space and equipped play area within the Chapel Lawn development;
- Concern about undue noise and disturbance during period of construction;
- Concern that volume of construction traffic could cause damage to existing neighbouring properties in Chapel Lawns as a result of additional ground settlement and the resultant maintenance cost to these residents;
- Detrimental effect on the market value and rateable value of the houses in Kilburn Wood Drive;
- Concern that neighbour notification was not carried out in accordance with statutory requirements/not all neighbouring residents affected were neighbour notified;
- Construction access should not be via roads within the Chapel Lawns development on grounds of road safety and residential amenity;
- If a through road is formed through the site, the remainder of site Hs19 and Chapel Lawns this would create rat running between the B7006 and the B7003;
- The currently proposed development has not been designed/considered concurrently with the CALA- Kilburn Wood Drive development or the eastern part of site HS19 the subject of application 18/00499/MS;
- There are road safety concerns with the proposed access off the B7006;
- Given that the Council have title to core path 29 there is a possible conflict of interest;
- The Chapel Lawns development was granted planning permission on the basis of self-contained development, with no through vehicular access beyond the site;
- The proposals map in the LDP does not delineate a link road through site Hs19 and the Chapel Lawns site;
- The proposed development would have a negative effect on the market and rental value of existing properties in Chapel Lawns;
- The proposed new houses would not be affordable to the majority of the existing residents of Roslin;
- Concern about the impact of light pollution;
- The existing roadside boundary hedgerow has important wildlife value and should not be removed. If removed would breach the Wildlife and Countryside Act 1981;

- Permitting a through road from the site westwards over the UoE land and Chapel Lawns to the B7003 would result in noise nuisance, congestion and pollution;
- A road formed from the UoE land into the Chapel Lawns development would partly be on land which Cala or the owners of properties in Chapel Lawns have title to; and
- Compensatory hedgerow planting should be planted in the vicinity of core path 29 to compensate for damage to/loss of existing hedgerows on the site.

## 7 PLANNING POLICY

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

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

- 7.2 **Policy 5 (HOUSING LAND)** requires Local Development Plans to allocate sufficient land for housing which is capable of becoming effective in delivering the scale of the housing requirements for each period.
- 7.3 **Policy 7 (MAINTAINING A FIVE YEAR HOUSING LAND SUPPLY)** states that sites for Greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying each of the following criteria: (a) The development will be in keeping with the character of the settlement and local area; (b) The development will not undermine Green Belt objectives; and (c) Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.

### Midlothian Local Development Plan 2017 (MLDP)

- 7.4 Policy **STRAT3: Strategic Housing Land Allocations** states that strategic land allocations identified in the plan will be supported provided they accord with all other policies.
- 7.5 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.6 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable

housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.

- 7.7 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.
- 7.9 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.10 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that Plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan.
- 7.11 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.12 Policy **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.
- 7.13 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.14 Policy **ENV2 Midlothian Green Networks** supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the *Midlothian Green Network*.
- 7.15 Policy **ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.

- 7.16 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore it states that Sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.17 **Policy ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environmental.
- 7.18 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.
- 7.19 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.20 Policy **ENV24: Other Important Archaeological or Historic Sites** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting.
- 7.21 Policy **ENV25: Site Assessment, Evaluation and Recording** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.
- 7.22 Policy **NRG6: Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.23 Policy **IMP1: New Development**. This policy ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance

with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.

- 7.24 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.
- 7.25 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

#### National Policy

- 7.26 The **SPP (Scottish Planning Policy)** sets out Government guidance for housing. All proposals should respect the scale, form and density of their surroundings and enhance the character and amenity of the locality. The individual and cumulative effects of infill must be sustainable in relation to the social and economic infrastructure of a place, and must not lead to over-development.
- 7.27 The SPP encourages a design-led approach in order to create high quality places. It states that a development should demonstrate six qualities to be considered high quality, as such a development should be; distinctive; safe and pleasant; welcoming; adaptable; resource efficient; and, easy to move around and beyond. The aims of the SPP are developed within the local plan and local development plan policies.
- 7.28 The SPP states that *design is a material consideration in determining planning applications* and that *planning permission may be refused and the refusal defended at appeal or local review solely on design grounds*.
- 7.29 The SPP supports the Scottish Government's aspiration to create a low carbon economy by increasing the supply of energy and heat from renewable technologies and to reduce emissions and energy use. Part of this includes a requirement to guide development to appropriate locations.
- 7.30 The SPP notes that "high quality electronic communications infrastructure is an essential component of economic growth across Scotland". It goes on to state that

*“Planning Authorities should support the expansion of the electronic communications network, including telecommunications, broadband and digital infrastructure, through the development plan and development management decisions, taking into account the economic and social implications of not having full coverage or capacity in an area”.*

- 7.31 The Scottish Government policy statement, **Creating Places**, emphasises the importance of quality design in delivering good places.
- 7.32 **Designing Places, A Policy Statement for Scotland** sets out the six key qualities which are at the heart of good design namely identity, safe and pleasant environment, ease of movement, a sense of welcome, adaptability and good use of resources.
- 7.33 **The Scottish Government’s Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

## **8 PLANNING ISSUES**

- 8.1 The main issue to be determined is whether the proposal accords with the development plan unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

### The Principle of Development

- 8.2 The application site is part of an area allocated for housing (site Hs19) in the MLDP and is located within the built-up area of Roslin, where there is a presumption in favour of appropriate residential development. The indicative number of units allocated for site Hs19 in the MLDP is 260.
- 8.3 The planning application is accompanied by a masterplan layout plan which includes the whole of site Hs19, including the land which is the subject of a current application for planning permission in principle (18/00535/PPP). The detailed layout, the subject of this current application, stands to be considered in relation to the masterplan layout. The 51 dwellings proposed in this planning application, combined with the developer’s indicative aspirations for the neighbouring site of 221 dwellings will result in an overall development of 272 dwellings. Generally, the increased number of units, over the MLDP allocation, can be acceptable subject to the layout, form and design of the development being appropriate and that the impact of the development on the local infrastructure, including education provision, being suitably mitigated. These matters will be fully assessed in the following section of this report.

## Layout and Form of Development

- 8.4 The proposed development is for 43 dwellinghouses and 8 flatted dwellings with an average density of 14 dwellings per hectare. This amounts to a relatively low density development in a suburban area and is not inherently out of character with the surrounding area. The development has been designed primarily as a traditional street layout with the integration of open space and planting. The street hierarchy includes the primary road laid out as a tree lined avenue. Secondary streets, as well as a network of local streets and shared surfaces, permeate the rest of the development. A number of 'homezones' with shared surface treatment will encourage a pedestrianised neighbourhood, with pedestrians taking priority over vehicles, in accordance with 'Designing Streets' principles.
- 8.5 A landscape strip incorporating a new hedge with a row of trees behind extends the entire length of the eastern roadside edge of the site. Along the length of the western edge of the site is the linear park. This green corridor widens at its southern end to form an informal pocket park and also widens at its northern end to accommodate a combination of communal open space, SUDS and a flood zone. Generally, the houses adjacent to the linear park front on to the open space, providing the houses with an attractive outlook and the open space and SUDS feature with passive surveillance. The orientation of buildings onto the primary streets, the soft landscaped edge to the eastern roadside boundary, the green corridor and the SUDS basin delivers a good quality layout with character and interest. The detailed layout relates sympathetically to the layout of the development delineated on the masterplan and proposed for the remainder of site Hs19 and would not adversely impact on the overall character of this area of Roslin.
- 8.6 The MLDP requires good levels of amenity for residential development. In this respect it is critical to ensure quality amenity in terms of garden sizes, open space and the separation distances between dwellinghouses to mitigate against overlooking, loss of privacy and a sense of overbearing on neighbours. The required spatial standards were set out in the superseded Midlothian Local Plan 2008 and are likely to be incorporated into the supplementary guidance on 'Quality of Place' which is currently being drafted following the adoption of the MLDP in November 2017. These dimensional standards help those in the planning process quantify what good levels of amenity are and therefore it is reasonable to expect housing developments to meet these requirements unless there is justification not to do so. The requirements with regard usable private garden sizes should be: (i) 100 square metres for terraced houses of 3 or more apartments; (ii) 110 square metres for other houses of 3 apartments; and (iii) 130 square metres for houses of 4 apartments or more. It is expected that each of the cottage flats is provided with a private garden of some 50 square metres; or alternatively, the equivalent of 50 square metres of open space, provided in an area of communal private space

- 8.7 All of the detached houses have rear gardens that either meet or exceed the minimum size requirement. All of the five terraced houses have rear gardens that fall below the minimum size. However, if the minimum garden standard were to be applied to these five houses they would have overly long gardens. The small gardens of these houses are therefore justified in design terms. All of the cottage flats have a rear private garden. Four of the cottage flats have rear private gardens that fall below the minimum size. However, they fall only marginally below the standard. Given that these cottage flats front on to the green corridor this provides some additional amenity and compensation for the reduced size of their rear gardens. The smaller rear gardens of some of these cottage flats should be weighed against the fact that a large proportion of the private houses have very large rear garden sizes. Overall, the proposed gardens sizes on this site are appropriate.
- 8.8 The spatial separation between the dwellings meets the minimum standards.
- 8.9 The location of the affordable units in the scheme and the grouping of them into one area as opposed to distributing them throughout the development is acceptable in planning terms. The affordable housing is sufficiently well integrated in to the development and provides for easier future management of these properties. The Council's Housing Planning and Performance Manager does not raise a concern over the location of or distribution of the affordable units on the site.
- 8.10 The mix of dwelling types and sizes is acceptable. The development comprises a mix 2, 3 and 4 bedroom units. This equates to a relatively healthy mix for a site of some 51 units, providing homes for a number of differently sized households.
- 8.11 The architectural styles of the houses and flatted buildings are relatively traditional in form and complement the character and visual amenity of the area. Accordingly, in terms of architectural style, the proposed buildings would not harm the character or visual amenity of Roslin. Policy, and good practice, requires that there is an added emphasis on the quality of design of a minimum of 20% of the dwellings on the site. This applies to individual buildings and the use of materials, both in building finishes and also in boundary treatment and ground surfaces. The expectation is that such treatment is focused on prominent landmark groups or key individual buildings. The buildings along the eastern edge of the site, which are those closest to Main Street, are identified as being within an area of improved quality (AIQ) in terms of design and materials. An AIQ seeks to add interest and character to developments, particularly in developments of the scale proposed. The location of the proposed AIQ, being the units alongside Main Street, is appropriate. It should, therefore, be made a condition of a grant of planning permission that samples of the external finishing materials to be used within the AIQ be submitted for the prior written approval of the planning authority.

- 8.12 Elsewhere in the development, in order that the external finishes of the buildings are complementary to each other and appropriate to the character and visual amenity of the area, it should be made a condition of a grant of planning permission that samples of finishing materials are submitted for the prior approval of the planning authority.
- 8.13 The proposed buildings in terms of their two-storey height, proportion, scale and positioning on the site would not appear dominant or incongruous within the area.
- 8.14 No details of the 'percent for art' for the development; an artistic feature that would add interest and local reference to the development, have been submitted with the application. It should be made a condition of a grant of planning permission that details of percent for art for the development be submitted for the prior written approval of the planning authority.
- 8.15 All of the proposed buildings are sufficiently distanced from existing neighbouring houses so as not to give rise to any demonstrable harm to their residential amenity in terms of loss of daylight, loss of sunlight or overlooking. There would be no significant harm to the amenity of any existing neighbouring property from the proposed development.

#### Open Space and Play Areas

- 8.16 The green corridor, which widens out at both its northern and southern ends to provide space for informal ball games and children's informal play, provides a satisfactory quality and quantity of communal open spaces. A cycleway/footway runs alongside/through the green corridor providing pedestrian and cycle connections north-south through the site and to the core paths at either end. The masterplan delineates an equipped children's play area and adjoining informal play on part of the green corridor on the western part of site Hs19, which is the subject of application 18/00535/PPP. The proposed play area and informal play provision would provide sufficient play provision for the whole of site Hs19 in terms of quantity, quality and accessibility including the currently proposed 51 units the subject of this current application.
- 8.17 A developer contribution to the provision of the equipped play area and informal play for site Hs19; or alternatively, towards the upgrading of existing play provision located elsewhere in Roslin can be secured through a legal planning agreement.

#### SUDS and Flooding

- 8.18 The SUDS comprise a combination of a SUDS detention basin, an underground attenuation tank and filter trenches. The SUDS proposal for the site has been designed to function independently of the SUDS proposed for the remainder of site Hs19. The SUDS basin is located on the north western part of the site. It is formed as a relatively shallow impress and does not include any heavy engineering works such as

retaining walls. Thereby it would appear as a relatively naturalistic and soft feature which would not detract from the landscape character and visual amenity of the area. The shallow nature of the SUDS basin would permit passive surveillance of it from the proposed houses fronting onto the open space. The land on the northern part of the green corridor under which the SUDS attenuation tank is sited would form part of the useable recreational open space on the northern part of the green corridor.

- 8.19 In response to a concern raised by SEPA the applicant submitted information identifying an exclusion zone around the proposed flood plain with no land raising or development within the floodplain. SEPA subsequently confirmed that they are satisfied that no development, including buildings and no land raising, is proposed within the exclusion zone. In addition, they confirm that the proposed SUDS scheme is out with the functional floodplain and thereby have no objection to the application.
- 8.20 The flood risk assessment submitted with the application recommends that the existing culvert in the vicinity of the north western corner of the site be upgraded to 1 metre diameter. On the recommendation of the Council's Policy and Road Safety Manager it can be made a condition of a grant of planning permission that technical details of the upgrading of the culvert be submitted for the prior approval of the planning authority in consultation with the Policy and Road Safety Manager. In addition, on the recommendation of the Council's Policy and Road Safety Manager, it can be made a condition of a grant of planning permission that details of the SUDS basin and proposed surface water drainage system for the internal road network be submitted for the prior written approval of the planning authority.

#### Access and Transportation Issues

- 8.21 The proposed access and road arrangements are acceptable in terms of meeting traffic capacity and promoting pedestrian and traffic safety. The proposed development is well integrated to existing pedestrian, cycle and public transport infrastructure. The proposed private and visitor parking meets the Council's parking standards. The Council's Policy and Roads Safety Manager raises no concern with the Transportation Assessment report submitted with the application.

#### Access to/from the site to the western part of site Hs19

- 8.22 The masterplan accompanying the application delineates an area of 'white land' on the western edge of the site between the site and the site the subject of planning application 18/00535/PPP. Therefore the principal road within the application site is not delineated as connecting to the principal road within the remainder of allocated housing site Hs19. The planning authority considers that the principal road on the current application site should link to the principal road in site identified in planning application 18/00535/PPP in order to achieve an unbroken

route through the site Hs19 and beyond through the Chapel Lawns development to Penicuik Road (the B7003). This will allow vehicles from the development to exit to the east or the west. If there is no link through vehicles would have to retrace their route and then travel through Roslin using Main Street/Penicuik Road. The provision of an unbroken route through the development accords with the Policy Document 'Designing Streets' which states that "connected or permeable networks encourage walking and cycling, and make navigation through places easier...generally recommend that streets with one-way operation are avoided. They require additional signage and result in longer vehicle journeys and higher speed."....Internally permeable neighbourhoods lacking direct connection with each other - to be avoided". Alongside the aforesaid through road there should be cycleway/footway that would link the existing footpath alongside the B7003 Penicuik Road with the existing footpath alongside the B7006 Main Street. The provision of this accords with the requirements of policy TRAN1 of the MLDP.

- 8.23 If vehicles could not be driven westwards from the site to the remainder of site Hs19 and continue onto Penicuik Road via Chapel Lawns this would result in longer car journeys and resultant higher vehicle CO2 emissions, poorer air quality and road congestion issues, contrary to policy TRAN1 (sustainable travel) of the MLDP. The creation of an artificial obstruction to traffic flow within the development, effectively forming a cul-de-sac, would result in additional wasted mileage with associated environmental impacts and potentially result in additional traffic using Main Street and Penicuik Road.
- 8.24 Accordingly, it should be made a condition of a grant of planning permission that, notwithstanding that delineated on the masterplan submitted with the application, the proposed principal (spine) road on the current application site is formed up to and on the boundary with the University of Edinburgh site, which is the subject of separate application 18/00535/PPP. The applicant confirms that they accept this condition provided that the timescale for completion of the link road is linked to the occupation of the thirtieth dwelling. They state that the construction of the road and associated services would have a significant impact on the cashflow of the development prior to the receipt from any house sales. They advise that they would also be unable to maintain access to this route at such an early stage of development as it will be through an active building site. Additionally they state that having this route open would inhibit their ability to construct the site safely, putting their site team, future customers and members of the public at risk. The planning authority considers that it is reasonable for the link road to be formed prior to occupation of the thirtieth dwelling on the site and that the said condition should be worded accordingly.

### Construction Access

- 8.25 The applicant proposes that construction traffic will access the site from a temporary entrance on Main Street, at a point near to the northern end of the eastern roadside boundary. This temporary access will be separate from the proposed residential access. The temporary construction access is acceptable in planning terms. In the interests of road safety it should be made a condition of a grant of planning permission that it is closed by a date to be approved in advance by the planning authority. In addition, in the interests of safeguarding the residential amenity of existing neighbouring properties and the amenity of the area it should be made a condition of a grant of planning permission that the following construction management measures are implemented with any modifications to them to be agreed in writing in advance by the planning authority: (a) all HGV and abnormal load drivers shall be restricted to a designated route when approaching and leaving the site, which will avoid heavy traffic travelling through Roslin Village; (b) construction traffic to access the site shall be from the direction of the A701 to avoid Roslin Village; (c) delivery times shall be restricted to the period 0900 to 1600 hours Monday to Friday and 0900 to 1300 on Saturdays. Furthermore, where practical, deliveries to the site shall be programmed to ensure that they are out with school drop off and collection times.

### Landscaping

- 8.26 The landscape strategy submitted with the planning application is generally acceptable in principle. The tree lined avenue design approach to the principal road will provide an attractive formal route through the site, linking to the principal road within the western part of site Hs19.
- 8.27 There is an existing hedge running alongside the eastern roadside boundary of the site. The hedge has good amenity value. However it is necessary to remove it to facilitate the formation of: (i) a two metre wide footway along the eastern boundary of the site; (ii) the access off Main Street and achievement of visibility spays on both sides of that access; and, (iii) a separate temporary construction access off Main Street. The 2 metre wide footway is essential infrastructure required to enable safe pedestrian access to and from the site and safe pedestrian access to the existing bus stop on the opposite (east) side of Main Street. The benefits of allowing the proposed development on the site, which includes the provision of affordable housing, and the above-mentioned pedestrian links outweighs the benefits of retaining the hedge. A landscape strip is to be formed behind the proposed new 2 metre wide footpath, in which the applicant proposes to plant a new hedge with a row of trees behind it. When planted the proposed new hedge and trees will adequately compensate for the loss of the hedge. It should therefore be made a condition of a grant of planning permission that the new hedge and trees are planted as replacement to the hedge to be removed. The removal of the hedge is justifiable in

planning terms and the planning authority considers that permitting its removal will not contravene the Wildlife and Countryside Act 1981, as has been claimed by Roslin & Bilston Community Council. However, as is always the case, the developer will need to be careful not to disturb or harm any protected species in removing a hedge with habitat potential.

- 8.28 An indicative soft landscaping schedule has been submitted with the application, which generally appears to be acceptable in principle. A detailed planting plan has not been submitted. It should be made a condition of a grant of planning permission that a detailed landscaping scheme for the development be submitted for the prior approval of the planning authority.
- 8.29 MLDP policy ENV2 (Midlothian Green networks) requires new development sites to fully incorporate green network opportunities in their design and implementation. This can potentially be delivered through a combination of path networks, open space and sustainable drainage systems. The principal road through the site comprises a tree lined avenue with a footpath/cycleway alongside it that will connect Main Street to the remainder of site Hs19 to the west. It will link the open spaces within the wider masterplan site, thus providing an acceptable green network. Given the provision of the tree lined avenue, footpath/cycleways including the one running along the length of the green linear park and the link to the core path network, the proposed development complies with policy ENV2 (Midlothian Green networks) of the MLDP and meets the aspiration of the Scottish Government policy statement 'Designing Streets' that a connected permeable network be provided for in new developments.
- 8.30 The settlement statement in the MLDP states that the northern edge of the site will require substantial landscaping to help screen the development from the A701 in the form of a 20-30m wide woodland belt. A woodland is not proposed on the northern extremity of the site. However, there is an existing woodland to the immediate north of the site which will provide adequate screening of the site from the A701.

#### Noise Nuisance

- 8.31 The acoustic report prepared by KSG Acoustics, submitted in support of this application, considers the impact of road traffic noise. The Council's Environmental Health Manager raises a concern regarding the assessment criteria used by the applicant's acoustic consultant. Rather than be designed to a level to avoid 'the majority of people being seriously annoyed' the Environmental Health Manager states that the assessment should be based on Midlothian Council's external daytime garden amenity standard in relation to anonymous noise; whereby 50 dB  $L_{Aeq(16h)}$  should be applied. In addition, they advise that an acoustic specialist should identify noise mitigation measures necessary to ensure compliance with this standard. Furthermore, they advise that the acoustic specialist should identify noise mitigation

measures necessary to ensure compliance with the Council's internal standards, which are consistent with that referred to in the acoustic report i.e. 35dB L<sub>Aeq</sub> (16hr) for daytime internal living apartment and 30 dB L<sub>Aeq</sub> (8 hour) for night time in internal living apartments. The recommendations made by the Environmental Health Manager in respect of noise mitigation can be secured by a condition(s) imposed on a grant of planning permission. The condition(s) should additionally ensure that any recommended and approved noise mitigation is carried out in full prior to the first occupation of the residential units affected.

### Archaeology

- 8.32 The proposed development is in close proximity to the site of the Battle of Roslin. The programme of archaeological works recommended by the Council's Archaeological Advisor can be secured by a condition imposed on a grant of planning permission. Subject to these controls the archaeological value of the site will be adequately assessed and the impact on any identified archaeological resource mitigated.

### Ecology

- 8.33 The Ecology Report submitted in support of the application does not identify flora or fauna on the site worthy of protection. The planning authority has not been presented with any evidence to the contrary. In the interests of encouraging biodiversity it should be made a condition of a grant of planning permission that a sustainability/biodiversity scheme for the site, including the provision of house bricks and boxes for bats and swifts throughout the development is submitted to and approved in writing by the planning authority. Subject to this the proposed development will comply with the requirements of policy DEV5 of the MLDP.

### Energy Efficiency and Carbon Reduction

- 8.34 In order for the Government's renewable energy and heat demand targets to be met, it is important that all types of new development consider the role they play in using heat from renewable sources. Paragraph 154 of SPP states that the planning system should support the transitional change to a low carbon economy including deriving *"11% of heat demand from renewable sources by 2020"* and supporting *"the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy generation capacity – and the development of heat networks"*. MLDP policy NRG6 states that community heating within new developments should be supported where technically and financially feasible. It remains to be demonstrated by the applicant that the proposed development does not offer the potential for a new district heating network to be created within the site. Therefore, it should be made a condition of a grant of

planning permission that a feasibility study for the provision of a community heating system for the new development undertaken by a suitably qualified engineer commissioned by the applicant be submitted for the approval of the planning authority.

- 8.35 It will be necessary for the developer to provide electric vehicle charging points across this development in order to encourage the move to more sustainable modes of travel.

#### Developer Contributions

If the Council is minded to grant planning permission for the development it will be necessary for the applicant to enter into a Section 75 planning obligation in respect of the following matters:

- A contribution towards education (including nursery) provision;
- A contribution towards the A701 Relief Road;
- A contribution towards community facilities/space;
- Provision of affordable housing; and
- Maintenance of children's play areas/open space.

- 8.44 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The circular advises that planning obligations should only be sought where they meet all of the following tests:

- necessary to make the proposed development acceptable in planning terms (paragraph 15)
- serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
- relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)
- fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)
- be reasonable in all other respects

The requirements set out for the proposed Planning Obligation meet the above tests.

#### Environmental Impact Assessment (EIA)

- 8.45 The planning authority is of the opinion that the proposed development does not warrant an Environmental Impact Assessment (EIA) to be carried out in connection with this planning application. The reason for this is that the likely environmental impact of the proposed development on the application site would not be significant.
- 8.46 In reaching this screening opinion the planning authority has given due regard to the likely impact of the proposed development on air

quality. Given the nature of the proposed development the planning authority considers that an air quality or dust impact assessment is not required (neither the Council's Environmental Health Manager nor the Scottish Environment Protection Agency (SEPA) has advised the planning authority that an air quality or dust impact assessment should be carried out for the proposed development).

#### Other matters raised by representors and consultees

- 8.47 The concerns raised by objectors about the existing capacity of general practice in Midlothian and the impact of new house building on health and care services is a matter would need to be addressed by the Midlothian Health and Social Care Partnership through the provision of sufficient health service capacity. That can involve liaison with the Council as planning authority but it is not, on its own, a sufficient basis in itself on which to resist or delay the application.
- 8.48 Regarding matters raised by representors and consultees and not already addressed in this report:
- The planning authority has not received any evidence to substantiate the claim in a letter of objection that neighbour notification has not been carried out in accordance with statutory requirements;
  - The planning authority has not received any evidence to substantiate the claim made in a letter of objection that the application site ownership certification made on the application form is incorrect/false and thus that the application is not legally valid;
  - The planning authority has not been presented with any evidence that substantiates the claim that the methodology and thus the conclusions of the Traffic Assessment submitted in support of the application are flawed;
  - There is no statutory requirement for whole of site Hs19, to be considered in a single planning application. The application stands to be determined on its own merits;
  - The proposed development would not result in undue light pollution to existing neighbouring properties;
  - A site layout plan submitted with the application delineates an overhead electricity power line intersecting the site at a point in the south west corner. That overhead line does not cross over any proposed dwelling plot in the development; and,
  - The Planning Authority does not consider that the proposed development would have a significant negative impact on tourism in Roslin. No evidence has been submitted to substantiate the claim made in letters of objection that the proposed development would harm tourism in Roslin.
- 8.49 The following matters which have been raised in representations which are not material considerations in the determination of the application are:

- The durability and safety of road and footway/cycleway surfaces to be adopted by the Council will be given due consideration by the Council, as roads authority, when it considers a future application for road construction consent for them;
- Title to part of the application site is a legal matter;
- The claim made in a letter of objection that the Council may be in breach of contract with a third party by entering into an agreement with the applicant to permit right of access over Core Path 29/title to part of Core Path 29 over which the proposed link road would cross is a legal matter and not a material consideration in the determination of the application;
- Whether there is a possible alternative use(s) of the site;
- Whether or not there is a demand/need for new housing development within Roslin;
- Whether accessing the site from the west via Chapel Lawns would result in increased factor fees of the residents of Chapel Lawns;
- Any disruption to services of existing neighbouring properties during periods of construction including gas supply, electricity supply and water supply;
- Any damage to existing neighbouring properties as a result of construction traffic movements and liability for subsequent repairs;
- The effect of the proposed development on the market value and rental value of existing neighbouring properties; and,
- Whether there exists brownfield sites or other sites in Midlothian where the proposed development could be located instead of on the application site.

## **9 RECOMMENDATION**

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

*The proposed development site is allocated in the Midlothian Local Development Plan 2017. The proposed detailed scheme of development in terms of its layout, form, design and landscape framework is acceptable and as such accords with development plan policies, subject to securing developer contributions. There would be no significant harm to the amenity of any neighbouring property. The presumption for development is not outweighed by any other material considerations.*

Subject to:

- i) the prior signing of a legal agreement to secure the provision of affordable housing and contributions towards education provision, the A701 Relief Road, community facilities/space and the maintenance of children's play areas/open space.

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

ii) the following conditions:

1. No development shall take place on site until a detailed scheme to provide the road, verge and footway/cycleway outlined by an orange line on approved plan ref:16192(PL) 002 REV A - Annotated, which runs west from the B7006 and connects with the road built or to be built through the neighbouring University of Edinburgh site the subject of planning application 18/00535/PPP, has been submitted to and approved in writing by the Planning Authority. Prior to the occupation of the 30<sup>th</sup> Residential unit of the development the road and footway/cycleway shall be formed, laid out and constructed and be available for use up to and on to the site boundary with the University of Edinburgh site to the west, at no cost to the Council.

**Reasons:**

*To ensure the proposed development is connected by road to the adjacent road network to the west providing a vehicular route connecting the B7006 and the B7003. If not connected the travel route of vehicles being driven westwards from the eastern part of site Hs19 and vice versa would be unduly circuitous thus resulting in longer car journeys and resultant higher vehicle CO2 emissions, poorer air quality and road congestion issues, contrary to adopted Midlothian Local Development Plan Policy TRAN1 (sustainable travel).*

*The site the subject of application ref.18/00535/PPP for planning application in principle and the site the subject of this current application together comprise allocated site HS19. A masterplan is required for the whole of site HS19 setting out the main planning and design principles upon which the development of the site will be based, including vehicular and pedestrian access etc. In accordance with the requirements of Midlothian Local Development Plan Policy TRAN1 and in the interests of pedestrian safety there should be a continuous east to west aligned footway/cycleway incorporated within the development on site HS19 and which connects to the existing public footpath alongside the B7003 Penicuik Road with the existing public footpath alongside the B7006 Main Street.*

2. Prior to works commencing on site a section drawing along the principal road in the site as it extends into the site the subject of 18/00535/PPP; as delineated by a blue dashed lined on approved plan ref:16192(PL) 002 REV A - Annotated, shall be submitted for the prior written approval of the Planning Authority.

**Reason:** *To ensure that any difference in road level at the point where the principal road on the site connects to the principal road on the*

*adjoining site the subject of planning application 18/00535/PPP is not prohibitive to the roads being connected as is required by condition 1.*

3. The indicative phasing plan submitted with the application is not approved. Development shall not begin until details of the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of affordable housing, the provision of open space, structural landscaping, the SUDS provision and transportation/roads infrastructure including the construction of the principal road in accordance with the requirements of condition 1. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

**Reason:** *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.*

4. The external finishing material specified on application drawings/documents are not approved. 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. An enhanced quality of materials shall be used in the area of improved quality. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

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

5. Notwithstanding that delineated on application drawing the development shall not begin until details of a revised scheme of hard and soft landscaping has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i other than existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
  - ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
  - iii proposed new planting in communal areas, road verges and open space, including trees, shrubs, hedging, wildflowers and grassed areas. The new planting shall include a replacement hedge along the entire length of the linear planning strip on the eastern roadside edge of the site and the planting of a trees behind (adjacent to the west) of the hedge and along its length;

- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping;
- ix drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
- x proposed car park configuration and surfacing;
- xi proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and
- xii details of existing and proposed services; water, gas, electric and telephone

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

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

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

***Reason for 4iii:*** *To compensate for the loss of existing vegetation on the site including the roadside boundary hedge which has good amenity value.*

6. Development shall not begin until details of the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i existing and finished ground levels for all roads and cycle ways in relation to a fixed datum;
  - ii proposed vehicular, cycle and pedestrian access;
  - iii proposed roads (including turning facilities), footpaths and cycle ways;
  - iv proposed visibility splays, traffic calming measures, lighting and signage;
  - vii proposed car parking arrangements;
  - viii an internal road layout which facilitates buses entering and leaving the site in a forward facing direction; and,
  - x a programme for completion for the construction of access, roads, footpaths and cycle paths.

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

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

7. Development shall not begin until details, including a timetable of implementation, of 'Percent for Art' have been submitted to and approved in writing by the planning authority. The 'Percent for Art' shall be implemented as per the approved details.

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

8. Development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
- i. The nature, extent and types of contamination and/or previous mineral workings on the site;
  - ii. Measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
  - iii. Measures to deal with contamination and/or previous mineral workings encountered during construction work; and
  - iv. The condition of the site on completion of the specified decontamination measures.

On completion of the decontamination/ remediation works referred to above and prior to any residence on the site being occupied, a validation report or reports shall be submitted to the planning authority confirming that the works have been carried out in accordance with the approved scheme. No residence on the site shall be occupied unless or until the planning authority have approved the required validation.

**Reason:** *To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction*

*workers, built development on the site, landscaped areas, and the wider environment.*

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

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

10. Development shall not begin until a programme of archaeological works on the site (metal detecting survey and trial trench evaluation) in accordance with a written scheme of investigation has been carried out. The approved programme of works shall be reported upon initially through a Data Structure Report submitted to the planning authority and carried out by a professional archaeologist prior to any construction works or pre commencement ground works taking place. There shall be no variation therefrom unless otherwise agreed in writing by the planning authority.

***Reason:*** *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policies ENV24 and ENV25 of the Midlothian Local Development Plan 2017.*

11. 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 2017.*

12. 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 dwelling. The delivery of high speed fibre broadband shall be implemented as per the approved details.

***Reason:*** *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure.*

13. A detailed plan and elevation drawings and details of the finishing materials of the electricity substation to be erected/installed on the site shall be submitted for the prior written approval of the planning authority.

**Reason:** *To safeguard the character and visual amenity of the area.*

14. Notwithstanding that delineated on docketed drawings the development shall conform to the following constraints in accordance with detailed plans/drawings and design and technical details to be submitted for the prior written approval of the planning authority:
  - i. A minimum visibility splay of 4.5m by 70m shall be provided at the proposed residential vehicle access onto Main Street.

**Reason:** *In the interests of road and pedestrian safety.*

15. Prior to the occupation of the first dwelling on the site the culvert under the access track in the vicinity of the north western corner of the site shall be upgraded to a minimum 1 metre diameter pipe as recommended in the Flood Risk Assessment report submitted with and docketed to this planning permission in accordance with details to be submitted for the prior inspection and approval of the Planning Authority.

**Reason:** *This information has not been submitted with the application and is necessary in order for the planning authority to confirm that the site is not at risk of flooding.*

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

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

17. Prior to the commencement of development a feasibility study on the operation of a community heating scheme for the development hereby approved, and if practicable other neighbouring developments/sites, in accordance with Midlothian Local Development Plan 2017 Policy NRG6, shall be submitted for the prior written approval of the planning authority. Should the planning authority conclude, on the basis of this study, that a scheme is viable, no dwelling on the site shall be occupied until a community heating scheme, and if practicable, other neighbouring developments/sites, is approved in writing by the planning authority. There shall be no variation therefrom unless with the prior written approval of the planning authority. The approved scheme shall be implemented in accordance with a phasing scheme also to be agreed in writing in advance by the planning authority.

**Reason:** *To ensure opportunities for the provision of a community heating system for the site is fully explored to accord with the requirements of*

*policy NRG6 of the Midlothian Local Development Plan 2017 and in order to promote sustainable development.*

18. Prior to commencement of construction of the first residential building on the site a revised acoustic report prepared by an acoustic consultant on the impact of road traffic noise on the proposed residences applying Midlothian Council's external daytime garden amenity standards in relation to anonymous noise 50 dB LAeq(16hr) shall be submitted for the prior approval of the Planning Authority. If that said noise level is exceeded within any of the rear private gardens of the proposed dwellings then details of the mitigation measure(s) required to be put in place to ensure compliance with the said standard shall be submitted for the prior written approval of the Planning Authority. The mitigation measure(s) approved by the Planning Authority shall be implemented prior to the first occupation of the dwellings on the house/flat plots where the mitigation is required to be put in place and thereafter shall be retained.
19. Prior to commencement of construction of the first residential building on the site a revised acoustic report prepared by an acoustic consultant on the mitigation measures required to be put in place in order to ensure compliance with the Council's internal standards for the dwellings hereby approved, which standards are referred to in the report by KSG Acoustics and submitted in support of the application, and are: 35dB LAeq (16hr) for daytime internal living apartment and 30 dB LAeq (8 hour) for night time in internal living apartments, shall be submitted for the prior written approval of the Planning Authority. The mitigation measures, approved by the Planning Authority shall be implemented prior to the first occupation of the dwellings in which the mitigation is required to be put in place and thereafter shall be retained.

***Reason for 18 & 19:*** *In the interests of safeguarding the residential amenity of the future occupants of the dwellings erected on the site.*

20. Notwithstanding that delineated on docketed drawings the 3 metre wide footway/cycleway running past plot 43 shall not terminate at the southern boundary of the application site; but instead, it shall extend southwards up to and on the boundary with core path 29.

***Reason:*** *To ensure the provision of adequate pedestrian and cycle connections through the site in the interests of promoting sustainable travel in accordance with Midlothian Local Development Plan Policy TRAN1(sustainable travel).*

21. Development shall not begin until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the planning authority. The CEMP shall include:
  - i. Details of a construction access;
  - ii. signage for construction traffic, pedestrians and other users of the site;

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

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

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

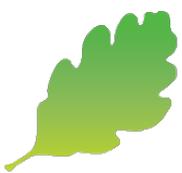
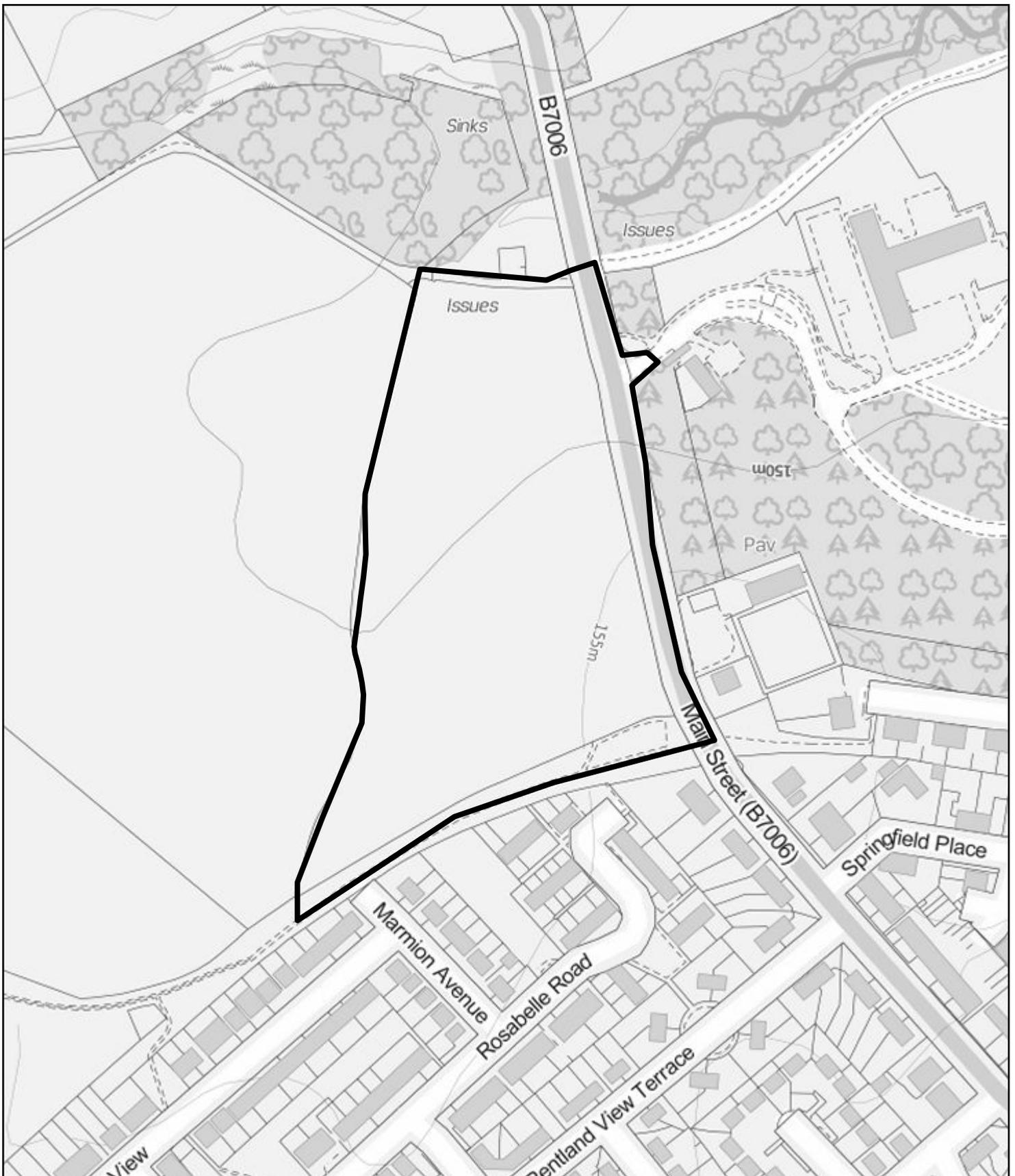
**Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 22 March 2019

**Application No:** 18/00703/DPP  
**Applicant(s):** BDW Trading Limited, Telford House, 3 Mid New Cultins, Edinburgh, EH11 4DH

**Agent:** EMA Architecture and Design, 42 Charlotte Square  
 Edinburgh, EH2 4JHQ

**Validation Date:** 20<sup>th</sup> September 2018  
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**Background Papers:** 17/00693/PAC



Midlothian

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

Erection of 51 dwellings; formation of access roads and car parking and associated works at Land 65M West of Roslyn Bowling Club, Main Street, Roslin

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