

# Planning Committee

10.00am, Thursday, 4 December 2014

## Edmonstone Estate application (14/01057/PPP)

<b>Item number</b>	6.2
<b>Report number</b>	
<b>Executive/routine</b>	
<b>Wards</b>	Portobello/Craigmillar

### Executive summary

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At the Council meeting on 25 September 2014 it was noted that the non determination of the Edmonstone Estate application within appropriate timescales has reduced the opportunity for the City of Edinburgh Council to exercise influence over the planning application. The Council called for a report to the Planning Committee within two cycles analysing factors contributing to the failure of the Council to determine the application within an appropriate period. This report updates the Committee on the processing of the planning application.

### Links

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**Coalition pledges**

**Council outcomes** CO7,  
CO19, CO23

**Single Outcome Agreement** SO4

## Edmonstone Estate Application (14/01057/PPP)

### Recommendations

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- 1.1 It is recommended that the Committee:
- (i) notes the contents of this report; and
  - (ii) agrees to discharge the remit set by the City of Edinburgh Council on 25 September 2014.

### Background

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- 2.1 The Development Management Sub-Committee had referred for decision at a full Council meeting a report on a planning application for land at Edmonstone Estate which had been the subject of a pre-determination hearing. A pre-determination hearing was required in line with the Town and Country Planning (Development Management Procedures) (Scotland) Regulations 2008 because the application was for a major development which was significantly contrary to the local development plan and also contrary to the aims of the Central Scotland Green Network which is identified as a national development in National Planning Framework 3 (NPF 3). The application was for residential development, ancillary uses and associated development (application reference 14/01057/PPP).
- 2.2 The report was due to be considered at the Council meeting on 21 August 2014 but was continued to the next meeting of the Council on 25 September 2014, following a request by Craigmillar Community Council to make a deputation. The applicant lodged an appeal with the Directorate for Planning and Environment Appeals (DPEA) on 22 August 2014.
- 2.3 On 25 September 2014, the Council was advised that the planning application was now the subject of an appeal and cannot be determined by the Council.
- The decision of the Council was as follows:
- 1) To note the report by the Acting Director of Services for Communities.
  - 2) To note that non determination within appropriate timescales had reduced the opportunity for the City of Edinburgh Council to exercise influence over the Edmonstone Estate application.

- 3) To call for a report to the Planning Committee within two cycles analysing factors contributing to the failure of the Council to determine the application within an appropriate period.

## Main report

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### Application History

- 3.1 A planning application for land at Edmonstone Estate (land 447 metres north east of 545 Old Dalkeith Road) was validated on 3 April 2014. The application was for residential development, ancillary uses and associated development.
- 3.2 The Edinburgh Planning Concordat encourages developers to enter into a processing agreement with the Council to clearly set out roles, responsibilities and timescales for major developments. In this case, the applicant was unwilling to sign the draft processing agreement. As a result, the default timescale of 4 months was applied. This meant that the applicant was able to appeal against non-determination of the application from 3 August 2014.
- 3.3 The application was advertised and consultations undertaken. Craigmillar Community Council was consulted but did not respond.
- 3.4 The applicant requested that two scenarios were considered for the proposed housing. One for a development of 173 units and the other for a development of 368 units. The following information was submitted in support of the planning application and was assessed before the application was determined:
  - Pre-application Consultation Report;
  - Environmental Statement;
  - Planning Statement;
  - Transport Assessment;
  - Education Report;
  - Design and Access Statements (173 and 368 units);
  - Drainage Statements (173 and 368 units);
  - Landscape and Visual Impact Assessment (173 and 368 units);
  - Landscape Appraisal and Design Statement;
  - Site Investigation Report;
  - Report on Health and Safety Considerations Relating to Shallow Mineworkings;
  - Hydrogeological Risk Assessment incorporating Water Features Survey; and
  - Completion Report for Consolidation of Abandoned Mineworkings and Bell Pits for the Wisp Link Access Road.

- 3.5 The application was considered by the Development Management Sub-Committee by means of a pre-determination hearing on 30 July 2014. A pre-determination hearing and referral to a full Council meeting was required because the proposal is considered to represent a significant departure from the development plan due to its green belt location and its impact on the aims of the Central Scotland Green Network, which is defined as a national development in NPF 3. The decision of the Sub-Committee was to recommend to the Council that the application be refused. This recommendation was due to be considered by the Council on 21 August 2014.
- 3.6 At the meeting on 21 August 2014, the Council continued the item to the next meeting on 25 September 2014 following a deputation request by Craigmillar Community Council.
- 3.7 The applicant decided that the delay until 25 September 2014 was unacceptable and appealed to the Directorate for Planning and Environmental Assessment on 22 August 2014 on the grounds of non-determination i.e. that the Council has failed to determine the application within the statutory four month period.
- 3.8 On 25 September 2014, the Council was advised that, as a result of an appeal being submitted, there was no requirement for the Council to consider the recommendation of the Development Management Sub-Committee in relation to this application.

#### **Assessment and Performance Issues**

- 3.9 The application was for a major housing development within the green belt. The statutory period for determining major applications without a processing agreement is four months.
- 3.10 The application was presented to Committee for the pre determination hearing on 30 July 2014. This was within the four month period. The Development Management Sub-Committee was therefore given the opportunity to debate the application and make a recommendation at the next available Council meeting, before the applicants decided to appeal against non determination.
- 3.11 on Wednesday 20 August 2014, the Craigmillar Community Council made a request for a deputation to Council. The Community Council received an initial response from Committee Services on the procedures for deputations at Council meetings. Following clarification of the request, the Community Council were advised later the same day that deputations in relation to planning hearings at Council were not permitted by the Council's Standing Orders. The Community Council had already been advised that this procedure was not permissible under planning regulations because it had not made representation on the planning application. There were no outstanding issues regarding the assessment of the proposals which had been addressed in full by the predetermination hearing.
- 3.12 The Council then agreed to a request for a continuation of the item to clarify the situation in relation to the request for a deputation by Craigmillar Community Council. Given the matter was raised with politicians on the morning of the

meeting and there was some confusion about the advice that was given to the Community Council, it was felt appropriate to postpone the item in order to investigate the matter further.

## **Conclusions**

- 3.13 This was a complex application as can be demonstrated by the range of issues submitted in supporting documents and the detail in the report to the Development Management Sub-Committee. The application was presented to the Development Management Sub-Committee in the shortest time possible, and before the expiry of the four month period. The applicant was aware of the requirement for the final decision to be made by Council and had indicated a willingness to wait for the 21 August (18 days after the expiry of the four month period) despite not being willing to sign a processing agreement. Following the continuation at the Council meeting, the applicants were unwilling to wait further and exercised their right to submit an appeal to the DPEA.

## **Measures of success**

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- 4.1 The measure of success is that the Council notes that correct procedures were followed in relation to the planning appeal process.

## **Financial impact**

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- 5.1 The contents of this report will have no impact on Council finances.

## **Risk, policy, compliance and governance impact**

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- 6.1 There are no significant risks associated with approval of the document as recommended.

## **Equalities impact**

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- 7.1 The application was assessed in terms of equalities and human rights and no issues were identified.
- 7.2 Councillors could take the view that the delay caused by the processing of the application has reduced the opportunity for the City of Edinburgh Council to exercise influence over the planning application as it has allowed the applicant the opportunity to appeal against the non-determination of the application. However, the members of the Development Management Sub Committee had the opportunity to discuss and make a recommendation on the application to the Council. The recommendation made at the Hearing has been recorded and will be a material consideration in the determination of the appeal.

- 7.3 The Community Council could take the view that it was not given the opportunity to make a deputation to Full Council. However, it was consulted as part of the application but did not respond. As the Community Council did not respond to the consultation request, it did not have a statutory basis for a deputation to Full Council. Ward Councillors and the Community Council have the opportunity to make representations to the DPEA as part of the appeal decision process. The Acting Head of Planning has written to all ward members and Craigmillar Community Council to let them know how and when to make a representation if they wish to do so.
- 7.4 The applicants exercised their rights to appeal to the DPEA. On balance, because the correct planning procedures have been followed, there is no impact in terms of Equalities and Human Rights.

## Sustainability impact

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- 8.1 There are no issues in terms of sustainability.

## Consultation and engagement

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- 9.1 There is no requirement for consultation on the contents of this report. The application was subject to pre-application consultation procedures and relevant notifications and consultations as part of the planning application process.

## Background reading/external references

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Planning reference 14/01057/PPP, Development Management Sub-Committee 30 July 2014

Report of pre-determination hearing – 545 Old Dalkeith Road, Edinburgh – referral from the Development Management Sub Committee 21 August 2014

Update on Edmonstone Estate Application, City of Edinburgh Council 25 September 2014

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## Links

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**Coalition pledges**

**Council outcomes**

CO7 Edinburgh draws new investment in development and regeneration.  
CO19 Attractive Places and Well Maintained – Edinburgh remains an attractive city through the development of high quality buildings and places and the delivery of high standards and maintenance of infrastructure and public realm.  
CO23 Well engaged and well informed – Communities and individuals are empowered and supported to improve local outcomes and foster a sense of community

**Single Outcome Agreement**

SO4 Edinburgh's communities are safer and have improved physical and social fabric

**Appendices**

None

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