

Development Management Sub-Committee Report

Wednesday 23 November 2022

**Application for Planning Permission in Principle
Land South Of 26 Cleikiminrig, Edinburgh,**

Proposal: Residential development with associated landscaping, SUDS, infrastructure, engineering works including removal of on-site material, and other ancillary works.

**Item – Committee Decision
Application Number – 22/03291/PPP
Ward – B17 - Portobello/Craigmillar**

Reasons for Referral to Committee

The application is referred to the Development Management Sub-Committee due the significance in terms of the wider public interest as it is associated with a major development.

Recommendation

It is recommended that this application be **Granted** subject to the details below.

Summary

The site is within the urban area where planning permission for residential use is acceptable in principle so long as it complies with the other local plan policies. The application raises issues of contamination and site remediation due to its mining history. This issue can be resolved through the use of conditions to ensure that the site is suitable for residential use. A number of other planning conditions and a legal agreement would also be required to ensure compliance with the local plan policies at the planning permission in principle stage. The development will be required to provide the necessary infrastructure in relation to affordable housing, education, transport, healthcare and open space.

Scottish Planning Policy introduces a presumption in favour of development that contributes to sustainable development and sets out 13 principles to guide policy and decisions. The site is within the urban area where residential development is acceptable in terms of sustainable development and the SPP. The proposal complies with the Local Development Plan and there are no other material considerations that outweigh this conclusion.

SECTION A – Application Background

Site Description

The application site is 6.39 hectares of vacant and derelict land between The Wisp to the west, Whitehill Road to the east, and Cleikiminrig to the north and fields to the south. The site was previously a former colliery coal heap known as the 'Niddrie Bing'. The cap to a major vertical mine shaft lies at the south-west corner of the site. The site has largely been unmaintained since the 1980s and now contains an undulating landscape due to its previous use, with mature trees and bushes on the outer edges of the site, in a diagonal band across the centre in the area of lower ground, and more semi-mature trees at the eastern boundary of the site. There are overhead powerlines at the eastern boundary of the site. There is a vehicle access at the east of the site from Whitehill Road and the wider Edinburgh Fort Kinnaird Retail Park. The site is brownfield land on the Vacant and Derelict Land Register and within the urban area. The Midlothian Council boundary is to the south of the application site. Midlothian Council has granted a planning permission in principle for residential development to the south of this application site which was identified in the adopted Midlothian Local Development Plan (2017) as Hs0 Phase 1 (Cauldcoats).

Description of the Proposal

The application seeks planning permission in principle as a red-line application site for up to 260 residential units with associated landscaping, SUDS, infrastructure, engineering works including removal of on-site material, and other ancillary works. The development proposals are indicative and flexible with an indicative development framework showing a vehicular route through the site to Whitehill Road (Fort Kinnaird), a pedestrian link to the north, and structural landscaping, SUDS and play area. The formation of vehicle access from The Wisp to Whitehill Road as well as the principle of up to 260 residential units is to be agreed as part of this planning permission in principle. However no further design details are to be agreed at this Planning Permission in Principle stage.

Supporting Information

The application is supported by the following documents available to view on the Council's Planning and Building Standards Public Access Portal:

- Air Quality Impact Assessment;
- Archaeology Assessment;
- Arboriculture Assessment;
- Coal Mining Risk Assessment;
- Design and Access Statement;
- Drainage, Engineering and Flood Risk Assessment;
- Indicative Development Framework;
- Landscape and Visual Impact Assessment;
- Noise Impact Assessment;
- Phase 1 Geo-Environmental Desk Study Report
- Preliminary Ecological Survey;
- Planning Statement;
- Pre-application Consultation Report;
- Remediation Statement;
- Site Investigation Report;
- S1 Sustainability Checklist;and
- Transport Assessment.

Relevant Site History

22/00112/PAN

Land South Of 26 Cleikiminrig
Edinburgh

Residential development with associated landscaping, vehicular link route, active travel route, SUDS, infrastructure, engineering works including removal of on-site material, and other ancillary works.

Pre-application Consultation approved.
28 January 2022

03/02034/FUL

Land at the Wisp
Edinburgh
EH16 4SG

Proposed residential development (detached, semidetached and terrace houses and flats) as amended

Minded to Grant - Legal Agreement
18 April 2007

Other Relevant Site History

Pre-Application process

Pre-application discussions took place on this application.

Consultation Engagement

Scottish Water

Transport

Flood Planning

The Coal Authority

SEPA

Environmental Protection

Midlothian Council

Archaeology

Communities and Families

Refer to Appendix 1 for a summary of the consultation response.

Publicity and Public Engagement

Date of Neighbour Notification: 1 July 2022

Date of Renotification of Neighbour Notification: Not Applicable

Press Publication Date(s): Not Applicable;

Site Notices Date(s): Not Applicable;

Number of Contributors: 2

Section B - Assessment

Determining Issues

Section 25 of the Town and Country Planning (Scotland) Act 1997 states - Where, in making any determination under the Planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material considerations indicate otherwise.

Do the proposals comply with the development plan?

If the proposals do comply with the development plan, are there any compelling reasons for not approving them?

If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

Assessment

To address these determining issues, it needs to be considered whether:

The proposals comply with the development plan

The Development Plan comprises the Strategic and Local Development Plans.

The relevant Edinburgh Local Development Plan 2016 (LDP) policies to be considered are:

- LDP Delivery policy Del 1;
- LDP Design policies - Des 1 - Des 9;
- LDP Environment policies Env 8-9, Env 12, Env 16, Env 18 -22;
- LDP Housing policies - Hou 1-4, Hou 6, Hou 10;
- LDP Transport policies - Tra 1-4, Tra 7-9; and
- LDP Resource policy RS 6.

The LDP Action Programme December 2021 and the Finalised Developer and Infrastructure Delivery Supplementary Guidance (August 2018) are material considerations. The non-statutory Edinburgh Design Guidance is also a material consideration as is the Affordable Housing Guidance (May 2021). Fort Kinnaird Development Brief (2005) covers the wider area including the application site.

Principle

SESPLAN is the Strategic Development Plan for Edinburgh and South-East Scotland. It identifies four Strategic Development Areas within Edinburgh. However the application site is not within a Strategic Development Area.

The Edinburgh Local Development Plan (LDP) (2016) retains the primacy in terms of decision making and is afforded the greatest material weight despite now being over five years old. The LDP defines the site as within the urban area and includes two transport proposals and safeguards in Table 9, but no further designations or constraints. Policy Hou 1 of the (LDP) relates to the location of housing development and part 1(d) gives priority to other suitable sites in the urban area, provided the proposals are compatible with other policies in the plan. Therefore, the proposal is acceptable in principle provided it complies with other local plan policies.

The proposal is part of a comprehensive development

LDP Policy Des 2 Coordinated Development states that planning permission will be granted for development which will not compromise (a) the effective development of adjacent land; or (b) the comprehensive development and regeneration of a wider area as provided for in a master plan, strategy or development brief approved by the Council. The submitted application is for planning permission in principle, with all other matters reserved.

The Fort Kinnaird Development Brief (2005) is primarily concerned with development of the retail park but recognises the potential to re-route car traffic away from Newcraighall Road with a potential link across the Bing. Effective development of adjacent land is not compromised, and the site's redevelopment can include active travel connections direct to The Wisp, the Cauldcoats development on the land to the South and to Whitehill Road as well as through the site towards the active travel link to the north.

The vehicle access is proposed from The Wisp connecting through to Whitehill Road which reflects the LDP Road safeguard improvement T15: West of Fort Kinnaird Road to The Wisp in the LDP.

The Fort Kinnaird Development Brief (2005) includes the active travel connections which are now T7 and T15 and the diversion of private traffic from Newcraighall Road in the LDP. Therefore, the proposal is acceptable under policy Des 2 (a) and (b).

Scale, design, and materials

LDP Policies Des 1 - Des 8 set a requirement for proposals to be based on an overall design concept which draws on the positive characteristics of the surrounding area with the need for a high quality of design which is appropriate in terms of height, scale and form, layout, and materials. This includes access to the site, footpath/cycleway links through the site and to existing areas, amenity issues and the creation of open space and landscaping and impact on views to and from the site. The policies seek a comprehensive and integrated approach to the layout of buildings, streets, footpaths, cycle paths, public and private open spaces that enhances the character and appearance of the area around it.

This application is for planning in principle for residential use. The indicative development framework shows a built environment of up to 260 units. However, it is recommended that all design matters are reserved except for principle of residential development on this site.

Midlothian Council also ask that the site layout development is fully coordinated and integrated with their proposals for their adjoining site Hs0 (Cauldcoats) directly to the south of the application site and the developer is encouraged to do so. This could include the relationship of the built form along the Wisp - as well as opportunities for active travel and green network connections, open space, play space and sustainable drainage links between this site and the neighbouring residential development with planning permission in principle to the south - Cauldcoats.

Landscape and trees

In line with policies Des3, Des7 - 8 and Env 12, developing the detailed design proposals, the existing mature and semi-mature trees and woodland worthy of retention on the site should be incorporated, particularly around the perimeter of the site. These trees contribute to both city and local views and would help to assimilate the new development within the landscape.

The retention of the mature trees/ woodland along the west boundary is very important as this abuts Hunter's Hall Park. The existing stone wall and wooded embankment should both be retained and incorporated into the designs, and this may require existing levels to remain and tree root protection areas safeguarded. On the north boundary, only a thin slither of trees has been retained, but a wider band of trees, including both evergreen and deciduous trees is required to provide a good landscape buffer between the two housing estates. For the SW/ South boundary proposals should seek to retain some of the existing mature trees in a design that integrates with the neighbouring development. These trees are important to filter the views of the new buildings in local views.

The applicant is encouraged to retain trees/habitats in terms of biodiversity and the green corridors along the perimeter of the site. The detailed design should also consider green roofs, other measures to attract wildlife and plant species should be chosen to attract wildlife. The detailed design will be required to give further details on hard and soft landscaping, planting and maintenance as secured by condition.

The Tree Survey indicates quite a substantial area of Category B trees at Woodland Group G2 within the interior of the site. As many of these trees should be retained as possible. Therefore, for the future AMC application several further reports are required which would be secured by condition including Tree Survey Plan & Schedule; Tree Constraints Plan also indicating Root Protection Areas; A plan showing all trees - whether they are to be retained; retained with pruning (extent of tree work to be detailed) or removed; Tree Protection Plan and Arboricultural Method Statement.

Landscape Visual Impact Assessment (LVIA)

The LVIA indicates an extensive theoretical area of visibility, particularly to the south, which is partially screened by the extensive tree cover and surrounding built up areas of its urban fringe context. There would be local substantial adverse landscape effects due to the loss of this open space and woodland which could be mitigated by the retention of perimeter trees as discussed above. The effects on the wider landscape character would be very limited and the site would be views in the context of its urban fringe character and surrounding built development. The LVIA has not included any winter views (worst case scenario) photomontages at this time. Without leaf cover, the new development will be much more visible in winter and so we need to be able to assess this in more detail at AMC stage, particularly given the uncertainty over the future levels of the proposed site. Therefore, an updated LVIA should be submitted as part of the AMC application.

Sustainable Urban Drainage Systems (SuDS)

The residential development is likely to include a SuDS feature which should be above-ground for example rain gardens, swales, SuDS trees and integrated with the landscape and adjoining site. This would provide visual amenity and biodiversity. The applicant is encouraged to take the opportunity to de-culvert the Madelene Burn along the southern boundary which could further enhance visual amenity and assist with SuDS drainage. The SuDS maintenance plan should be provided clearly indicating who is responsible for future maintenance of all the assets.

If permission is granted, design matters, including number of units, layout, scale, height, levels, form and materials, trees, landscaping, open space and SuDS should be covered by condition requiring these matters to be the subject of further AMC applications.

Amenity

LDP Policy Des 5 Development Design Amenity sets out the criteria to assess the impact on the amenity of neighbouring developments and for future occupiers relating to noise, daylight, sunlight, privacy or immediate outlook. This policy also requires community security, active frontages and designing for natural surveillance. Defensible private spaces and clear distinctions between private and public spaces as well as how the proposed design integrates refuse and recycling facilities, cycle storage, low and zero carbon technology and service infrastructure are also assessed under this policy. In terms of policy Des 5 - (b) - the adaptability to meet future needs; (c) community security and active frontages; (d) distinctions between public and private spaces and (e) refuse and recycling facilities could be integrated into the design at a later stage.

Des 5 a) in terms of the impacts on the amenity for neighbouring developments and for future occupiers can be assessed now to consider whether an attractive residential environment can be created. It is also important to consider that the development of this site for residential situates a much more sensitive use in this location than previously. This not only has impacts for neighbouring developments but requires assessment to ensure that a suitable residential environment can be created on this site.

Noise

The application has submitted a Noise Impact Assessment which considered both road traffic noise and commercial noise across the site. This has been assessed by Environmental Protection and it is considered that the site is suitable for residential development.

Light Pollution

The adjacent retail and garage premises utilise floodlighting which may impact upon the application premises by way of glare. This issue requires to be addressed as part of the detailed design to ensure that amenity will not be adversely affected by extraneous light pollution.

Housing Mix and Density

Policy Hou2 Housing Mix seeks a provision of a mix of housing to meet a range of housing needs. Policy Hou 4 Housing Density seeks to have appropriate densities of development on sites, given their characteristics and those of the surrounding area, the need to create an attractive residential environment and safeguard living conditions within the development. Other criteria include both the accessibility of the site including access to public transport and the need to encourage and support the provision of local facilities necessary to high quality urban living. Higher density development can be seen as making efficient use of urban land.

There is no prevailing character in the immediate vicinity. The development layout of Cleikiminrig was influenced by the site constraints as is likely on the application site. The application site is close to public transport with existing bus services on Newcraighall Road and the Newcraighall Station within walking distance. There is also a range of retail, leisure and entertainment services nearby at Fort Kinnaird. Therefore, this site could be capable of higher density development as set out in Hou4, but this will need to be balanced between the need to retain trees where possible on site as well as the site constraint due to its mining and contamination history.

Both housing mix and density should be considered at the detailed design to provide appropriate layout, scale, height, massing and numbers which accords with the other design policies and ensures an attractive residential environment for occupants.

Private Green Space in Housing Development

The provision of open space (20% of the site area as useable greenspace) would need to be incorporated into the proposals in order to comply with policy Hou 3. There needs to be a clear distinction between these private amenity spaces and the public open space provision, which would be required at the detailed design stage. Midlothian Council has commented on the proposals and encourages the applicant to consider issues of open space, green space and play space, and sustainable drainage to integrate with the Cauldcoats site directly to the south.

The amenity considerations above apply to ensure the creation of a safe and attractive residential environment for occupants. However, given the contaminated nature of the site and its mining history, whether this site could be made safe for residential development is a key consideration.

Pollution

Policy Env 22 requires development to either have no significant adverse effects or appropriate mitigation is proposed to minimise any adverse effects for health, the environment and amenity.

Contaminated Land

The site is heavily contaminated and needs to be made safe for the proposed end use as residential development. Environmental Protection has assessed the Phase 1 Desk Study submitted in support of this application for PPP in relation to land contamination considerations. Based on this report and information available from earlier planning application, the potential for unacceptable risks to impact upon the development proposed have been identified. It is agreed that a stage of detailed intrusive investigation and site-specific risk assessment is necessary to further define the level and extent of potential risks from pollutant linkages identified within the preliminary assessment.

The results of the site-specific assessment should be used to inform detailed options appraisal as a basis for the development of a suitable remediation strategy that should aim to be sustainable and would be intended to be implemented both during site restoration period and development phase to deliver remediation objectives and outcomes that would ensure the development would be safe and suitable for the intended residential end use. It is considered acceptable for a planning condition to be applied to any PPP to obtain all necessary information required for both further assessment and mitigation/management of land contamination during site restoration and end use, for regulatory consideration.

Coal Mining

The application site falls within the defined Development High Risk Area; therefore, within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. A phase 1 Geo- Environmental Desk Study Report has been submitted and assessed. The Coal Authority considers an adequate assessment of the coal mining risks associated with this site has been carried out. However, conditions are recommended to ensure that the site is safe and stable for the future residential development. Conditions relating to a scheme of intrusive site investigations, a report on its findings and implementation of the remedial works can be attached to any planning permission in principle. On this basis, the Coal Authority has no objection to the granting of planning permission in principle.

Air Quality

The applicant has submitted an Air Quality Impact Assessment (AQIA) which is aligned to the Transport Assessment (TA) and based on a worst-case scenario of 100% car parking levels across the site. Based upon the 'worst case' assessment of traffic generation associated with the proposed development, the AQIA has concluded that in principle the impacts upon local air quality will be negligible. TA and AQIA together do provide a robust basis upon which to consider the impacts of the proposal and establish the acceptability of the 'principle' of development and the principle of residential development is acceptable in air quality terms.

Environmental Protection has suggested that the level of parking should be reduced significantly, and proposed mitigation measures included. The transport infrastructure set out below would also impact on air quality within the site. Therefore, it is considered reasonable to require the developer to update the Air Quality Impact Assessment and Transport Assessment in terms of air quality impact and mitigation measures at the detailed AMC stage which can be secured by condition. Parking levels will need to be justified.

Mitigation Measures during the Construction Phase

Given the works required to be undertaken to make the site safe for residential use, the Air Quality Impact Assessment identifies construction impacts. Mitigation Measures listed as desirable or highly recommended in the IAQM guidance (2014) will be included within a Construction Environmental Management Plan (CEMP) to reduce the risk of dust impacts associated with the construction of the proposed development. This includes communication with stakeholders, a Dust Management Plan, preparing and maintaining the site to reduce dust, and mitigation for site operations and ongoing site monitoring and management in terms of waste, vehicle operations, earthworks, and construction activities. Details are to be submitted at the AMC stage.

Accessibility, Connectivity and Road Safety

LDP Policies Tra1-4, and Tra7-10 set out the transport framework to minimise the distances people need to travel, promote active travel and minimise the detrimental effects of traffic and parking on communities and the environment. Policy Tra 7 Public Transport Proposals and Safeguards requires the proposals to take account of the LDP Proposals T7 the Cycleway Footpath Safeguard from The Wisp to Fort Kinnaird Link and LDP Proposals T15 the Road Safeguard Improvement: West of Fort Kinnaird Road to The Wisp.

As this is a planning permission in principle, the detailed layout has not been agreed. However, the site needs to provide suitable access and linkages into the surrounding area which need to be included within the detailed site layout, including:

- a direct traffic route between Newcraighall Road and The Wisp as set out in Table 9 of the Local Development Plan (Ref.T15) as part of a wider active travel and traffic management scheme. It is expected that this route will require to be 7.3m wide to accommodate general traffic, including buses and heavy goods vehicles, and will include a priority junction with The Wisp, with the northern arm of The Wisp being the minor arm as well as suitable cycle and pedestrian routes through the development;
- a suitable cycle and pedestrian links to be provided to link the development southwards to the Midlothian Council area and northwards towards Newcraighall Road (Proposal Tra 7 in table 9 of the Local Development Plan);
- a suitable pedestrian and cycle crossing on The Wisp to link the proposed development to Hunter's Hall Park;
- improved pedestrian and cycle routes to link the development northwards along The Wisp to its junction with Niddrie Mains Road, particularly to promote cycle and pedestrian links to schools;
- bus stops within the site will be required; and
- waiting and loading restrictions will be required;

Midlothian Council has commented on the application and supports the provision of active travel routes and permeability through the site, including cross boundary routes to the Midlothian Cauldcoats site.

Cumulative Impacts

Midlothian Council also raised concerns about the cumulative traffic impacts, road safety and traffic congestion in the locality of the Wisp and the impact of additional traffic arising from this proposal. The approval of the nearby Edmonstone Estate (Ref 18/00508/AMC) identified a requirement for improvement to the existing A7 Old Dalkeith Road/ The Wisp junction. The Council approved application 18/00508/AMC with a condition requiring upgrading to include MOVA control (or agreed alternative) together with carriageway widening and all additional measures shown on plan number TP430/SK/001. Midlothian Council agree with these requirements and wish to ensure that the enhancements at The Wisp/A7 Old Dalkeith Road are in place prior to first occupation of any new houses at the proposed development site.

The LDP transport infrastructure proposals require to deal with cumulative transport impacts arising from the sites identified in the plan including T7 and T15 above. Taking into account existing committed sites in both Edinburgh Council area and Midlothian Council area provision of the routes, accesses and linkages outlined above are required. Together these infrastructure measures have the potential to change the character of the northern part of the Wisp and provide increased active travel access, connections, linkages and permeability through the area.

It is considered that the improvements to the existing A7 Old Dalkeith Road/ The Wisp junction are more directly relevant to the nearby Edmonstone Estate. This junction is a considerable distance from the application site and improvements are already identified and being delivered by the development at Edmonstone. Therefore, it is considered that linking this planning permission to the undertaking of such works is not required.

Parking

The transport assessment and air quality assessment both assume (the worst-case scenario) that the parking levels would be 100%, the maximum under the Edinburgh Planning Guidance, in order to assess the impact on air quality. These reports state that currently no further mitigation measures in terms of air quality are proposed. The detailed proposals would include a general traffic route through the site and therefore it is reasonable to require a further air quality assessment at that time and encourage the applicant to provide mitigation measures. Given this site is well served by public transport and accessible to local facilities, the maximum level of car parking would not be supported at detailed design stage. Therefore, the applicant should provide a robust justification for the level of car parking included at AMC stage and consider disabled vehicle and electric charging spaces within it. Car club vehicle numbers including contributions to vehicle provision, will also be required. Cycle parking numbers should also be justified at the detailed design stage. All parking should be provided to the layout and specification in accordance with the Council guidance and factsheets.

Subject to securing matters through legal agreement, conditions, detailed design at AMC stage and informatives as appropriate, there are no transport objection to these proposals.

Flooding and Drainage Issues

Policy Env 21 Flood Prevention states that planning permission will not be granted for development that would increase a flood risk or be at risk of flooding itself, impede the flow of flood water or prejudice existing or planning flood defence systems. A Flood Risk Assessment and Engineering and Drainage Report have been submitted. SEPA raised no objection to the proposed development. Flood Planning has no objection to the proposed development at this PPP stage. However, they would require further information at the detailed design stage in terms of how future remediation/development will affect overland drainage flows; how surface water will be diverted into existing culverted watercourse; further assessment of the water course; and details of proposed SUDS features. This information can be required by condition and therefore the proposals comply with Policy Env 21.

Water Supply

Policy RS6 Water and Drainage states where there is an inadequate water supply or sewerage available to meet the demands of the development and necessary improvements cannot be provided, then planning permission would not be granted. Scottish Water has no objection to the proposed development. There is an adequate water supply and sewerage available, detailed design issues could be secured by condition or informative as appropriate and therefore it complies with Policy RS6 Water and Drainage.

Biodiversity

Policy Env 16 Species Protections seeks to ensure planning permission is not granted for development that would have an adverse impact on protected species. A Preliminary Ecological Appraisal and Updated Mosaic Habitat Survey have been submitted. A Bats Species Protection Plan must be produced and a further check for bats in the two trees identified with potential to support them, prior to works commencing on site. Whilst no evidence of Badgers found, if the detailed design affects the area of the northeast of the site where there are two connected large mammal holes then this must be affected further to identify species present and a Badger sett licence may be required for disturbance. A Reptile Species Protection Plan and an Invasive Non-Native Species Management Plan should be produced and implemented. The Construction Environmental Management Plan must also be produced incorporating the mitigation measures in the appraisal and habitat survey. These further studies and surveys can be secured by condition.

Therefore, the proposals are acceptable under policy Env 16.

Infrastructure

Policy Del 1 - Developer Contributions and Infrastructure Delivery states that proposals will be required to contribute to infrastructure provision where relevant and necessary to mitigate any negative additional impact (either on an individual or cumulative basis) and where commensurate to the scale of the proposed development. The current version of the LDP Action Programme, December 2021, sets out the actions to deliver the Plan.

The LDP and Action Programme only identify a number of actions which specifically relate to this site and wider Craigmillar area. The LDP would require contributions in relation to affordable housing, education infrastructure, transport infrastructure and health and open space.

Transport

Policy Tra 8 the provision of transport infrastructure and the requirements of the Action Programme December 2021 have been set out already under the section titled, Accessibility, Connectivity and Road Safety above and should be secured by legal agreement, condition and informative as appropriate. The guidance on car club provision is currently being updated and therefore this aspect could be negotiated through the legal agreement.

Affordable Housing

Policy Hou 6 Affordable Housing states 25% of the total number of units proposed should be affordable housing. The applicant should submit an Affordable Housing Statement which commits to providing 25% on site affordable housing. This could be secured through the legal agreement.

Education

Education contributions are applied in accordance the finalised Developer Contributions and Infrastructure Delivery Supplementary Guidance (2018) and the figures set out in the Edinburgh Local Development Plan Action Programme of December 2021.

The site falls within Sub-Area C-2 of the "Castlebrae Education Contribution Zone". The Finalised Guidance (2018) required contributions per flat of £2,280 and per house of £12, 107.

The education infrastructure actions identified in the 2018 Supplementary Guidance are not sufficient to mitigate the cumulative impact of forecast pupil generation from known housing developments and this proposal.

Looking at the current application in isolation, there is no spare capacity at Castlevew Primary School nor at Castlebrae High School, both the non-denominational catchment schools.

Potential cumulative impacts of development on educational infrastructure is a material consideration. This requires assessment, taking into account the development of the LDP sites and other sites that already have planning permission within the catchment area as set out in the Housing Land Audit Output 2021 and the Action Programme December 2021.

The Action Programme December 2021 sets out the requirement for new primary and secondary school expansion and the total estimated capital cost of these actions is £75,890,590.

Communities and Families has therefore advised that using the Action Programme December 2021 and the new pupil general ratios, proposed development would need to mitigate the cumulative impact of forecast pupil generation from committed housing developments (LDP sites and those already with planning permission) and this proposal. Therefore, the following education infrastructure is required:

- New 14 class primary school (capacity 420);
- 2 PS Classes (St Francis' RC PS) - 78% C-2; 22% C-3; and
- Additional secondary school capacity (Castlebrae HS and Holyrood RC HS) - per pupil rate

The proposed development is therefore required to make a contribution towards the delivery of the above infrastructure based on the a 'per house' and 'per flat' rate set out below.

Per unit infrastructure contribution requirement:

Primary Infrastructure

- Additional Primary School Capacity
- New 14 Class Primary School
- 78% of 2 PS Classes (St Francis' RC PS)
- £5,654 per flat
- £16,718 per house

Secondary Infrastructure

- Additional Secondary School Capacity
- Additional SS places (Castlebrae HS)
- Additional SS places (Holy Rood RC HS)
- £3,262 per flat
- £12,942 per house

If the appropriate infrastructure contribution is provided by the developer, as set out above, then Communities and Families does not object to the application. These contributions could be secured through a legal agreement.

Healthcare

In the Niddrie area, the finalised Developer Contributions and Infrastructure Delivery Supplementary Guidance (2018) would require £945 per unit which could be secured by legal agreement.

Southeast Wedge/Little France Park Greenspace Contributions Zone

The site lies within the contribution zone, in the finalised Developer Contributions and Infrastructure Delivery Supplementary Guidance (2018) where contributions are £615 per dwelling to be secured through legal agreement.

Archaeology

LDP Policies Env8 and Env 9 aim to preserve archaeological remains in situ as a first option and alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be acceptable. This site has potential for unrecorded remains therefore a condition could be attached to ensure a programme of archaeological work is carried out prior to /during development to excavate, record and analysis of any surviving archaeological remains that may occur. As the site is part of the Niddrie Collieries and the industrial coalmining development of Edinburgh and the Lothians, a separate archaeological condition is required to ensure the developer interprets its archaeological heritage and include this within a detailed design.

Waste

The proposed waste strategy would be considered as part of the detailed design and therefore a condition could be attached requiring an agreed waste strategy to this planning permission in principle if all other aspects of the proposal were acceptable.

Conclusion in relation to the Development Plan

The site is within the urban area where planning permission for residential use is acceptable in principle so long as it complies with the other local plan policies. The site has a mining and contaminated land history which needs to be addressed by conditions. The detailed design proposals should incorporate the trees, particularly at the perimeter within the design as well as integrate with the neighbouring development to the south. The development will be required to provide the necessary infrastructure in relation to affordable housing, education, transport, healthcare and open space. The application has been assessed against the Local Plan Policies and is acceptable provided a legal agreement and conditions are secured.

SPP - Sustainable development

Scottish Planning Policy (SPP) is a significant material consideration due to the LDP being over 5 years old. Paragraph 28 of SPP gives a presumption in favour of development which contributes to sustainable development. Paragraph 29 outlines the thirteen principles which should guide the assessment of sustainable development. The proposal is for residential use of part of the urban area currently on a brownfield site, vacant and derelict with contamination and a history of coal mining.

One of the sustainable development principles refers making efficient use of existing capacities of land, buildings and infrastructure. This site is within the urban area and a sustainable location close to public transport and retail, leisure and entertainment facilities. Provided the site can be remediated and the stabilised following its coal mining and contaminated legacy such that it is suitable for the proposed end use, then residential development is acceptable in principle.

At the AMC planning stage, it will be possible for the applicant to provide appropriate design details relating to the scale, height, massing, and layout of the proposed development. The pedestrian, cycle and car access and connections will also be included in any detailed design. With reference to climate change adaptation and sustainability, detailed design would address any flooding and drainage issues for the site. Other matters including sustainable drainage design, impact on the water environment and any impact the natural environment would be addressed at the AMC planning stage where SPP sustainable development criteria would need to be considered as well. The proposal complies with Paragraph 29 of SPP.

Emerging policy context

The Revised Draft National Planning Framework 4 was laid before the Scottish Parliament on 08 November 2022 for approval. As it has not completed its parliamentary process, only limited weight can be attached to it as a material consideration in the determination of this application.

While City Plan 2030 represents the settled will of the Council, it has not yet been submitted to Scottish Ministers for examination. As such, little weight can be attached to it as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to section 149 of the Equalities Act 2010. No impacts have been identified.

Consideration has been given to human rights. No impacts have been identified through the assessment and no comments have been received in relation to human rights.

Public representations

A summary of the representations is provided below:

Material considerations - addressed in Section a) and b) of the report above.

- Tree planting bordering Cleikiminfield should be evergreen;
- Cycle improvements are required including better access into the site, cycle links avoiding busy roads like The Wisp or Fort Retail Park , a toucan crossing of The Wisp and
- Active Travel infrastructure to be implemented at the start of the development and link to adjacent committed developments to the south into Midlothian area.

Conclusion in relation to identified material considerations

The site is within the urban area where residential development is acceptable in terms of sustainable development and the SPP. The LDP allocates this area as part of the urban area where residential development is acceptable in principle. The proposed general traffic route from The Wisp to access from the Wisp to Fort Kinnaird which is suitable for general traffic and buses and include bus stops, would comply with the LDP and would not exclude the emerging City Plan option should that be considered further in the future.

Overall conclusion

The site is within the urban area where planning permission for residential use is acceptable in principle so long as it complies with the other local plan policies. The application raises issues of contamination and site remediation due to its mining history. This issue can be resolved through the use of conditions to ensure that the site is suitable for residential use. The site is within the urban area where planning permission for residential use is acceptable in principle so long as it complies with the other local plan policies. The site has a mining and contaminated land history which needs to be addressed by conditions. The detailed design proposals should incorporate the trees, particularly at the perimeter within the design as well as integrate with the neighbouring development to the south. A number of other planning conditions and a legal agreement would also be required to ensure compliance with the local plan policies at the detailed design stage.

The development will be required to provide the necessary infrastructure in relation to affordable housing, education, transport, healthcare and open space. The application has been assessed against the Local Plan Policies and is acceptable provided a legal agreement and conditions are secured.

Scottish Planning Policy introduces a presumption in favour of development that contributes to sustainable development and sets out 13 principles to guide policy and decisions. The site is within the urban area where residential development is acceptable in terms of sustainable development and the SPP. The proposal complies with the Local Development Plan and there are no other material considerations that outweigh this conclusion.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following.

Conditions :-

1. The development to which this planning permission in principle relates must be begun not later than the expiration of five years beginning with the date on which this planning permission in principle is granted. If development has not begun at the expiration of the period mentioned in paragraph, the planning permission in principle lapses.
2. Application for the approval of matters specified in condition must be made before whichever is latest of the following:
 - (i) the expiration of 3 years from the date of the grant of the permission,
 - (ii) the expiration of 6 months from the date on which an earlier application for the requisite approval was refused, and
 - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed or, where the earlier application is the subject of a review by the Council's Local Review Body, the expiration of 6 months from the date of the notice of the decision to uphold the determination, and may be made for

- (a) different matters, and
- (b) different parts of the development, at different times.

3. The development in question will not begin until the following matters have been approved by the Council as planning authority; the submission shall be in the form of a detailed layout covering points (a) - (n) below.

The following supporting information shall also form part of any submission:

- an updated Air Quality Impact Assessment including mitigation measures for both construction and operation of the proposed development.
- an updated Ecology Assessment with mitigation measures during construction and operation and including a Bat Species Protection Plan, Badger Protection Plan, Reptile Species Protection Plan and an Invasive Non-Native Species Management Plan should be produced, and mitigation measures outlined including a timescale and their implementation.
- an updated light pollution Assessment.
- an updated Noise Assessment, including commercial noise and vibration noise from the overhead power lines.
- an updated Transport Statement and Quality Audit, based on the transport infrastructure proposed including the general traffic route through the site and parking levels proposed with mitigation measures for both the construction and operation of the proposed development.
- an updated Design and Access statement, detailing the layout, streets and spaces, accessibility, safety and security, sustainability and energy efficiency;
- an Affordable Housing Statement setting out how 25% affordable housing will be provided on site including delivery, tenure and location;
- an updated Landscape and Visual Impact statement - based on the finished floor levels and proposed trees to be retained/planted and the winter worst case scenarios views and to include the impact on both City and Local views;
- an updated tree survey including a plan showing all trees - whether they are to be retained, retained with pruning (extent of tree work to be detailed) or removed; Tree Survey Plan & Schedule; Tree Constraints Plan also indicating Root Protection Areas; Tree Protection Plan and Arboricultural Method Statement.

- an updated Flood Risk Assessment of the detailed design including an updated drainage and surface water management strategy, to show how future remediation/development will affect overland drainage flows; how surface water will be diverted into existing culverted watercourse; further assessment of the water course; and highlighting how the layout, finished floor levels, landscaping and SUDS have been designed in relation to the Flood Risk; and details of proposed SUDS features;
- details of adoption, management and maintenance of the landscaping, SUDS, open space; and any other flood prevention or drainage measures;
- an updated waste management strategy and
- an updated Construction Environmental Management Plan including a timescale and implementation plan, must also be produced incorporating the mitigation measures for the construction phase in relation to all the studies identified above as well as those submitted for the planning permission in principle application number 22/03291/PPP

(a) a site development layout showing built development, footpath, cycle, and road access and connections, including open space provision, play area provision, SUDS drainage and landscaping.

(b) details of the layout, siting, design, form, density, height, tenure, and the number and mix of units, including the design of all external features and materials and appearance of all buildings and glazing specifications (including acoustic capabilities) and ground floor levels in relation to Ordnance Datum;

(c) the design and configuration of public realm and open spaces, all external materials and finishes.

(d) cycle parking and car parking levels and justification including, city car club parking spaces, disabled spaces and at electric charging points and spaces in line with Council standards.

(e) access, road layouts and alignment, including a direct traffic route between Newcraighall Road and The Wisp as set out in Table 9 of the Local Development Plan (Ref.T15) as part of a wider active travel and traffic management scheme; it is expected that this route will require to be 7.3m wide to accommodate general traffic, including buses and heavy goods vehicles, and will include a priority junction with The Wisp, and the location of which is to be agreed with Planning and Transport as well as a Stage 2 Quality Audit, the classification of streets, and servicing areas;

(f) the provision of footpaths and cycle routes, including:

(i) a suitable cycle and pedestrian links to be provided to link the development southwards to the Midlothian Council area and northwards towards Newcraighall Road (Proposal Tra 7 in table 9 of the Local Development Plan).

(ii) a suitable pedestrian and cycle crossing on The Wisp to link the proposed development to Hunter's Hall Park.

(iii) improved pedestrian and cycle routes to link the development northwards along The Wisp to its junction with Niddrie Mains Road, particularly to promote cycle and pedestrian links to schools and

(iv) proposed pedestrian, cycle and wheelchair routes within the site and the signage of pedestrian and cycle access links, and the details, including timescale for implementation, of the above points (f) (i) to (iii), the location of which is to be agreed with Planning and Transport.

(g) waste management and recycling facilities.

(h) confirmation from the coal authority that the mining requirements as set out in condition 4 to be undertaken prior to the submission of any AMC have been complied with.

(i) confirmation from Environment Site investigation/decontamination arrangements as set out in condition 5 to be undertaken prior to the submission of any AMC have been complied with.

(j) surface water and drainage arrangements including management, maintenance, ownership and adoption.

(k) existing and finished site and ground levels in relation to Ordnance Datum;

(l) any further noise, or light mitigation measures arising from the updated studies, including details, materials and finishes.

(m) full details of sustainability measures; and

(n) full details of the landscape proposals include fully detailed plans of the design and configuration of all public open space all external materials and hard and soft landscaping details.

This shall include:

- (i) Walls, fences, gates and any other boundary treatments;
 - (ii) The location of new trees, shrubs and hedges.
 - (iii) A schedule of plants to comprise species, plant size and proposed number/density.
 - (iv) Programme of completion and subsequent maintenance and management of any flooding mitigation measures including SUDS drainage, and open space areas.
 - (v) Existing and proposed services such as cables, pipelines, substations.
 - (vi) Other artefacts and structures such as street furniture, including lighting columns and fittings.
4. i) Prior to submission of a detailed application and/or AMC for development, the following items shall be provided to the satisfaction and approval of the Planning Authority:

a) Detailed intrusive investigation and site-specific risk assessment must be carried out to establish the level of risk posed to human health and the wider environment by land contaminants and be sufficient to confirm remedial and/or protective measures could feasibly be undertaken to bring any risks to an acceptable level in relation to the development; and

b) A detailed evaluation of remediation options and feasibility assessment will be carried out to establish the most suitable and final remediation option or combined options where necessary to inform the development of a Remediation Strategy for the mitigation and management of any identified unacceptable risk in relation to the development.

c) A final Remediation Scheme of all necessary remedial and/or protective measures, including their programming for implementation and verification, must be submitted for approval.

ii) Prior to occupation of development for residential purposes:

Any required remedial and/or protective measures shall be implemented in accordance with the approved remediation scheme and documentary evidence to verify those works shall be provided for approval.

5. i) Prior to submission of a detailed application and/or AMC for development, the following items shall be provided to the satisfaction and approval of the Planning Authority:

a) detailed intrusive investigation and site-specific risk assessment must be carried out to establish the level of risk posed to human health and the wider environment by land contaminants and be sufficient to confirm remedial and/or protective measures could feasibly be undertaken to bring any risks to an acceptable level in relation to the development; and

b) A detailed evaluation of remediation options and feasibility assessment will be carried out to establish the most suitable and final remediation option or combined options where necessary to inform the development of a Remediation Strategy for the mitigation and management of any identified unacceptable risk in relation to the development.

c) A final Remediation Strategy and detailed specification of all remedial and/or protective measures, including their programming for implementation and verification, must be submitted for approval.

ii) Prior to commencement of development:

Any required remedial and/or protective measures to ensure the site is made suitable for the development shall be implemented in accordance with the approved specification and documentary evidence to verify those works shall be provided for approval.

- iii) Any required remedial and/or protective measures to be included within the detailed development design shall be implemented in accordance with the approved specification and documentary evidence to verify those measures shall be provided for approval.
- 6. No Remediation nor development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (historic building recording, excavation, analysis, reporting, publication, preservation/conservation, public engagement) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.

Prior to the commencement of development and following consultation with the City's Archaeologist the applicant shall submit and gain approval from the Planning Authority for a public archaeological and historic interpretation scheme for the site.

- 7. Prior to the commencement of development, an updated Construction Environmental Management Plan including a timescale and implementation plan, must also be produced, incorporating the mitigation measures for the construction phase in relation to all the studies identified in condition 3, as well as those submitted for the planning permission in principle application number 22/03291/PPP. This Construction Environmental Management Plan is to be agreed with the Planning Authority.
- 8. Fully detailed proposals for work to manage or remove trees, planting to mitigate losses and to protect remaining trees, including the following details, shall be submitted to and approved in writing by the planning authority prior to works commencing on site:
 - a. An updated tree survey and schedule, including a plan showing all trees - whether they are to be retained, retained with pruning (extent of tree work to be detailed) or removed;
 - b. A Tree Protection Plan and Arboricultural Method Statement. setting out measures to protect trees that are to remain during construction in accordance with BS 5837: 2012: 'Trees in relation to design, demolition and construction';
 - c. A Tree Constraints Plan also indicating Root Protection Areas and showing details of road and path construction, service runs and changes in level that may affect tree root systems in relation to proposed development; and
 - d. Details of contractor's compounds, fences and storage, which may affect trees.

Tree protective measures BS 5837:2012 and in accordance with the approved Tree Protection Plan will be implemented in accordance with the approved plan and shall be maintained to specification for the duration of the construction period.

Reasons: -

1. To accord with Section 59 of the Town and Country Planning (Scotland) Act 1997.
2. In order to ensure applications for approval of matters specified in condition are made timeously and in accordance with section 41 (1) (c) of the Town and Country Planning (Scotland) Act 1997.
3. In order to enable the planning authority to consider these matters in detail.
4. To ensure the site is suitable for the proposed end use.
5. To ensure the site is suitable for the proposed end use.
6. In order to safeguard the interests of archaeological heritage.
7. In order to enable the planning authority to consider these matters in detail.
8. In order to retain as many trees as possible and protect trees during the construction of the development.

Informatives

It should be noted that:

1. No development shall take place on the site until a 'Notice of Initiation of Development' has been submitted to the Council stating the intended date on which the development is to commence. Failure to do so constitutes a breach of planning control, under Section 123(1) of the Town and Country Planning (Scotland) Act 1997
2. As soon as practicable upon the completion of the development of the site, as authorised in the associated grant of permission, a 'Notice of Completion of Development' must be given, in writing to the Council.
3. Consent shall not be issued until a suitable legal agreement relating to affordable housing, transport education, healthcare provision and open space has been concluded and signed. The legal agreement shall include the following:
 - i. Affordable housing - 25% of the total number of residential units shall be developed for affordable housing provision.
 - ii. Transport - the following transport contributions are required:
 - (a) funding for car club vehicles in the area in line with Current guidance.

- (b) to progress various orders which may be required, including stopping up, waiting and loading restrictions, 20mph speed limit and redetermination.
- iii. Education (a) Additional Primary Capacity equating to a contribution in terms of Primary Infrastructure of £ 5654 per flat (where contributions are not sought for one-bedroom flats) and £16, 718 per house and (b) Additional Secondary Infrastructure equating to a contribution in terms of Secondary Infrastructure of £3,262 per flat and £12,942 per house;
 - iv. Contributions towards healthcare provision in the Niddrie area of £945 per unit; and
 - v. Greenspace contributions including £615 per dwelling.
4. For the avoidance of doubt this planning permission in principle is for the principle of up to 260 residential units on the site only. All other matters are reserved including the parking numbers.
 5. All accesses must be open for use by the public in terms of the statutory definition of 'road' and require to be the subject of applications for road construction consent. The extent of adoptable roads, including footways, footpaths, accesses, cycle tracks, verges and service strips to be agreed. The applicant should note that this will include details of lighting, drainage, Sustainable Urban Drainage, materials, structures, layout, car and cycle parking numbers including location, design and specification. Particular attention must be paid to ensuring that refuse collection vehicles are able to service the site. The applicant is recommended to contact the Council's waste management team to agree details.
 6. The applicant should note that the Council will not accept maintenance responsibility for underground water storage / attenuation.
 7. The applicant should be required to provide a draft Travel Plan including provision of public transport travel passes, a Welcome Pack, a high-quality map of the neighbourhood (showing cycling, walking and public transport routes to key local facilities), timetables for local public transport.
 8. The applicant should note that new road names will be required for the development, and this should be discussed with the Council's Street Naming and Numbering Team at an early opportunity.
 9. Any parking spaces adjacent to the carriageway will normally be expected to form part of any road construction consent. The applicant must be informed that any such proposed parking spaces cannot be allocated to individual properties, nor can they be the subject of sale or rent. The spaces will form part of the road and as such will be available to all road users. Private enforcement is illegal and only the Council as roads authority has the legal right to control on-street spaces, whether the road has been adopted or not. The developer is expected to make this clear to prospective residents as part of any sale of land or property.

Background Reading/External References

To view details of the application go to the [Planning Portal](#)

Further Information - Local Development Plan

Date Registered: 24 June 2022

Drawing Numbers/Scheme

1

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Catriona Reece-Heal, Senior Planning Officer
E-mail: catriona.reece-heal@edinburgh.gov.uk

Appendix 1

Summary of Consultation Responses

NAME: Scottish Water
COMMENT: No Objection.
DATE: 31 October 2022

NAME: Transport
COMMENT: No objection subject to infrastructure works required which can be secured by condition, legal agreement or informative as appropriate.
DATE: 3 November 2022

NAME: Flood Planning
COMMENT: No objection, however the proposals will require significant ground reprofiling and will need to demonstrate how this will impact flood risk and overland drainage flow paths at detailed design stage. Therefore, a flood risk assessment and drainage strategy would be required. The existing culverted watercourse could allow discharge of surface water however an assessment of the culvert in terms of hydraulic representation and potential flooding is required. Suds features should be above ground.
DATE: 25 October 2022

NAME: The Coal Authority
COMMENT: Material Consideration. There are several issues which need to be addressed which may be secured by condition.
Prior to the submission of the detailed stage:
* The undertaking of the scheme of intrusive site investigations, designed by a competent person and adequate to properly assess the ground conditions on the site and establish the risks posed to the development by past coal mining activity (shallow mining / mine entries);

* As part of the detailed stage the submission of a report of findings arising from the intrusive site investigations and any remedial and / or measures necessary, including the submission of the proposed layout plan which identifies the location of any on-site mine entries (if found present) including appropriate zones of influence for all mine entries, and the definition of suitable 'no-build' zones;

Prior to the commencement of development:
* Implementation of the remedial works.

DATE: 21 July 2022

NAME: SEPA
COMMENT: No objection overall including Flood Risk, Air Quality, and Ecology. Whilst the air quality impact assessment has concluded that the impact from the proposed development traffic is predicted to be of negligible significance at all existing receptors in the study area, SEPA encourage sustainable transport, making best use of existing transport infrastructure, active travel and electric vehicle charging points.
DATE: 23 August 2022

NAME: Environmental Protection

COMMENT: The land contamination issues are extensive and would require further studies to be undertaken in a programme of works to ensure that the site is fully remediated and safe for the proposed end use. The Air Quality Impact Assessment states negligible impacts and no mitigation however the parking levels proposed at the AMC stage would need to be justified and further AQIA required. Noise Impact Assessment appears to indicate that noise would not prevent the site being developed.
DATE: 25 October 2022

NAME: Midlothian Council

COMMENT: There is the opportunity for cross border cooperation and integration with the neighbouring proposals in Midlothian Council area, especially in terms of active travel, green network connections, integration with countryside, permeability, open spaces and built form along The Wisp. The construction impacts arising from development should also be considered. Midlothian Council are concerned about cumulative traffic impacts in the locality and previous mitigation measures including improvement The Wisp/A7 Dalkeith Road as part of a nearby application should be in place prior to occupation of any new house at this site.

DATE: 25 October 2022

NAME: Archaeology

COMMENT: Conditions would be required to secure a programme of archaeological works and for a public archaeological and historic interpretation scheme for the site.

DATE: 21 July 2022

NAME: Communities and Families

COMMENT: This site falls within Sub-Area C-2 of the 'Castlebrae Education Contribution Zone'.

The proposed development is therefore required to make a contribution towards the delivery of the infrastructure based on a 'per house' and 'per flat' rate set out below.

Per unit infrastructure contribution requirement:

Primary Infrastructure is £5654 per flat and £16 718 per house.

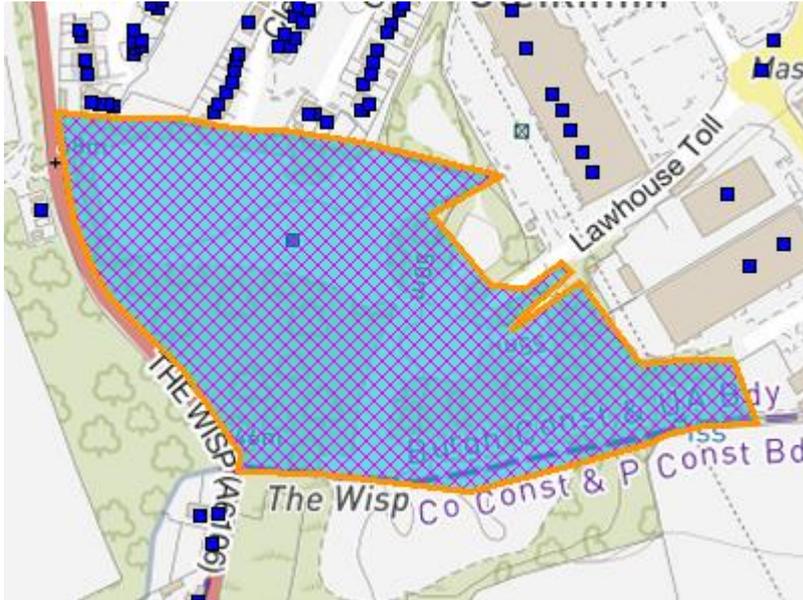
Secondary Infrastructure is £3262 per flat and £12 942 per house.

If the appropriate infrastructure contribution is provided by the developer, Communities and Families does not object to the application.

DATE: 10 August 2022

The full consultation response can be viewed on the [Planning & Building Standards Portal](#).

Location Plan



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