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Policies Holding Ltd & Hosp Ltd.
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Decision date: 7 March 2024

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACTS
DEVELOPMENT MANAGEMENT PROCEDURE (SCOTLAND) REGULATIONS 2013**

Proposed erection of 2 No. cottages with associated access, car parking and landscaping.

At Land 28 Metres West Of East Lodge 100 The Wisp Edinburgh

Application No: 23/06598/FUL

DECISION NOTICE

With reference to your application for Planning Permission registered on 8 November 2023, this has been decided by **Local Delegated Decision**. The Council in exercise of its powers under the Town and Country Planning (Scotland) Acts and regulations, now determines the application as **Refused** in accordance with the particulars given in the application.

Any condition(s) attached to this consent, with reasons for imposing them, or reasons for refusal, are shown below;

Reason for Refusal:-

1. The proposals do not accord with Section 59 of The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as they will result in harm to the setting of a listed building.
2. The proposals do not comply with Policies 2 and 22 of National Planning Framework 4 and Policy Env 21 of the Local Development Plan as there is insufficient

information to determine if they would be adaptable to climate change in respect of surface water management and flood risk.

3. The proposals do not comply with Policy 9 of National Planning Framework 4 and Policy Env 22 of the Local Development Plan as there is insufficient information to determine if the land is, or can be made, safe and suitable for the proposed new use in relation to former coal mining activity.
4. The proposals do not comply with Policies 4, 7 and 14 of National Planning Framework 4 as they are inconsistent with the six qualities of successful places by their failure to preserve the setting of the listed building and due to their significant adverse effect on one of the qualities (gate lodge) of the Edmonstone Special Landscape Area.
5. The proposals do not comply with Policies Des 1 and Des 4 of the Local Development Plan as the design is not appropriate in this context and will fail to have a positive impact on its surroundings by their failure to preserve the setting of the listed building and due to their significant adverse effect on one of the qualities (gate lodge) of the Edmonstone Special Landscape Area.
6. The proposals do not comply with Policies Des 3, Des 9 and Env 12 of the Local Development Plan as they will have a damaging impact on trees which are worthy of retention and because they have failed to incorporate landscape improvements to strengthen the green belt boundary.
7. The proposals do not comply with Policy 20 of National Planning Framework 4 as they will result in the fragmentation of the existing green infrastructure network.

Please see the guidance notes on our [decision page](#) for further information, including how to appeal or review your decision.

Drawings 01-08, represent the determined scheme. Full details of the application can be found on the [Planning and Building Standards Online Services](#)

The reason why the Council made this decision is as follows:

The proposals will result in harm to the setting of the listing building and they are not in accordance with Section 59 of The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposals are not in accordance with the Development Plan and as they do not comply with National Planning Framework Policies 2, 4, 7, 9, 14, 20 and 22 and Local Development Plan Policies Des 1, Des 3, Des 4, Des 9, Env 12, Env 21 and Env 22. Compliance with other applicable policies are not deemed to outweigh the non-accordance with those identified and there are no compelling material considerations for approving the proposals.

This determination does not carry with it any necessary consent or approval for the proposed development under other statutory enactments.

Should you have a specific enquiry regarding this decision please contact Graham Fraser directly at graham.fraser@edinburgh.gov.uk.

A handwritten signature in black ink, appearing to read 'G. Fraser', followed by a long horizontal flourish.

Chief Planning Officer
PLACE
The City of Edinburgh Council

NOTES

1. If the applicant is aggrieved by the decision to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 within three months beginning with the date of this notice. The Notice of Review can be made online at www.eplanning.scot or forms can be downloaded from that website. Paper forms should be addressed to the City of Edinburgh Planning Local Review Body, G.2, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG. For enquiries about the Local Review Body, please email localreviewbody@edinburgh.gov.uk.

2. If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997.

Report of Handling

**Application for Planning Permission
Land 28 Metres West Of East Lodge 100 The Wisp, Edinburgh,**

Proposal: Proposed erection of 2 No. cottages with associated access, car parking and landscaping.

**Item – Local Delegated Decision
Application Number – 23/06598/FUL
Ward – B17 - Portobello/Craigmillar**

Recommendation

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

Summary

The proposals will result in harm to the setting of the listing building and they are not in accordance with Section 59 of The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposals are not in accordance with the Development Plan and as they do not comply with National Planning Framework Policies 2, 4, 7, 9, 14, 20 and 22 and Local Development Plan Policies Des 1, Des 3, Des 4, Des 9, Env 12, Env 21 and Env 22. Compliance with other applicable policies are not deemed to outweigh the non-accordance with those identified and there are no compelling material considerations for approving the proposals.

SECTION A – Application Background

Site Description

Land to the west of the Edmonstone House East Lodge and Gates which are a Category B listed building (LB49519).

The site is located within the South East Wedge South: Edmonstone Local Development Plan (LDP) Housing Allocation (HSG 40), the Edmonstone Special Landscape Area (SLA) and a Local Nature Conservation Site (LNCS).

Description of the Proposals

Planning permission is sought for the erection of two semi-detached dwellinghouses.

Supporting Information

The following submissions were considered in the assessment of the proposals:

- Arboricultural Impact Assessment (AIA);
- Coal Mining Risk Assessment;
- Design Statement;
- Planning Statement;
- Pre and Post-development Overland Flow Paths;
- Preliminary Ecological Appraisal (PEA);
- Results of Soakage Test;
- Soakaway Calculations;
- Surface Water Management Plan;
- Sustainability Form S1; and
- Visualisations.

These submissions are available to view on the portal except for the PEA which is standard practice for documentation relating to protected species.

Relevant Site History

22/02163/FUL

Land 28 Metres West Of East Lodge

100 The Wisp

Edinburgh

Erection of 4 No. townhouses, with associated access, parking, infrastructure, and landscaping.

withdrawn

29 July 2022

Other Relevant Site History

21/00284/FUL

Land 447 Metres Northeast Of

545 Old Dalkeith Road

Edinburgh

Proposed residential development Section 42 Application to vary condition 8 (noise reduction measures) and delete conditions 6 (surface water drainage scheme) and 10 (landowner agreements) of planning permission in principle 14/01057/PPP.

Granted

28 October 2021

21/06751/AMC

Land 447 Metres Northeast Of

545 Old Dalkeith Road

Edinburgh

Application for the Approval of Matters Specified in Conditions 1 (b), (d) and (i)(a) - (h) of Planning Permission in Principle 21/00284/FUL, for proposed strategic landscaping, active travel routes and bunding (as amended)
Approved

22 July 2022

22/01531/AMC

Land 447 Metres Northeast Of
545 Old Dalkeith Road
Edinburgh

Phase 1 and 2 of the Edmonstone Estate, Edinburgh. Approval of matters specified in conditions 1a, b, c, d, e, f, g, h, i(a to h) of planning permission in principle 21/00284/FUL for the erection of 370 residential dwellings, with associated parking, active travel routes, landscaping and other infrastructure (as amended)
Approved

20 December 2022

Consultation Engagement

The Coal Authority

The Coal Authority

CEC Waste and Cleansing Services

CEC Archaeology Service

CEC Flood Prevention

Publicity and Public Engagement

Date of Neighbour Notification: 22 November 2023

Date of Advertisement: Not Applicable

Date of Site Notice: Not Applicable

Number of Contributors: 0

Section B - Assessment

Determining Issues

Due to the proposals relating to the setting of a listed building, this report will first consider the proposals in terms of Section 59 of The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997:

- Is there a strong presumption against granting planning permission due to the development harming the setting of the listed building?

- If the strong presumption against granting planning permission is engaged, are there any significant public interest advantages of the development which can only be delivered at the scheme's proposed location that are sufficient to outweigh it?

This report will then consider the proposed development under Sections 24, 25 and 37 of The Town and Country Planning (Scotland) Act 1997:

Having regard to the legal requirement of Section 24(3), in the event of any policy incompatibility between National Planning Framework 4 (NPF4) and the LDP the newer policy shall prevail.

Do the proposals comply with the Development Plan?

If the proposals do comply with the Development Plan, are there any compelling material considerations for not approving them?

If the proposals do not comply with the Development Plan, are there any compelling material considerations for approving them?

In the assessment of material considerations this report will consider:

- equalities and human rights;
- public representations; and
- any other identified material considerations.

Assessment

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

a) The proposals harm the listed building or its setting

The Historic Environment Policy for Scotland and the Managing Change in the Historic Environment Setting Guidance is relevant in the determination of this application.

Canmore identifies 119 gate lodges within the Council area. Although there are exceptions, they generally share similar traits but this is particularly the case when the gate lodge relates to a country house which sits, or would have sat, within a designed landscape as is the case here. Whilst it is noted that the former Edmonstone Estate is subject to ongoing residential developments emerging through the HSG40 allocation, its original country house within a designed landscape character remains evident through its gate lodges, boundary walls, 'ha-ha's' and mature trees, which includes those that line the historic avenues (now Tweedsmuir Drive).

The proposals will diminish the special interest of the Edmonstone House East Lodge and Gates in three primary ways. First, physical development within its setting would be of detriment to its character as that for a gate lodge is defined by a lack of physical development in its immediate environs. The physical development as approved under 22/01531/AMC is noted. However, the degree of separation is much more significant with buildings confined to the south of Tweedsmuir Drive and intervening mature trees have been retained. Second, the proposals require the unjustified removal of mature trees (as considered under Section b)) which are deemed to be a vital part of the gate lodges setting with these being remnants of the historic designed landscape character of the country house it once served. Third, the design of the proposals seek to 'mimic'

the appearance of the gate lodge which would erode its standalone character and foster confusion as to its historic function.

Conclusion in relation to the listed building and its setting

The proposals will result in harm to the setting of the listing building and they are not in accordance with Section 59 of The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

b) The proposals comply with the Development Plan

The relevant Development Plan policies are:

- NPF4 Sustainable Places Policies 1, 2, 3, 4, 7, 9, 12 and 13;
- NPF4 Liveable Places Policies 14, 15, 16, 20 and 22;
- NPF4 Productive Places Policy 25;
- LDP Design Principles for New Development Policies 1, 3, 4, 5, 7 and 9;
- LDP Caring for the Environment Policies 12, 15, 21 and 22;
- LDP Housing and Community Facilities Policies 1 and 3; and
- LDP Transport Policies 2, 3 and 4.

The non-statutory Listed Buildings and Conservation Areas Guidance and the Edinburgh Design Guidance are material in the consideration of the proposals. The draft Edinburgh BioQuarter and South East Wedge Parkland Supplementary Guidance has no material relevance to these specific proposals.

No weight has been applied to LDP Policy Des 6, Env 3, Env 8, Env 9, Env 11 and Env 16 as they are incompatible with those of NPF4 which are more recent.

Principle of a residential use

A residential use is acceptable in principle and no affordable housing is justified by the proposals small scale. They proposals have the potential to create or maintain local construction related jobs.

The proposals comply with the relevant sections of NPF4 Policies 16 and 25 and LDP Policy Hou 1.

Principle of physical development, design and impact on the character and appearance of the surroundings

The proposals harm the setting of the listing building as assessed under Section a). They will be detrimental to the amenity of the surrounding area through an inappropriate design, the failure to incorporate features worthy of retention (trees) and as they will erode the strength of the green belt boundary (loss of trees). Although there is some dubiety as to whether Tree Preservation Order (reference No.1542008) applies, all trees are deemed worthy of protection and the justification put forward for removal is not deemed adequate in this case; this is particularly applicable to tree T1 as identified by the AIA as its defects are considered minor. Mature trees and avenue planting are important component of the SLA and the unjustified removal as proposed would result in an adverse impact upon its character and qualities. The layout of development for a single building raises no significant concerns considering the

prevailing character of the residential developments emerging through HSG40. CEC Archaeology Service made no objection subject to a condition.

The proposals comply with LDP Policy Des 7. The proposals do not comply with the relevant sections of NPF4 Policies 4, 7 and 14 and LDP Policies Des 1, Des 3, Des 4, Des 9 and Env 12.

Sustainable places and the global climate and nature crises

The proposals, due to their small scale, will have a neutral impact on the global climate and nature crises. Notwithstanding its current and temporary gravelled appearance, the site is undeveloped land that will once again contribute towards to the green infrastructure network. CEC Flood Prevention are not fully supportive and requested further clarification regarding allowance for climate change. Although these concerns could have been addressed, there is currently insufficient information to determine if the proposals would be adaptable to climate change in respect of surface water management and flood risk.

The Coal Authority object to the proposals as they consider that there to be a significant undetermined risk to development from a recorded mine entry. The PEA demonstrates that the site does not have any significant ecological potential and impact on biodiversity, including the LNCS, is not deemed to be constraint on development. CEC Waste and Cleansing made no objection.

The proposals comply with the relevant sections of NPF4 Policies 1, 3 and 12 and LDP Policy Env 15. The proposals do not comply with the relevant sections of NPF4 Policies 2, 9, 20 and 22 and LDP Policies Env 21 and Env 22.

Future occupier and neighbour amenity

Future occupiers will have acceptable levels of internal and external amenity and there are no neighbour amenity concerns.

The proposals comply with the relevant sections of LDP Policies Des 5 and Hou 3.

Transport and local living

The level and design of car parking is acceptable given the prevailing character of developments emerging through HSG40 which includes tree planting forward of the principal elevation. Cycle parking is anticipated to be in-house or in-curtilage which raises no material concerns. The site is accessible by active travel and public transport and the proposals are in line with local living principles.

The proposals comply with the relevant sections of NPF4 Policies 13 and 15 and LDP Policies Tra 2, Tra 3 and Tra 4.

Conclusion in relation to the Development Plan

The proposals comply with the relevant sections of NPF4 Policies 1, 3, 12, 13, 15, 16 and 25 and LDP Policies Des 5, Des 7, Hou 1, Hou 3, Env 15, Tra 2, Tra 3 and Tra 4. The proposals do not comply with the relevant sections of NPF4 Policies 2, 4, 7, 9, 14, 20 and 22 and LDP Policies Des 1, Des 3, Des 4, Des 9, Env 12, Env 21 and Env 22.

c) There are any compelling material considerations for approving the proposals

The following matters have been identified as material considerations.

Emerging policy context

On 30 November 2022 the Planning Committee approved the Schedule 4 summaries and responses to Representations on the Proposed City Plan 2030 and its supporting documents. These documents have now been submitted for Examination in terms of Section 19 of The Town and Country Planning (Scotland) Act 1997. At this time little weight can be attached to City Plan 2030 as a material consideration in the determination of this application.

Equalities and human rights

Due regard has been given to Section 149 of The Equality Act 2010 and human rights; no material adverse impacts have been identified.

Public representations

None.

Conclusion in relation to the identified material considerations

None of the identified matters constitute compelling material considerations for approving the proposals.

d) Overall conclusion

The proposals will result in harm to the setting of the listing building and they are not in accordance with Section 59 of The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

The proposals are not in accordance with the Development Plan and as they do not comply with National Planning Framework Policies 2, 4, 7, 9, 14, 20 and 22 and Local Development Plan Policies Des 1, Des 3, Des 4, Des 9, Env 12, Env 21 and Env 22. Compliance with other applicable policies are not deemed to outweigh the non-accordance with those identified and there are no compelling material considerations for approving the proposals.

Section C - Conditions/Reasons/Informatives

The recommendation is subject to the following;

Reason for Refusal

1. The proposals do not accord with Section 59 of The Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 as they will result in harm to the setting of a listed building.
2. The proposals do not comply with Policies 2 and 22 of National Planning Framework 4 and Policy Env 21 of the Local Development Plan as there is insufficient information to determine if they would be adaptable to climate change in respect of surface water management and flood risk.
3. The proposals do not comply with Policy 9 of National Planning Framework 4 and Policy Env 22 of the Local Development Plan as there is insufficient information to determine if the land is, or can be made, safe and suitable for the proposed new use in relation to former coal mining activity.
4. The proposals do not comply with Policies 4, 7 and 14 of National Planning Framework 4 as they are inconsistent with the six qualities of successful places by their failure to preserve the setting of the listed building and due to their significant adverse effect on one of the qualities (gate lodge) of the Edmonstone Special Landscape Area.
5. The proposals do not comply with Policies Des 1 and Des 4 of the Local Development Plan as the design is not appropriate in this context and will fail to have a positive impact on its surroundings by their failure to preserve the setting of the listed building and due to their significant adverse effect on one of the qualities (gate lodge) of the Edmonstone Special Landscape Area.
6. The proposals do not comply with Policies Des 3, Des 9 and Env 12 of the Local Development Plan as they will have a damaging impact on trees which are worthy of retention and because they have failed to incorporate landscape improvements to strengthen the green belt boundary.
7. The proposals do not comply with Policy 20 of National Planning Framework 4 as they will result in the fragmentation of the existing green infrastructure network.

Background Reading/External References

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

Further Information - [Local Development Plan](#)

Date Registered: 8 November 2023

Drawing Numbers/Scheme

01-08

Scheme 1

David Givan
Chief Planning Officer
PLACE
The City of Edinburgh Council

Contact: Graham Fraser, Assistant Planning Officer
E-mail: graham.fraser@edinburgh.gov.uk

Appendix 1

Consultations

NAME: The Coal Authority
COMMENT: Objection maintained
DATE: 12 February 2024

NAME: The Coal Authority
COMMENT: Objection
DATE: 5 December 2023

NAME: CEC Waste and Cleansing Services
COMMENT: No objection
DATE: 24 November 2023

NAME: CEC Archaeology Service
COMMENT: No objection subject to a condition
DATE: 23 November 2023

NAME: CEC Flood Prevention
COMMENT: Further information required
DATE: 7 February 2024

The full consultation response can be viewed on the Planning & Building Standards Portal.

Appendix 2

Application Certification Record

Case Officer

I have assessed the application against the City of Edinburgh Council's Scheme of Delegation (2023) Appendix 6 – Chief Planning Officer and the Statutory Scheme of Delegation (2023) and can confirm the application is suitable to be determined under Local Delegated Decision, decision-making route.

Case Officer: Graham Fraser

Date: 4 March 2024

Authorising Officer

To be completed by an officer as authorised by the Chief Planning Officer to determined applications under delegated powers.

I can confirm that I have checked the Report of Handling and agree the recommendation by the case officer.

Authorising Officer (mRTPI): Lesley Carus

Date: 7 March 2024

Memorandum

To Head of Planning
City of Edinburgh Council
Planning and Transport
Place
Waverley Court
4 East Market Street
Edinburgh
EH8 8BG

F.A.O Graham Fraser

From John A Lawson

Date 23rd November 2023

Your ref 23/06598/FUL

Our ref 23/06598/FUL

Dear Graham,

28 Metres West of East Lodge 100 The Wisp

Further to your consultation request I would like to make the following comments and recommendations regarding this application for the proposed erection of 2 No. cottages with associated access, car parking and landscaping.

The site lies adjacent to the historic East Lodge for Edmonstone Estate subject to ongoing excavations by GUARD Archaeology. These works in advance of housing developments have unearthed a nationally important archaeological landscaping comprising mining dating back to the medieval period, medieval and post-medieval occupation relating to Edmonstone Estate and prehistoric occupation and burials dating to the Neolithic, Bronze, and Iron Ages.

Accordingly, this site has been identified as occurring within an area of archaeological significance. Accordingly, this application must be considered under terms of Scottish Government's Our Place in Time (OPIT), NPF4 Policy 7, PAN 02/2011, HES's Historic Environment Policy for Scotland (HEPS) 2019. The aim should be to preserve archaeological remains in situ as a first option, but alternatively where this is not possible, archaeological excavation or an appropriate level of recording may be an acceptable alternative.

Buried Archaeology

The proposals will require significant ground-breaking works associated with construction of the proposed scheme, which have the potential to disturb significant archaeological remains relating to the sites industrial mining heritage, medieval and prehistoric occupation. It is recommended therefore, that a programme of archaeological work is undertaken prior to development. This will require the area to be striped and all significant remains fully excavated, recorded and analysed with the results incorporated within the wider post-excavation works arising from GUARD's current excavations across the Edmonstone Estate.

Public Engagement

As part of the programme of works it is recommended that it contains provision for a programme of public/community engagement during development. Depending on the results, the scope of which will be agreed with CECAS but may include social-media/comms, site open days, viewing points, temporary interpretation boards and future exhibition.

Director of Culture, Culture and Wellbeing, Place

City of Edinburgh Council Archaeology Service, Museum of Edinburgh, 142 Canongate, Edinburgh, EH8 8DD
Tel 0131 558 1040; 07775587516; john.lawson@edinburgh.gov.uk

If granted permission, it is recommended therefore that the following condition be applied to secure this programme of archaeological works;

'No development shall take place on the site until the applicant has secured the implementation of a programme of archaeological work (excavation, analysis, reporting, publication, public engagement) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority.'

The work must be carried out by a professional archaeological organisation, either working to a brief prepared by CECAS or through a written scheme of investigation submitted to and agreed by CECAS for the site. Responsibility for the execution and resourcing of the programme of archaeological works and for the archiving and appropriate level of publication of the results lies with the applicant.

Please contact me if you require any further information.

Yours faithfully

A handwritten signature in black ink, appearing to read 'John A Lawson', with a stylized flourish at the end.

John A Lawson
Archaeology Officer



The Coal
Authority



INVESTOR IN PEOPLE



RTPI
Learning Partner

200 Lichfield Lane
Berry Hill
Mansfield
Nottinghamshire
NG18 4RG

Tel: 01623 637 119 (Planning Enquiries)

Email: planningconsultation@coal.gov.uk

Web: www.gov.uk/coalauthority

For the Attention of: Graham Fraser – Case Officer
Edinburgh City Council

[By Email: planning@edinburgh.gov.uk]

5 December 2023

Dear Graham

PLANNING APPLICATION: 23/06598/FUL

PROPOSED ERECTION OF 2 NO. COTTAGES WITH ASSOCIATED ACCESS, CAR PARKING AND LANDSCAPING; at land 28 metres west of East Lodge, 100 Thehisp, Edinburgh

Thank you for your consultation letter of 22 November 2023 seeking the views of the Coal Authority on the above planning application.

The Coal Authority is a non-departmental public body sponsored by the Department for Energy Security and Net Zero. As a statutory consultee, the Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

The Coal Authority Response: Fundamental Concern

I have reviewed the proposals and confirm that the application site falls within the defined Development High Risk Area.

The Coal Authority records indicate that 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, specifically probable shallow coalmine workings. Our records also indicate that thick coal seams

outcropped across the site, which may have been worked from the surface. Voids and broken/disturbed ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases.

In addition to the above, the Coal Authority's records indicate the presence of one recorded mine entry (shaft) within, or within close proximity of the planning boundary. An untreated mine entry and its resultant zone of influence pose a significant risk not only to surface stability but also public safety.

The Coal Authority **objects** to this planning application, as a Coal Mining Risk Assessment Report has not been submitted as part of the application.

It is a requirement of Policy 9 (c) of NPF4 that the applicant demonstrates to the satisfaction of the LPA that the application site is safe, stable and suitable for development.

The Coal Authority Recommendation to the LPA

In accordance with the agreed risk-based approach to development management in Development High Risk Areas, the applicant should be informed that they need to submit a Coal Mining Risk Assessment Report as part of this application.

Without such an assessment of any risks to the development proposal posed by past coal mining activity, based on up-to-date coal mining information, the Coal Authority does not consider that the LPA has sufficient information to determine this planning application and therefore **objects** to this proposal.

The Coal Authority would be very pleased to receive for further consultation and comment any subsequent Coal Mining Risk Assessment Report which is submitted in support of this planning application.

Please do not hesitate to contact me if you would like to discuss this matter further.

Yours sincerely

Chris MacArthur

Chris MacArthur B.Sc. (Hons), DipTP, MRTPI
Planning Liaison Manager

General Information for the Applicant

The Coal Mining Risk Assessment needs to interpret the coal mining risks and should be based on and add to up-to-date information of past coal mining activities in relation to the application site. Coal Mining Reports are available from www.groundstability.com or by telephoning 0845 762 6848.

This coal mining information should then be used to assess whether or not past mining activity poses any risk to the development proposal and, where necessary, propose mitigation measures to address any issues of land instability. This could include further intrusive investigation on site to ensure that the Local Planning Authority has sufficient information to determine the planning application.

The Coal Mining Risk Assessment should be prepared by a “competent body”. Links to the relevant professional institutions of competent bodies can be found at: <https://www.gov.uk/planning-applications-coal-mining-risk-assessments>

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

Disclaimer

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available coal mining data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information

(such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.



The Coal
Authority

200 Lichfield Lane
Mansfield
Nottinghamshire
NG18 4RG

T: 01623 637 119 (Planning Enquiries)

E: planningconsultation@coal.gov.uk

W: www.gov.uk/coalauthority

For the attention of: Graham Fraser – Case Officer

Edinburgh City Council

[By email: planning@edinburgh.gov.uk]

12 February 2024

Dear Graham

Re: 23/06598/FUL

**Proposed erection of 2 cottages with associated access, car parking and landscaping;
at land 28 metres west of East Lodge, 100 The Wisp, Edinburgh**

Thank you for your notification of 30 January 2024 seeking the further views of the Coal Authority on the above.

The Coal Authority response: Material Consideration

The application site falls within the defined Development High Risk Area.

The Coal Authority records indicate that 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, specifically probable shallow coalmine workings. Our records also indicate that thick coal seams outcropped across the site, which may have been worked from the surface. Voids and broken/disturbed ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases.

In addition to the above, the Coal Authority's records indicate the presence of one recorded mine entry (shaft) within, or within close proximity of the planning boundary. An untreated mine entry and its resultant zone of influence pose a significant risk not only to surface stability but also public safety.

The Coal Authority previously objected to this planning application, as a Coal Mining Risk Assessment Report had not been submitted as part of the application.

The Coal Authority now notes the submitted Coal Mining Risk Assessment (January 2024 prepared by Mason Evans Partnership Ltd), which accompanies the application. We note that the report recommends the investigation of both potential shallow coalmine workings and the recorded mine entry to establish any necessary remedial measures, the former of which could be ensured by way of condition.

Notwithstanding the above, the proposed layout does not appear to take into account or make any assessment of the inter-relationship between the recorded mine entry and the submitted development. The Coal Authority therefore **objects** to the proposals.

In the event that the shaft is disproven from being within the site and cannot be investigated, the shaft and its zone of influence (worst-case scenario) should be annotated on the layout plan with built development avoiding its potential zone of influence. In the instance that the built development is unable to avoid the potential zone of influence of the shaft, then a detailed mitigation strategy should be included (informed by the results of a ground investigation) to demonstrate how the proposed development would be safeguarded in the event of any off-site collapse of the shaft.

Any form of development over or within the influencing distance of a mine entry can be dangerous and has the potential for significant risks if not undertaken appropriately. For more information with regards to this issue, the Coal Authority's adopted policy, Development and Mine Entries, can be found here:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

The Coal Authority does not support in principle the provision of built development either over or within the zone of influence of a mine entry, even where this has been treated due to the public safety risks arising.

The Coal Authority Recommendation to the LPA

The Coal Authority's information has revealed that there is a significant risk to the development from a recorded mine entry (shaft).

The applicant should therefore be advised of the Coal Authority's view as technical expert in the field of coal mining legacy and land instability. Furthermore, they should be required to carry out intrusive site investigations. In the instance that the mine entry is disproven from being within the site, further work in the form of amended plans should then be submitted illustrating the conjectured (worst-case scenarios) location of the mine entry and its respective zone of influence. Any remedial/mitigation measures should then be proposed as part of the revised report, as necessary, to address any issues of land instability.

The Coal Authority considers that this issue goes to the heart of whether planning permission should be granted; it is not an issue therefore that would be appropriate for the imposition of conditions in this case.

The Coal Authority would be very pleased to receive for further consultation and comment any additional information prepared and submitted by the applicant.

On account of the above, the Coal Authority **maintains its objection** to this planning application.

Please do not hesitate to contact me if you would like to discuss this matter further.

Yours sincerely

Chris MacArthur

Chris MacArthur *B.Sc.(Hons), DipTP, MRTPI*
Planning Liaison Manager

General Information for the Applicant

Building over or within the influencing distance of a mine entry (shaft or adit) can be dangerous and has the potential for significant risks to both the development and the occupiers if not undertaken appropriately. The Coal Authority would draw your attention to our adopted policy regarding new development and mine entries:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our

permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

Disclaimer

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available coal mining data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.