



West Lothian
Council

West Lothian Council Planning Committee

West Lothian Civic Centre
Howden South Road
LIVINGSTON
EH54 6FF

19 March 2015

A meeting of the **West Lothian Council Planning Committee** of West Lothian Council will be held within the **Council Chambers, West Lothian Civic Centre** on **Wednesday 25 March 2015 at 10:00am**.

For Chief Executive

BUSINESS

Public Session

1. Apologies for Absence
2. Order of Business, including notice of urgent business
3. Declarations of Interest - Members should declare any financial and non-financial interests they have in the items of business for consideration at the meeting, identifying the relevant agenda item and the nature of their interest.
4. Confirm Draft Minutes of Meeting of West Lothian Council Planning Committee held on Wednesday 25 February 2015 (herewith).
5. Procedure for Pre-determination Hearings (herewith)

Public Items for Decision

6. App No.0648/P/14 - Planning permission in principle for a 12.4ha residential development with associated roads, landscaping and other works on land at Brotherton Farm, Livingston (herewith)

NOTE **For further information please contact Val Johnston, Tel No.01506 281604 or email val.johnston@westlothian.gov.uk**

MINUTE of MEETING of the WEST LOTHIAN COUNCIL PLANNING COMMITTEE of WEST LOTHIAN COUNCIL held within COUNCIL CHAMBERS, WEST LOTHIAN CIVIC CENTRE, on 25 FEBRUARY 2015.

Present – Councillors Tom Kerr (Chair), Alexander Davidson, Stuart Borrowman, Tony Boyle, Harry Cartmill, Tom Conn, Jim Dixon, David Dodds, Lawrence Fitzpatrick, Dave King, Greg McCarra, John McGinty, Anne McMillan, Angela Moohan, John Muir, George Paul, Barry Robertson and Frank Toner

Apologies – Councillors Danny Logue, Cathy Muldoon and Jim Walker

Absent – Councillors Frank Anderson, William Boyle, Diane Calder, Janet Campbell, Martyn Day, Robert De Bold, Jim Dickson, Mary Dickson, Carl John, Peter Johnston and Andrew Miller

1. DECLARATIONS OF INTEREST

Agenda Item 6 – Councillor Fitzpatrick declared a non-financial interest in that the he was a council appointed member of West of Scotland Archaeology Society but would participate in the item of business.

2. MINUTE

The committee confirmed the Minute of its meeting held on 5 March 2014 as a correct record. The Minute was thereafter signed by the Chair.

3. PROCEDURE FOR PRE-DETERMINATION HEARINGS

The committee noted the procedure that had been circulated with the agenda papers and which would be followed for the pre-determination of the planning application before committee.

4. APPLICATION NO.0758/P/14

The committee considered a report (copies of which had been circulated) by the Development Management Manager concerning an application as follows :-

| <u>Application No.</u> | <u>Proposal</u> | <u>Recommendation</u> |
|--------------------------|---|---|
| 0758/P/14 0757/FUL/14 | & Planning permission in principle for the erection of 230 residential units with associated roads, landscaping and infrastructure and the erection of 47 houses/flats (amended | To note the contents of the report and any representations made prior to a decision being taken by West Lothian Council (Planning). |

to 45) with associated roads, landscaping and infrastructure on land adjacent to Carledubs Crescent, Kirkhill, Broxburn

Decision

Having concluded the pre-determination of the application, agreed to refer the planning application to a meeting of West Lothian Council (Planning) for decision.



WEST LOTHIAN COUNCIL PLANNING COMMITTEE

PROCEDURE NOTE

1. The officers' report and other relevant documents shall be circulated to members with the agenda for the meeting at least four clear days before the meeting and made available on the internet in the usual way on the following day.
2. Copies of the reports will be e-mailed to each applicant on that day and to other parties where email addresses are known.
3. Applicants and objectors have been contacted in advance to advise them of the meeting, and to invite them to speak and to give notice of that intention. Noon on the Monday prior to the meeting is the deadline for that.
4. No documents other than those circulated to members with the agenda shall be permitted to be placed before the committee except with the permission of the Chair through a ruling under Standing Orders.
5. Officers shall present their reports, according to the Order of Business on the agenda, unless the Chair adjusts the running order.
6. The Chair may also invite council officers from services other than Development Management to address the committee as appropriate.
7. After the officer has presented a report, parties who have made representations against that application and who have on time expressed a wish to take part in the hearing shall address the committee. They shall be restricted to five minutes for each objector or such other period as the Chair may allow in exceptional circumstances. The Chair may request that objectors with a common interest agree to appoint a spokesperson to speak on their behalf. The Chair may also take steps to avoid undue repetition.
8. Applicants who have expressed a wish to take part in the hearing shall then address the committee. They shall be restricted to five minutes for each applicant (not per agent or representative) or such other period as the Chair may allow in exceptional circumstances.
9. Parties who have made representations in favour of the application and who have expressed a wish to take part in the hearing shall address the committee. They shall be restricted to five minutes each (and not per agent or representative) or such other period as the Chair may allow in exceptional circumstances. The Chair may request that supporters with a common interest agree to appoint a spokesperson to speak on their behalf. The Chair may also take steps to avoid undue repetition.
10. After each party has addressed the committee, members of the committee will then, through the Chair, be able to question to them and to any council officers present. The parties shall not be permitted to ask questions.
11. Council officers may be offered the opportunity to respond to points made during presentations or questioning.
12. Members may then, through the Chair, comment on that application. Any views expressed by members will be considered to be provisional views, pending the completion of a hearing on each case, unless the member concerned indicates to the contrary. Parties who have addressed the committee shall not be permitted to take part in that discussion and debate.

13. After each case, or after hearing all cases, at the discretion of the Chair, the committee shall adjourn its proceedings and a meeting of full council shall be immediately convened for the purposes of making a decision on the application or applications.
14. There shall be no presentation of a report to the meeting of full council and no hearing or questioning of officers shall take place there. Parties who have taken part in the meeting of the Planning Committee shall not be entitled to take part.
15. Members shall be invited to move motions and amendments and to participate in a debate on any such motions and amendments, and then to make a decision on the applications, through a vote of necessity. Those decisions shall be the council's determination of the applications for planning permission.
16. Following disposal of that item of business the Chair shall adjourn the meeting. If there remains business for the Planning Committee then that meeting shall be reconvened.
17. Should the business of the committee and full council not be concluded on the day then the meeting will require to be adjourned to a future date to be determined by the Clerk in consultation with the Chair.

Notes

- a. Legislation requires major planning applications which are significantly contrary to the Development Plan to have a hearing before a committee of the council, and a decision made at a meeting of full council.
- b. The West Lothian Planning Committee is the body chosen by the council to provide those pre-determination hearings.
- c. The procedures to be followed in such hearings are not set down in legislation but planning authorities have a wide discretion to apply their own procedures. The council decided that the procedures to be followed should be set by the council's Chief Solicitor in consultation with the Chair of the committee.
- d. These procedures have been set with regard to the nature and extent of the business to be done by the committee, the requirement to provide a fair hearing appropriate to the circumstances of the case(s) and to be fair and even-handed in the way in which all parties are dealt with.

WEST LOTHIAN PLANNING COMMITTEE

Report by Development Management Manager

1 DESCRIPTION OF THE PROPOSAL

- 1.1 Planning permission in principle for a 12.4 ha. residential development with associated roads, landscaping and other works, on land at Brotherton Farm, Livingston

2 DETAILS

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|----------------------|---|---------------------------------|---|
| Reference no. | 0648/P/14 | Owner of site | Gladman Developments Ltd & Mrs Anne Dow |
| Applicant | Gladman Developments Ltd & Mrs Anne Dow | Ward & local members | <i>Livingston South</i> Lawrence Fitzpatrick Peter Johnston Danny Logue John Muir |
| Case officer | Ranald Dods | Contact details | Tel: 01506 282 413 Email: ranald.dods@westlothian.gov.uk |

Reason for referral to West Lothian Planning Committee:

- 2.1 This is a 'major' planning application that is significantly contrary to the development plan.
- 2.2 There is a requirement under the Town and Country Planning (Scotland) Act 1997, as amended, that in determining such proposals, the applicant and those persons who have made representations on the application may appear before and be heard by a committee of the council. In accordance with the Act, the determination of an application of this type shall be discharged only by the full council and not a committee of the council.
- 2.3 A subsequent report will be presented to West Lothian Council. Thereafter, the application for development at Brotherton Farm can be determined.

3 RECOMMENDATION

- 3.1 It is recommended that West Lothian Planning Committee notes the contents of this report and the terms of all representations that are made by those appearing at the hearing prior to a decision being made on the planning application by West Lothian Council.

4 DESCRIPTION OF PROPOSAL AND PLANNING HISTORY

- 4.1 The application is made for planning permission in principle for residential development on land immediately to the west of the current settlement boundary of Livingston at Adambrae. Extending to some 12.4 hectares, the site is bounded to the east by The Wilderness plantation, Calder Road and Brucefield Industrial Estate to the south and by farmland to the north and west. This latter area is in the control of the applicant. Land allocated for industrial use lies to the north of the field which is on the northern boundary of the site and is, on average, approximately 100m from the site boundary.

- 4.2 The site lies outwith the settlement envelope of Livingston and is part of the Livingston Countryside Belt, as confirmed in the West Lothian Local Plan. The Wilderness, which is a mixed woodland plantation with ecological attributes to the east of the site, is land safeguarded as open space and is designated as an area of special landscape control (ASLC). The Wilderness is approximately 380m at its widest and separates the site from the residential area of Adambrae.
- 4.3 An indicative layout plan that accompanies the planning application shows an amended development of 150 houses. Additionally, the development will comprise associated infrastructure and engineering works, formal and informal open space and landscaping and boundary treatments. A total of 15% of the houses (23 units) would be affordable. A plan showing an indicative masterplan is attached to this report. Full details of the proposals, the case file and the applicant's supporting statements are available from Committee Services.
- 4.4 The application is defined as major in the 'hierarchy of developments'. As such, it was subject to a period of pre-application consultation. A report, which is available from Committee Services, details the procedures which were followed. This included a public exhibition at the Bellsquarry Village Hall on 18 March 2014.
- 4.5 It is proposed to access the site from the Wilderness Roundabout. Here, a hammerhead was formed as part of a proposed western spine road for Livingston; the existing spur from the roundabout was not formed to facilitate residential development. No housing would be located within approximately 60m of the A71. In order to reduce the impact on the properties of noise generated by the road, a 1m high acoustic fence would be installed on top of an earth bund measuring 1.8m high and 6m wide. The access road would run into the site in a north westerly direction and gives access to two distinct areas of housing, separated by the burn which runs through the site. A plan showing a 3m footpath corridor on the northern side of the A71, on land within the council's ownership, has been submitted by the applicant, although that was not part of the initial planning application.
- 4.6 The applicant has indicated that they are prepared to enter into a dialogue with the council regarding the requisite developer contributions for infrastructure provisions related to the development. A willingness to enter into a dialogue does not, however, indicate a willingness to fund these requirements in full.
- 4.7 If planning permission was to be granted, the applicant would aim to sell the site to a house builder, generating 30 to 35 units per year. As the application is for planning permission in principle, applications for matters specified in conditions would have to be submitted before development could commence.
- 4.8 The planning application, although not required to be subject to an environmental impact statement, is accompanied by a suite of supporting documents including a design statement, an assessment of the landscape and visual impacts, a transport assessment and travel plan, an education impact assessment and further reports on health, renewable energy and utilities. All supporting documentation is available from Committee Services.
- 4.9 There is no planning history associated with the application site.

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| 5 | REPRESENTATIONS |
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- 5.1 Two letters of objection have been received, including one from the Bellsquarry Community Council. No letters of support have been received. The material grounds of objection raised are summarised below. The full letters are contained within the application file.

| Comment | Response |
|--|---|
| The site is greenbelt and was not put forward in the “call for sites”. | The site is countryside belt in the adopted West Lothian Local Plan and is not an allocated site. |
| There is enough housing planned. | The site is not an allocated site in the adopted West Lothian Local Plan. |
| Increased traffic and lack of public transport. | Transportation has not objected but has suggested conditions on any consent. |
| Adverse effect on adjacent woodland which is an Area of Special Landscape Control. | The site boundary does not extend into the woodland. However development on the western edge of the woodland would undermine the landscape setting of the wood, it is likely to interrupt the connectivity of an important wildlife corridor and have a negative impact on the wider ecology of the woodland. |

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| 6 | CONSULTATIONS |
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- 6.1 The following is a summary of the consultation responses which were received. The full consultation documents are contained within the application file.

| Consultee | Comment | Response |
|----------------|--|--|
| WoSAS | Evidence of early occupation cannot be discounted. Condition suggested requiring archaeological investigation. | Noted. Condition required. |
| Transportation | No objection. Conditions suggested. | Noted. Conditions required. |
| Education | <p>Objection. The site is a windfall site and remote from other development. The applicant is proposing a footpath along the side of the A71. If one cannot be provided, all pupils from the development going to catchment schools (with the exception of secondary non-denominational) would require transport assistance. An appropriate crossing on the A71 would need to be provided. Whilst transport assistance would be “free” to parents, it is paid for by the council and would be an ongoing revenue cost.</p> <p>Committee should also note that a walking route to the south would pass Bellsquarry Primary School within a relatively short distance of the development site. West Calder High School as currently located is the closest secondary school to the development site. There would be inevitable placing requests and additional vehicular traffic to both these schools and potential impacts on the support of residential development at Brucefield, the development site immediately to the east of West Calder High School.</p> | Noted. Contributions required if granted. |

| Consultee | Comment | Response |
|-------------------------------|--|---------------------------------------|
| | <p>Without prejudice to the fact that a footpath on the north side of the A71 may not be acceptable to the council from a safe routes to school perspective, the potential for a footpath on the north side of the A71 reduces home to school distance but still requires transport assistance for the catchment primary schools. A number of houses would be outwith the 2 mile distance to St Margaret's, the exact number would depend on footpath alignments. There is insufficient detail currently to make a full assessment of this.</p> <p>Members should note that neither footpath option removes the need for transport assistance to catchment primary schools which is likely to cost some £38,000 to £60,800 per annum. Transport assistance to St Margaret's could cost up to £9500 per annum dependant on the footpath option and detailed layout within the application site.</p> <p>In terms of current secondary school populations in Livingston, there are limited places at S1 in June 2019 and in 2020 all S1 places across all the Livingston secondary schools will be required for current P2 pupils. Therefore, even if there is only one secondary school child from the proposed development, irrespective of denominational placement intent, no places are currently available at S1 in 2020. The limited new residential development that has permission within Livingston and the wider catchment of St Margaret's is likely to ensure that more demand is placed on available places, potentially a further 26 pupils requiring places at S1 by 2020 for the Livingston secondary schools. Until a decision is reached to increase new secondary school provision, options to support unplanned development within Livingston are not available.</p> <p>Contributions will be required if the permission is granted. These would provide for denominational secondary school provision in accordance with council SPG, ongoing transportation costs and non-denominational secondary school provision in Livingston.</p> | |
| WLC Contaminated Land Officer | The information provided is satisfactory. No further information in regard to contaminated land required at this point. | Noted. |
| Environmental Health | The proposed design and layout of the site would be acceptable from a noise impact point of view. Conditions suggested if granted. | Noted. Conditions required. |
| WLC Flood Prevention | The council has no information to suggest the site is susceptible to flooding. Other technical comments are made. | Noted. |
| SEPA | No objection, subject to the imposition of a condition. | Noted. Condition required if granted. |
| Scottish Water | A water supply is available. | Noted. |
| SNH | No comment. The site is not subject to an EIA. | Noted. |

7 PLANNING POLICY ASSESSMENT

- 7.1 Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises the strategic development plan for South East Scotland (SESplan) and the West Lothian Local Plan (WLLP).

7.2 The following development plan policies are relevant:

| Plan | Policy |
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| SESplan | <p>Policy 1A: The spatial strategy: development locations This policy states that local development plans (LDPs) will direct further strategic development to strategic development areas (SDAs). West Lothian is identified as a single SDA. Whilst SESplan identifies the whole of West Lothian (excluding the Pentland Hills) as one of thirteen SDAs, that should not be taken as meaning that all parts of West Lothian are automatically suitable for development nor, indeed, as being capable of supporting development.</p> <p>Environmental and infrastructure considerations will determine the areas ultimately identified as being suitable for development in the West Lothian LDP.</p> |
| SESplan | <p>Policy 1B: The spatial strategy: development principles This policy states that LDPs will ensure that there are no significant adverse impacts on the integrity of, <i>inter alia</i>, local designations.</p> <p>The application site forms part of the locally designated Livingston Countryside Belt in the WLLP. Granting consent would be contrary to the terms of this policy. The development would also adversely affect adversely the locally designated Area of Special Landscape Control designated over the adjacent Wilderness Wood.</p> <p>It would also be premature to release the application site in advance of alternative housing sites being considered through the LDP process. The SDP also aims to focus development on brownfield land.</p> |
| SESplan | <p>Policy 5: Housing Land This policy states that for the period from 2009 to 2024, there is a requirement for sufficient housing land to be allocated so as to enable 107,545 houses to be built across the SESplan area. That figure includes land which is currently committed for housing development. Supplementary guidance (SG) has since been approved providing detailed information for LDPs as to how much of that requirement should be met in each LDP area. In the case of West Lothian, the requirement is to provide 18,010 houses over the period 2009-2024. This includes the additional housing allowance of 2,130 new homes to be built over the period to 2024, with the majority to be delivered in the period to 2019.</p> <p>The majority of the SESplan requirement will be met through sites allocated in the current local plan or through sites which have gained planning permission since the local plan was adopted.</p> |
| SESplan | <p>Policy 6: Housing land flexibility This policy states that each planning authority in the SESplan area shall maintain a five years' effective housing land supply at all times. The scale of this supply shall derive from the housing requirements for each LDP area identified through the SG provided for by Policy 5. For this purpose planning authorities may grant planning permission for the earlier development of sites which are allocated or phased for a later period in the LDP.</p> <p>The housing figures set out in the SESplan SG for housing can be used as a basis for calculating the five year effective housing land supply. However, what is still not in place is an agreed methodology to calculate this supply. Notwithstanding this, the council's position is that in West Lothian there is a generous supply of housing land. However, delivery of that supply has been impacted adversely by the economic recession, the inability of the house building industry to develop at a faster pace and infrastructure constraints.</p> |
| SESplan | <p>Policy 7: Maintaining an effective five year housing land supply This policy states that sites for greenfield housing development proposals either within or outwith the identified SDA may be allocated in the LDP or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying each of the following criteria: (a) The development will be in keeping with the character of the settlement and local area; (b) the development will not undermine green belt objectives and; (c) any additional infrastructure required as a result of the development is either committed or to be funded by the</p> |

| Plan | Policy |
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| | <p>developer.</p> <p>In this instance, the site is not allocated for housing in the adopted local plan. The development is not in keeping with the local area because of the separation it affords, contrary to criterion(c). There are also known issues relating to education infrastructure and this would suggest that criterion (c) may not be met, at least in the short to medium term.</p> |
| SESplan | <p>Policy 8: Transportation</p> <p>This policy states that planning authorities will support sustainable travel and that LDPs will ensure, amongst other objectives, that development likely to generate significant travel demand is directed to locations that support travel by public transport, foot and cycle; ensure that new development minimises the generation of additional car traffic, relate density and type of development to public transport accessibility; ensure that the design and layout of new development demonstrably promotes non-car modes of travel and; consider the merits of protecting existing and potential traffic-free cycle and walking routes.</p> <p>The site is detached from local facilities such as shops and schools; there are no links in the applicants' control that facilitate integration into the existing urban form of Livingston. The proposal is likely to generate increased travel demand.</p> |
| SESplan | <p>Policy 9: Infrastructure</p> <p>This policy states that LDPs will provide policy guidance that will require sufficient infrastructure to be available or its provision to be committed, before development can proceed.</p> <p>As indicated above, there are education infrastructure constraints.</p> |
| WLLP | <p>ENV8 (soil assessments) On all greenfield development sites over 1 ha., an assessment of soils will be required in relation to their sustainable re-use for landscape, habitat creation and open space provision and for their capacity to absorb water. Soil sustainability plans will include soil identification for after-use purposes, top-soil handling, site restoration, open space drainage and post-development monitoring.</p> <p>The application includes a satisfactory soil and agricultural assessment report.</p> |
| WLLP | <p>ENV11 (development affecting woodland) There will be a presumption against development affecting woodlands and trees unless there is a proven locational need and where a sustainable environmental gain through replacement and additional tree planting appropriate to the area is provided.</p> <p>ENV12 (woodland) In accordance with the <i>West Lothian Local Biodiversity Action Plan</i>, woodland planting and the sustainable management of existing woodlands and groups of trees, will be required for development proposals in the countryside which are acceptable in planning terms. Residential development already bounds the Wilderness Plantation on its eastern edge at Adambrae. Development on its western edge is likely to have a negative impact on the ecology of the woodland through an increase in people using it for recreation, dog walking etc. This would undoubtedly lead to the creation of informal routes and disturbance to wildlife and be an impediment to ecological connectivity between the wood and the wider countryside.</p> <p>The site contains a number of deciduous trees along the southern and northern boundaries of the site and an intervening field boundary in the middle of the site. There is a concentration of mature deciduous trees east of the site which could be affected adversely by development on the site. It is noted from the submitted tree survey that some trees will be lost through development of the site. Should consent be granted, a detailed tree survey should also accompany any MSC application and any loss of trees should be result in a minimum of 2:1 replacement deciduous re-planting.</p> <p>The development is not, however, acceptable in terms of development plan policies and other material considerations. There is partial compliance with this policy.</p> |

| Plan | Policy |
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| WLLP | <p>ENV21 (Areas of Special Landscape Control) The council will protect the six ASLCs shown on the proposals map from intrusive development in order to retain their landscape character.</p> <p>The council will promote opportunities to enhance the six ASLCs and their accessibility to the public for recreational and educational purposes in a manner that does not undermine their landscape character and biodiversity value.</p> <p>The site is immediately adjacent to the Livingston ASLC and contains an area of amenity deciduous woodland planting owned and maintained by the Woodland Trust that contributes significantly to the setting of this part of Livingston and also contains an element of informal public access for recreation. The proposed development would detract from this designation which currently is bounded on the west by open farmland, both forming an effective landscape buffer between Polbeth and Livingston and a green corridor to the Almond Valley around East Calder. If developed, the woodland would lose that rural setting and the green corridor would be compromised. The proposals do not accord with the policy.</p> |
| WLLP | <p>ENV22 (countryside belts) Countryside Belts are designated at Livingston, Bathgate/Whitburn and Winchburgh/Broxburn as shown on the proposals map.</p> <p>Opportunities to protect and enhance the landscape of these countryside belts will be sought and encouraged as part of the Central Scotland Forest initiative through woodland planting and managed access. The Livingston Countryside Belt, together with the Wilderness Plantation, form an established areas of high amenity to the west of Livingston.</p> <p>The proposed development would neither protect nor enhance the Livingston Countryside Belt and, therefore, does not accord with the terms of policy ENV22.</p> |
| WLLP | <p>ENV23 (coalescence of settlements) Within the countryside belts, development that will lead to coalescence of settlements and for which there is no specific locational need, will be resisted. Proposals that would result in sporadic development or the expansion of existing clusters of houses and for which there is no specific locational need, will be similarly resisted</p> <p>The application site is identified as being part of the Livingston Countryside Belt, which was designated in order to prevent the coalescence of Livingston and Polbeth. This plays a critical part in maintaining a countryside and green buffer between Livingston and Polbeth which would be lost if development is approved on this site, leading to coalescence of Polbeth and Livingston. There is no locational need for the proposed development. The proposal does not comply with this policy.</p> <p>The land to the west of the application site remains in control of the applicants. Granting permission would set an undesirable precedent for further development of the remaining farmland.</p> <p>Two housing sites lie approximately 100m to the south west of the application site. These are within the settlement envelope of Polbeth and were allocated by the Reporters after the West Lothian Local Plan public local inquiry. Given that the nearest residential property in Livingston to these Polbeth allocations is currently some 500m, it is clear that granting permission to the application under consideration would lead to the coalescence of Polbeth and Livingston.</p> <p>This part of West Lothian is characterised by a number of small settlements, each with their own identity, outwith the main population centre of Livingston. It is vitally important that this sense of place is retained and that there is a clear feeling of leaving one place and arriving at another. If permission was granted, the degree of physical and sensory separation would be lost. The openness and high amenity which currently exists would be lost through the urbanisation of the agricultural landscape. Despite the distance the proposed development would be set back from the A71, the impression created by being able to see the housing or, at night, street lighting from within, would lead to a degradation of the sense of leaving Livingston</p> |

| Plan | Policy |
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| | and arriving at Polbeth. |
| WLLP | <p>ENV31 (development in the countryside) Proposals for new build development in the countryside will not normally be approved. Exceptions to this policy are limited and relate, generally, to small scale developments.</p> <p>As the application site lies outwith the settlement boundary it is within the countryside. The application does not accord with any of the exceptions set out above and the proposal must be regarded as being contrary to policy ENV31.</p> |
| WLLP | <p>HER16 (archaeology) Applicants will be required to provide an archaeological assessment in advance of determination of a planning application where the council considers this appropriate.</p> <p>The application has been assessed by WoSAS, the council's archaeology service. Whilst a desk based archaeological assessment was submitted, WoSAS recommends that it would be appropriate for trial trenching evaluation to be a condition attached to planning consent for the development. There is partial compliance with this policy and full compliance could be achieved by further investigations.</p> |
| WLLP | <p>HOU1 (housing sites) The sites listed in Appendix 6.1 and shown on the proposals map, are identified as housing sites which contribute to meeting the housing requirements over the local plan period and the longer term.</p> <p>The application is not allocated in the WLLP as a site for housing development and is contrary to policy HOU1.</p> |
| WLLP | <p>HOU2 (development within settlement envelopes) Within the settlement envelopes shown on the proposals map: The application site is outwith the settlement boundaries of Livingston and Polbeth as defined in the WLLP. There is, therefore, a presumption against development and the proposal fails to comply with policy HOU2.</p> |
| WLLP | <p>HOU10 (affordable housing)</p> <p>The applicant has indicated that 15% of the proposed housing will be affordable housing units. There is compliance with policy HOU10.</p> |
| WLLP | <p>TRAN2 (transport impacts) Development will be permitted only where transport impacts are acceptable. This will be established through a Transport Assessment which covers all modes of transport and has been approved by the council.</p> |
| WLLP | <p>TRAN7 (cycling and footpaths) The council will encourage walking and cycling by providing and improving safe and attractive pedestrian facilities, footpaths and cycle routes.</p> |
| WLLP | <p>COM2 (open space) aims to prevent the loss of, amongst other things, informal open space including wildlife habitats. Whilst the proposal is not to develop the Wilderness Plantation itself, the development as proposed would have an impact on the woodland. There is no locational justification for the development adjacent to this woodland which plays an important function in the setting of this part of Livingston and forms the western end of a green corridor linking the countryside north of West Calder to the Almond Valley around East Calder.</p> |
| WLLP | <p>COM9a (cemetery provision)</p> <p>The applicant has indicated a willingness to enter into a constructive dialogue to agree obligations. If contributions are indeed made, the proposals comply with this policy.</p> |
| WLLP | <p>COM11 (public art)</p> <p>The applicant has indicated a willingness to enter into a constructive dialogue to agree obligations. If contributions are indeed made, the proposals comply with this policy.</p> |
| WLLP | <p>IMP2 (education contributions)</p> |

| Plan | Policy |
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| | The applicant has indicated a willingness to enter into a constructive dialogue to agree obligations. If contributions are indeed made, the proposals comply with this policy. |
| WLLP | IMP3 (education contributions) The applicant has indicated a willingness to enter into a constructive dialogue to agree obligations. If contributions are indeed made, the proposals comply with this policy. |
| WLLP | IMP6 (SUDS) Development must comply with current best practice on sustainable urban drainage practices to the satisfaction of the council, SW and SEPA. It is noted a SUDs basin is proposed centrally in the site, in an obvious location for it due to it being an existing lower wet area that contains a small field drain/watercourse. The proposals comply with policy IMP6. |
| WLLP | IMP7 (flood risk) Where flooding is considered to be a risk, developers will be required to support their planning application with a Flood Risk Assessment (FRA) complying with Annex B of the Scottish Environment Protection Agency Policy No.4 <i>A SEPA Planning Authority Protocol</i> . The submitted FRA confirms that the site is generally at a low risk from all types of flooding. There appears to be compliance with policy IMP7. |
| WLLP | IMP9 (air quality) Where appropriate, developers will be required to provide additional information on the impact of their proposed development on air quality in support of a planning application. The supporting documents in terms of air quality confirm this is not an issue for the site, despite its proximity to the A71. The proposal accords with the terms of policy IMP9. |
| WLLP | IMP11 (development close to noise) Housing and other noise sensitive developments will not normally be permitted close to existing noisy land uses. The revised site layout and mitigation has been assessed as sufficient to comply with the terms of this policy. |
| WLLP | IMP14 (supplementary planning guidance) Developers must have regard to the planning policy guidance referred to in this local plan. If permission is granted it is assumed that all relevant supplementary guidance would be complied with. The proposal does not accord with the terms of all the relevant published SPGs. |
| WLLP | IMP17 (planning obligations) Where appropriate, planning agreements between developers/landowners and the council must be in place to secure, amongst other things, key infrastructure. It is noted that the developer has signalled a general willingness to enter into legal agreements. If contributions are indeed made, the proposals comply with this policy. |

- 7.3 The West Lothian Local Development Plan (LDP) is a material consideration. The LDP will in time provide the framework against which planning applications are assessed. It will be reviewed every five years to ensure an up to date plan is in place to guide future development in the area.
- 7.4 The Main Issues Report (MIR) for the emerging West Lothian Local Development Plan was reported to the Council Executive on Thursday, 19 June 2014. At that meeting it was agreed that the MIR would move forward to public consultation. That consultation commenced on 25 August 2014 for an 8 week period, ending on 17 October 2014. In advance of publication of

the MIR, the council undertook a 'Call for Sites/Expressions of Interest' exercise in 2011. This presented land owners, prospective developers and others with their first opportunity to identify and put forward potential sites for development. It also enabled the council to assess the development potential of any individual site against environmental and infrastructure constraints as well as considering potential sites against the merits of other sites and allowed the council to assess these issues early on in the LDP process.

- 7.5 The application site was not submitted through the 'call for sites' process. In any case, it is considered that there are other more suitable sites than this that could be developed for housing, given the detrimental impact this site would have on the Livingston Countryside Belt. There would be a significant diminution of greenfield land between Livingston and Polbeth leading to coalescence of settlements. The proposed development, if granted, would also set an undesirable precedent for other similar proposals.
- 7.6 In response to the MIR consultation, however, a submission has been made seeking allocation of the site for development (MIRQ0123 refers). This is being considered and will be responded to as the LDP progresses.
- 7.7 Also of relevance are Scottish Planning Policy (SPP); Creating Places; Designing Streets; Scottish Historic Environmental Policy (SHEP) and; the following Planning Advice Notes (PAN):

PAN 44 *Fitting New Development into the Landscape*
 PAN 60 *Planning for Natural Heritage*
 PAN 61 *Planning and Sustainable Urban Drainage Systems*
 PAN 65 *Planning and Open Space*
 PAN 67 *Housing Quality*
 PAN 72 *Housing in the Countryside*
 PAN 75 *Planning for Transport*
 PAN 77 *Designing Safer Places*
 PAN 78 *Inclusive Designs*
 PAN 79 *Water and Drainage*
 PAN 2/2010 *Affordable Housing and Housing Land Audits*
 PAN 1/2011 *Planning and Noise*

| | |
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| 8 | ASSESSMENT |
|----------|-------------------|

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997, as amended, requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. The development plan comprises the strategic development plan for South East Scotland (SESplan) and the West Lothian Local Plan (WLLP).

Development Plan Allocation

- 8.2 The application site is outwith a settlement envelope within land designated in the adopted West Lothian Local Plan as the Livingston Countryside Belt. It has long been recognised that the expansion of Livingston could, if unchecked, lead to the coalescence of Livingston with the surrounding towns. It was in an effort to address this that policies have been included in local plans to designate areas around Livingston, in particular the land at Brotherton Farm, as the Livingston Countryside Belt. In common with its predecessor, the WLLP sets out that the Countryside Belt has been designated to prevent coalescence with other settlements and is aimed at protecting agricultural land, forestry and land of natural heritage value from

development. Whilst not within the application site boundary, the Wilderness Plantation immediately to the east of the site is designated as an Area of Special Landscape Control and safeguarded as open space. The Countryside Belt and the Wilderness Plantation provide a landscape buffer between Polbeth and Livingston, giving a physical, visual and sensory separation between the two settlements. The site is not allocated for housing. The proposed development of this large greenfield site for housing is significantly contrary to the development plan as set out in SESplan and the WLLP.

Housing Land Supply

- 8.3 Scottish Planning Policy (SPP) requires planning authorities to manage land supply and to programme projected completions to demonstrate the availability of land and to provide an ongoing effective supply of land to meet housing requirements. This is achieved, in the first instance, through the preparation of an annual housing land audit in consultation with internal council services and external stakeholders. SPP advises that where the housing land audit or development plan action programme indicates that a five-year effective land supply is not being maintained, development plans should identify triggers for the release of future phases of effective sites.
- 8.4 The 2014 Housing Land Audit (HLA) has been agreed with Homes for Scotland. It reflects the current housing land position. The HLA 2014 is available at <http://www.westlothian.gov.uk/media/6312/West-Lothian-Housing-Land-Audit-2014/pdf/HousingLandAudit2014.pdf>. The information contained in the HLA enables the monitoring of the development plan strategy for housing and helps to inform emerging policy.
- 8.5 The West Lothian Local Plan, to be replaced in due course by West Lothian Local Development Plan, allocates land on a range of sites to meet the housing land requirement up to the tenth year after the local plan was adopted, providing effective sites in the initial phase for at least five years from the date of adoption and further sites capable of development by the end of year 10. The aim is to maintain sufficient effective land for at least five years.
- 8.6 The HLA 2014 specifically provides a comprehensive description of the housing land supply at 31 March 2014 and includes the strategic allocations coming forward through the local plan. It includes all housing sites with a capacity of five or more units, ordered by tenure and planning status. For every private sector site, an assessment is made of likely completions over the next seven years.

Summary of the HLA 2014

- 8.7 During 2013/14, 615 house completions were achieved in West Lothian, a 17% increase from the previous year when there were 523 house completions.

Figure 1: Actual House Completions (in West Lothian) from 2002

| 2002 | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 |
|-------|------|-------|-------|-------|------|------|------|------|------|------|------|------|
| 1,281 | 875 | 1,158 | 1,288 | 1,175 | 714 | 928 | 422 | 543 | 530 | 229 | 523 | 615 |

Source: Housing Land Audits 2002 to 2014

- 8.8 For the five-year period from 2014 to 2019, the total number of houses forecast to be built in West Lothian was 4799 (or an average of 960 houses per annum). This figure represents the level of output that the house building industry agreed was realistic from the existing established supply and is widely referred to as the effective five-year housing land supply.

- 8.9 In addition to this, 8585 units were programmed for development beyond 2018. This is called the effective post five-year housing land supply.
- 8.10 At 31 March 2014, the total effective housing land supply in West Lothian was 14,362 units (4799 + 8585 + [978 under construction]).
- 8.11 It should be noted that there are no particular reasons why a proportion of the 8585 units programmed for development beyond 2019 could not be built earlier if demand was to increase and there was capacity in the industry to deliver a greater number of houses. The additional sites coming forward through the LDP will also provide further flexibility to increase house building.
- 8.12 The West Lothian Local Plan set an ambitious growth strategy, planning for almost 25,000 houses over the plan period and beyond. A key component of the development strategy is the core development areas (CDAs) at Armadale, Livingston and Almond Valley and Winchburgh/East Broxburn/Uphall, in addition to the strategic housing allocation at Heartlands, Whitburn. All of the CDAs are now delivering on housing development. The delivery of associated essential infrastructure needed to support this growth was recognised as being already challenging and that additional development would require significant levels of investment to deliver the infrastructure required to support growth beyond that already committed.
- 8.13 As stated previously, the scale of housing land supply in West Lothian is to derive from the housing land requirements for each LDP area identified through the SG and called for in policy 5 of SESplan.
- 8.14 Policy 7 of SESplan states that sites for greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in LDPs or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying each of the following criteria:
- a. The development will be in keeping with the character of the settlement and local area;
 - b. The development will not undermine green belt objectives; and
 - c. Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.
- 8.15 Criterion (a) of policy 7 is not satisfied as the proposal would lead to the coalescence of Polbeth and Livingston. This would be to the detriment of the character of Polbeth and, through the urbanisation of the countryside, the area. In addition, criterion (c) is not satisfied since there is insufficient education infrastructure to allow the development to proceed.
- 8.16 This position has recently been tested and upheld through a planning appeal (reference PPA-400-2036) in respect of a proposed residential development at Seafeld Road, Blackburn. In his decision letter of 30 October 2013, the Reporter made reference to the fact that the supply of housing land in the WLLP was the maximum permitted by the now superseded structure plan and thus was generous. It was also observed that much of this supply remains available for development and it was concluded that the supply of housing land in West Lothian is currently not deficient and is adequate to meet current market demand for new houses. The Reporter's decision was unsuccessfully challenged in the Court of Session by the appellant. Further commentary on that decision is set out below from paragraph 8.33.

Housing Need and Demand Assessment 2

- 8.17 To support the preparation of the Main Issues Report for SDP2, a second Housing Needs and Demand Assessment (HoNDA 2) was prepared in 2013/14. The HoNDA was submitted to the Scottish Government in late 2014 for formal appraisal and is under consideration.
- 8.18 There are two significant factors in HoNDA 2 which should be treated as material considerations in the determination of this application.
1. HoNDA 2 incorporates the 2012 Based Household Projections, as opposed to the 2010 based projections which were the basis of HoNDA 1. It was HoNDA 1 which formed the basis of the housing requirements set out in SESplan. The 2012 Based Projections significantly reduce the housing requirements for West Lothian by around 40% based on a default growth scenario in the HoNDA. The default rate of growth based on the 2010 projections is 19,480 houses over the period to 2012-2032 (the time period for SESplan Supplementary Guidance), while the rate of growth based on the 2012 projections, over the same period, is 11,400 houses. This represents a reduction of 41% in the housing requirement in West Lothian when using the more up to date projections. It follows that the 5 year land requirement drops by a similar rate.
 2. HoNDA 2 identifies that a much higher percentage of housing demand in West Lothian will be for socially rented housing rather than owner occupied housing.
- 8.19 HoNDA 2 projects the housing need beyond the period covered by the SESplan Supplementary Guidance and incorporates a number of growth scenarios. It also presents a more granular assessment of housing demand over the projection period and breaks the overall demand figure down into four tenures – social rent, below market rent, private rent and owner occupation.
- 8.20 The socially rented sector accounts for the highest proportion of demand in all the growth scenarios. Against this background, the owner occupied sector only accounts for between 27.4% and 33.5% in the growth scenarios.¹ Even taking the highest of these percentages and applying it to the overall demand figure set out in paragraph 6.3 (11,400 houses) it gives an owner occupied requirement over the period to 2032 of 3819 houses. The socially rented figure over the same period and on the same basis would be over 5000 units.
- 8.21 It is clear from these figures that any discrepancy in the council's five year land supply has been based on a grossly over optimistic assessment of demand for owner occupied housing. The figures in para 6.7 confirm that the five year requirement for owner occupied housing is some 954 houses (3819 / 20x5). It is accepted that the private sector may have a role in meeting mid-market rent requirements as well as owner occupation requirements (and that they make contributions to social renting through the council's affordable housing policy) but these would not increase the overall five year requirements to a significant extent. Paragraph 1.1.2 of the planning statement submitted with the application confirms that 85% of the proposed development will be for mainstream housing.
- 8.22 Any deficiency in the effective five year land supply is therefore likely to be in land for socially rented housing, rather than land for owner occupied housing. Socially rented will be the sector of highest demand. As a result, if any action is required to bolster the land supply it should be focused on land for social housing provision rather than for owner occupation. The council is bringing forward a programme of 1000 new build council houses to address part of this need.

¹ SESplan Housing Need and Demand Assessment 2 Final Report September 2014 Table 10.32 – 1038

- 8.23 Higher demands for social rented housing can be seen as representing a tenure shift which will likely have implications for housing land allocations in the future. What is emerging is that the allocation of land will not in itself address housing demand. HoNDA 2 identifies four alternative futures that are based on the 2012 household projections. The Executive Summary² of HoNDA 2 notes that alternative futures “steady recovery 2” and “wealth distribution 2” are to a significant extent supported by evidence collated in SESplan HoNDA 2. Alternative future “strong economic growth” is not supported by the evidence and remains aspirational.

Education

- 8.24 Local Plan policy IMP3 requires that there is sufficient education infrastructure to serve proposed housing developments. Policy IMP2 relates to developer contributions. IMP3 relates to legal agreements to secure infrastructure. SESplan policy 7, criterion (c) states that any additional infrastructure required as a result of the development must be either committed or should be funded by the developer.
- 8.25 Education Planning objects to the proposed development on the grounds that the site is separate from other developments and outwith the settlement boundary of Livingston. As a result, the distances to some of the catchment schools would be such that transportation would need to be provided to the children arising from the development. This cost to the council would be an ongoing one which, at present, would be without limit of time. Whilst the transportation would be provided free of charge to the residents, those costs would have to be borne by the council. It is unlikely that a planning obligation could be put in place which would meet adequately the terms of Circular 3/2012.
- 8.26 Education Planning has the following concerns about the application:
- St Margaret’s Academy is forecast to exceed capacity;
 - The distance of some of the houses from Bankton and St Ninian’s primary schools and St Margaret’s Academy would necessitate children being transported to catchment schools with the exception of The James Young High School. The transportation costs that would have to be borne by the council, would continue without limit of time.
- 8.27 The applicant has indicated that they would be willing to provide a footpath to the north of the A71 in order to create a link between the development and the bus service which travels along that road. Although not initially included in the planning application, an indicative drawing shows an illustrative design, on council owned ground, for a footpath which would satisfy the requirements of Transportation. If members are minded to approve the application, the provision of a footpath on council owned ground, could be subject to a planning condition. If a footpath cannot be provided along the north of the A71, all pupils to catchment schools - with the exception of secondary non-denominational - would require transport assistance using footpaths south of the A71. In that event, provision would need to be made for an appropriate crossing across the A71. Whilst transport assistance would be “free” to parents, it is paid for by the council and, as stated previously, would be a perpetual revenue cost to the council in the order of £38,000 to £60,800 per annum. Transport assistance to St Margaret’s could cost up to £9500 per annum, dependant on the footpath option and detailed layout within the application site. There would likely be significant placement pressure on Bellsquarry Primary School and West Calder High School which, currently, would be the closest schools to the development site. Given the location of the housing site, it is also likely that much of the potential placement requests would be car borne journey’s as part of home to work journeys.

² Consultative Draft SESPLAN Housing Need and Demand Assessment 2 Executive Summary page12

- 8.28 The potential for a footpath on the north side of the A71 reduces the travel distance but still requires transport assistance for the catchment primary schools - Bankton Primary and St Ninian's Primary. A limited number of houses would be outwith the 2 mile distance to St Margaret's, the exact number depending on actual footpath alignments. There is insufficient detail in the submitted plans to assess this. Either footpath connection option has unplanned revenue consequences for the council.
- 8.29 In terms of existing current school populations, reference has been made by the applicant regarding the availability of secondary school spaces in Livingston. There are limited places at S1 in June 2019 and it is the case that in 2020 there are insufficient S1 places across all the Livingston secondary schools. Therefore, even if there is only one secondary school child from the proposed development, irrespective of denominational placement intent, no places are currently available at S1 in 2020. The limited new residential development that has permission within Livingston and the wider catchment of St Margaret's is likely to ensure that more demand is placed on available places. Until a decision is reached to increase new secondary school provision and such provision is operational, options to support unplanned development within Livingston are not available.
- 8.30 If members are minded to support the application it would be appropriate to consider building in an Education Review clause into any s75 agreement that would control the rate and scale of residential development to the available education infrastructure and to secure the necessary planning obligations to overcome the education constraints. Members ought to be mindful that the outcome of a school consultation, under the terms of the Schools (Consultation) (Scotland) Act 2010, cannot be pre-empted.
- 8.31 The applicant has indicated that they are willing to enter into constructive dialogue with the council to agree obligations for infrastructure provisions which are reasonably related to the proposal. The applicant has also suggested that there is some capacity within current catchment schools that has been taken up by non-catchment children, the implication being that these places should be available for children arising from the development. Members will be aware that where there are no statutory grounds of refusal, a placing request must be granted. Members will also be aware that a place, once granted, will not be removed unless "*in-extremis*". Members should also note that in this case it is already known that all places within Livingston schools for S1 in 2020 are required and most placements take place between the Livingston schools.
- 8.32 Members should note that some 500 new private and public sector houses will be complete in the Livingston secondary school catchment areas prior to the current known peak year demand of 2020. In addition a further 1000 new houses are likely to complete in the wider St Margaret's Academy catchment area, at Winchburgh and East Calder. There will be additional children in these houses and there will be a consequential impact on school rolls.

Court of Session Judgement

- 8.33 Members will recall that West Lothian Council refused planning permission for residential development at Seafeld Road, Blackburn in April 2013. That application was subject to an appeal to Scottish Ministers and the Reporter issued his decision letter in October 2013. The Reporter's decision to dismiss the appeal was the subject of a legal challenge by the applicant, Hallam Land Ltd, to the Court of Session.
- 8.34 The Opinion of the Court of Session is also relevant in that the two material considerations examined in that Opinion were housing land supply and educational infrastructure capacity, both of which are applicable to the Brotherton application.

- 8.35 With regard to educational infrastructure capacity, the Court of Session supported the Reporter's decision to refuse planning permission on the grounds of a lack of educational capacity to serve the proposed development. The following quoted paragraphs from the Opinion are particularly relevant.
- 8.36 Paragraph 23: *"The Reporter found the Council's approach more convincing. We are of opinion that he was fully entitled to take such a view. Two reasons may be given in support. First, by concentrating on the first year of secondary education, it is possible to establish whether there are adequate places for children at the stage when they enter secondary education. If such places are lacking, it is clear that educational provision is inadequate."*
- 8.37 Paragraph 25: *"...an extension to a secondary school is likely to involve substantial building works, which must be planned and completed before any additional demand can be met. Consequently it cannot be supposed that an offer of a contribution is sufficient to solve the fundamental problem of lack of educational capacity. The increased capacity must be properly planned and must be capable of completion by the time when any development is occupied".* The Education (Scotland) Act 1980, Part I, section 7(4) also sets out that accommodation should also be "available" for education.
- 8.38 Paragraph 28: *"...the Reporter was entitled to conclude that insufficient capacity was available in local secondary schools to support the proposed development and accordingly that planning permission would not conform to policy 7(c) of SESplan. The Reporter was in our view entitled to treat that factor as determinative of the appeal. On that basis we are of opinion that the present appeal must be refused."*
- 8.39 Whilst referring to the housing land supply and concluding that there was, at that time, a shortage in the five year effective supply, their lordships reached the view that the DPEA Reporter was fully justified in refusing the appeal on the basis of the lack of educational provision serving the site. As such, the Court ruled that the lack of educational capacity meant that the proposal could not constitute an effective site and therefore could not be considered compliant with the terms of policy 7c of the approved Strategic Development Plan. The terms of this policy remain relevant in relation to the Brotherton Farm site and confirm a need to consider the availability of infrastructure in conjunction with the housing land supply position. The proposal is, therefore, contrary to Policy 7(c) of SESplan because there is insufficient capacity in one of the catchment secondary schools to serve the proposed development.
- 8.40 Paragraph 29: *"We should also refer to the Reporter's conclusion on the local plan policy IMP 3 (see paragraph [12] above). That policy makes it clear that housing developments must take account of the availability of school places and that where appropriate contributions should be sought from developers in order to provide new schools or extensions. Where that cannot be done, the presumption is to be against housing development. That is in accordance with policies 6 and 7 of SESplan and indeed reflects the obvious fact that new housing developments require educational provision. The Reporter also founded on this policy in deciding against the development. In our opinion he was fully entitled to do so, for reasons that are broadly in line with those that apply to the policy 7(c) of SESplan."*
- 8.41 The council contends that the proposal remains contrary to Policy IMP 3 of the West Lothian Local Plan, as the proposed development does not take proper account of the availability of school capacity to serve the development.

- 8.42 Para 35 (conclusion): *“...we are of opinion that the Reporter was fully justified in refusing the appeal on the basis of the lack of educational provision in the vicinity of the site. That clearly did not satisfy policy 7(c). For that reason we will refuse the appeal.”*
- 8.43 The Opinion represents the most recent legal judgement by the Courts on the matter of educational infrastructure capacity as a material consideration in the determination of applications for residential development in West Lothian. The decision notice vindicates the council's position in relation to how it manages its education estate. Whilst referring to the housing land supply and concluding that there was, at that time, a shortage in the five year effective supply, the judges reached the view that the DPEA Reporter was fully justified in refusing the appeal on the basis of the lack of educational provision serving the site, as the lack of educational capacity means that the proposal cannot constitute an effective site. As such the proposal cannot be considered compliant with the terms of policy 7(c) of the strategic development plan, SESplan.
- 8.44 The application site is within a designated countryside belt. In that, the application is similar to the proposed site at Blackburn. In addition, housing land supply, education and the emerging local development plan were key issues raised in the Blackburn case and are equally relevant to the Brotherton application.
- 8.45 Members should also note the council's recent refusals of planning permission for residential development at Falside in Bathgate and also Burghmuir 'A' and Clarendon Farm, both of which are in Linlithgow. The Falside decision was appealed and the Reporter upheld the council's position. Both Burghmuir 'A' and Clarendon were the subject of an appeal and, prior to the Reporters issuing their decisions, the cases were called in by Scottish Ministers to consider the cases directly and issue their decision. Two recent decisions by Scottish Ministers to grant planning permission for residential development elsewhere in the SESPlan area are noted but do not alter the approach to Brotherton, which is confirmed in the Court of Session judgement.

The emerging Local Development Plan

- 8.46 The council is actively progressing preparation of the West Lothian LDP with the MIR having been the subject of public consultation from 25 August to 17 October 2014. As part of this process a *call for sites* exercise was undertaken in 2011. The MIR consultation generated 254 submissions. The Brotherton Farm site has been put forward as a representation to the MIR with the proposer seeking allocation of the site for housing development.
- 8.47 An updated Development Plan Scheme (DPS7) for the LDP was approved by the Council Executive on 10 March 2015 and updates the timetable for preparation of the LDP.
- 8.48 Publication of the next stage of the LDP, the proposed plan, is now anticipated during autumn/winter 2015, representing slippage from the previous DPS. The earliest date for adoption of the LDP is now likely to be late 2016.
- 8.49 It is likely that new housing allocations brought forward following adoption of the LDP will not start to make a contribution to housing completions until 2017 as each site will require a lead in time to obtain necessary consents before a site start can be made. However, it is probable that some new sites will come forward in advance of the LDP being adopted which will add to the effective housing land supply.
- 8.50 Whilst the LDP is still in preparation, the MIR commits the council to undertaking a review of the policies contained within the WLLP, in light of other policy guidance and the findings of the

West Lothian Local Landscape Designation Review. The review of policies will include the policies covering countryside belt designations and coalescence of settlements. Since the potential for coalescence remains, it is unlikely that there will be substantive changes to the tenor of the policies.

Scottish Planning Policy

- 8.51 SPP is a relevant consideration on housing land supply. At paragraph 75 it is stated that ‘...a supply of effective land for at least 5 years should be maintained at all times to ensure a continuous generous supply of land for house building....Development plans should identify triggers for the release of future phases of effective sites, such as where the housing land audit or development plan action programme indicates that a five year effective land supply is not being maintained’. The council's position with regard to housing land is set out above.

Public Concern

- 8.52 Legitimate public concern is a material consideration provided that it is expressed on relevant planning matters. Section 5 of this report summarises the public representations that have been received. Included is an objection from Bellsquarry Community Council and it is clear from that analysis that the grounds of objection raised constitute relevant planning matters.
- 8.53 The views of consultees are also a material consideration. As set out in this report, with the exception of the council's Education Planning service, there are no objections to the proposal from key agencies.
- 8.54 From an analysis of the material considerations that are relevant to this determination it is concluded that none outweigh the fact that the proposals conflict with the terms of the development plan and are premature in terms of the emerging LDP.

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| 9 SUMMARY AND CONCLUSIONS |
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- 9.1 The application for planning permission in principle for the development of up to 150 houses at Brotherton Farm is a major planning application that is significantly contrary to the development plan. The proposal conflicts with the council's policies on housing land, education, coalescence of settlements, woodlands and development in the countryside.
- 9.2 Notwithstanding the fact that the proposals do not comply with the development plan, there is no doubt that a scheme such as Brotherton Farm could be designed in accordance with best practice and a satisfactory residential environment could be achieved at the detailed planning stage.
- 9.3 The council's key housing land strategy contained in the West Lothian Local Plan comprises the provision of the core development areas in Winchburgh, Broxburn, Armadale and East Calder/West Livingston. The development at the Heartlands site is a further area allocated for residential growth with further development plan compliant permissions which will see housing at Brucefield and Pumpherston. The current economic difficulties have placed a major burden on the commencement of development of these sites, although development is now under way. It is critically important to support this strategy and safeguard the current investment in these development plan compliant sites; any other development that could undermine the integrity of this strategy requires to be carefully assessed.
- 9.4 There is a responsibility on the council to maintain a supply of housing land, in the right places and which is free from constraints and can be developed. The slowdown in housing completions across Scotland has meant that there remains a large number of housing sites

with planning permission in West Lothian. It is not the lack of availability of allocated land but the continuing economic climate that is playing a significant part in the slowdown in the delivery of new homes.

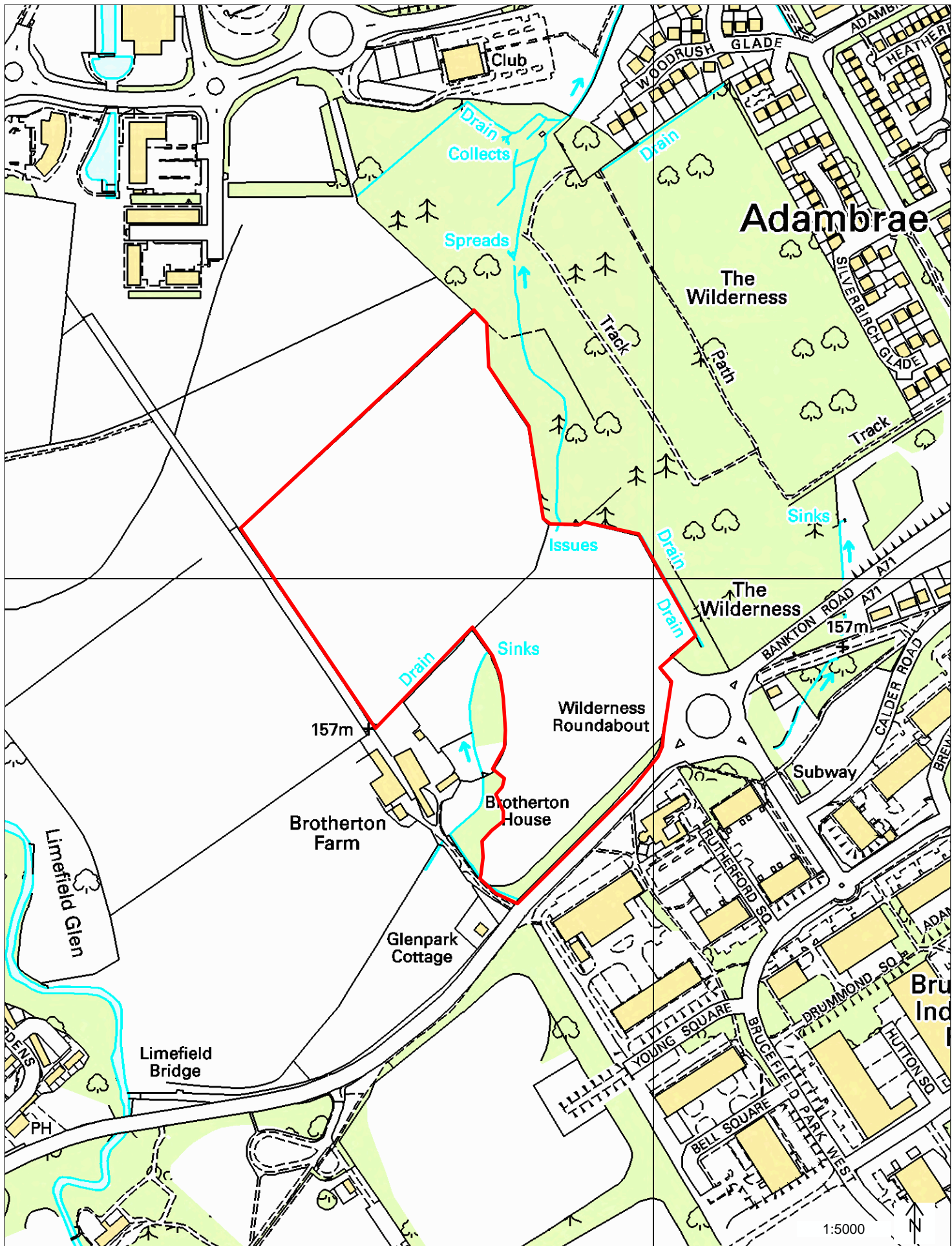
- 9.5 A key consideration in assessing the Brotherton Farm application is that of education capacity. Whilst there may be a prospect that primary school capacity is capable of being addressed, the secondary sector is less certain. Moreover the forecasts for St Margaret's Academy show that there will be no capacity in the immediate future to accommodate the proposed development and by 2020, this would be the case for all secondary schools across Livingston. Any further education capacity that does exist must, therefore, be reserved for proposals which are development plan compliant.
- 9.6 The site is outwith the settlement envelope of Livingston and is designated as Countryside Belt, the designation being made to prevent, specifically, the coalescence of Livingston with settlements on the boundaries of the town. Development of this land would undermine the landscape setting of Livingston and would be contrary to policies which aim to protect the countryside from unjustified development. Further, if granted, the development would effectively extend the settlement envelope of Livingston westwards, towards Polbeth. It must be borne in mind that, after consideration of the West Lothian Local Plan, two housing sites were allocated on the eastern boundary of Polbeth by the Reporters. The proposed development site would be approximately 75m from those allocations. This would reduce, by a factor of almost 7, the distance between residential development in Polbeth and Livingston and would be tantamount to the coalescence of the two settlements
- 9.7 It is a matter of fact that the development plan process is under review and the replacement local development plan will require to examine, through a plan lead system, the future direction of growth in Livingston. It is a matter for the local development plan to identify sites which would be appropriate to allow for further development. Given the stage at which the local development plan is at, a grant of planning permission in principle for development at Brotherton Farm would be premature at this point.
- 9.8 In summary the planning application conflicts with the development plan policies as set out above. There are material considerations that must be taken into account in the determination process. Members are asked to note the conflict with the development plan when the application is determined by the Full Council.

CHRIS NORMAN
Development Management Manager

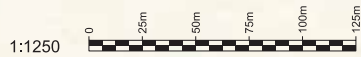
Date: 25 March 2015

Attachments

- 1) Location plan
- 2) Indicative layout
- 3) letters of representation




0648/P/14




General Notes

1. Dimensions are in millimetres unless stated otherwise.
2. Levels are in metres AOD unless stated otherwise.
3. Dimensions govern. Do not scale off drawing.
4. All dimensions to be verified on site before proceeding.
5. All discrepancies to be notified in writing to 7N Architects LLP.

© 7N Architects LLP 2009

 Site (12.4Ha)

 Centreline of acoustic fence

| Rev | Date | Reason For Issue | CHK |
|-----|----------|----------------------------------|-----|
| 03 | 21.01.15 | Planning Permission in Principle | FH |
| 02 | 10.12.14 | For Information | FH |
| 01 | 01.09.14 | Planning Permission in Principle | FH |
| 00 | 04.08.14 | For Information | HK |

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Livingston, West Lothian
EH54 6GR

Keyplan

North

Project
Brotherton Farm
Livingston

Drawing Title
Illustrative Masterplan

| Scale | Paper Size | Date |
|-------------|------------|----------|
| 1: 1250 | @A1 | 10.12.14 |
| Project No. | Draw No. | Rev No. |
| 080 | PPP003 | 03 |

COM1 LETTER

Dunlevie, Dorothy

From: Dods, Ranald
Sent: 09 October 2014 10:55
To: CB SupportServices
Subject: FW: Planning Application Brotherton Farm - [INTERNAL ONLY]

Info in

CB SUPPORT

OCTOBER

FILE

DATA LABEL: INTERNAL ONLY

could you do a COM1 letter for this please?

Ack. 10/10/14

R.

From: Christine Hay
Sent: 08 October 2014 12:40
To: Dods, Ranald
Subject: Planning Application Brotherton Farm

Hello Ranald,

There seems to be a fault with the planning website so I am sending my objection directly to you.

Regards,

Christine Hay

4, Newpark Road

Bellsquarry

Livingston West Lothian

EH54 9AE

6/10/2014

Re.Application 0648/P/14

Land at Brotherton Farm

I am a resident of Bellsquarry and I am objecting to the proposed development at Brotherton for several reasons.

- The site is greenbelt land and was not put forward in the "Call for Sites"
- There is enough housing planned on other sites which have been put forward.

- Increased traffic on the A71. Although the possibility of congestion at the Wilderness and Newpark roundabouts does not seem to be an issue at present according to the transport assessment, a substantial amount of new house building is already planned at Limefield and East Calder, plus building on land in the Murieston area put forward in the Call for Sites.

There is not enough employment in the area so people will have to commute. The A71 is already badly congested at rush hour, not only at Bellsquarry, but increasingly bad further along as more traffic enters the road.

It would be advantageous if public transport could be used more often but buses are held up every morning in the traffic congestion and the railway station car parks at Livingston South, Kirknewton and other local stations are absolutely full, so persuading people to use public transport seems unlikely.

There could also be issues with traffic leaving Brotherton via the Wilderness roundabout onto the already congested A71 in the morning. As a local resident I have been caught in this congestion, traffic can be very slow moving between the Wilderness and Newpark roundabouts. This road is used daily by ambulances and fire engines trying to get past. It seems possible that a road crossing would be necessary from Brotherton across the A71 and this would add to the congestion.

- Increased pressure could be put on the smaller roads around Bellsquarry if motorists try to avoid the A71
- Unless the A71 can be upgraded then it is not wise to increase usage.
- Because of the distance from the catchment primary school children would have to be transported adding to the congestion on the A71 and around the primary schools. Very few would walk.

- I looked with horror at the plan to continue the footpath through the Wilderness Wood. How can the developers propose to upgrade a path when it is not within the development area? They don't even appear to know who owns it.

On the Transportation Assessment page 26 it is stated "There is no direct route through the wood simply because there is no development to the west of the wood to be accessed from Livingston." I don't think so, it is simply because such a path is not wanted. This wood belongs to Woodland Trust Scotland which has not been consulted on the proposals. (I am a Woodland Trust Volunteer) and is not even on the list of consultees. A direct path through the wood is not wanted. This is a quiet natural habitat frequented by walkers and occasional cyclists and horse riders. I walk the wood most days and I was surprised in the habitat assessment that so little wildlife was observed. There are deer, foxes, stoats, squirrels and a myriad of nesting birds including buzzards and mallard ducks. Encouraging the use of the wood by more cyclists and probably scrambler bikes if they see an inviting path would be very detrimental. There are no linking paths from Silverbirch apart from the main one and this has kept the wood as a quiet natural habitat.

If the development were to go ahead then I suggest that the developers pay for a path along the north side of the A71 which would link the pavement from Adamrae at the underpass into Bellsquarry and also to the footpath to Polbeth. This would be safer for pedestrians to reach Bellsquarry and Livingston and for the occasional pupil who might want to walk or cycle to school rather than go through the woodland. There is a grass area to the side of the A71 which might be suitable.

Christine Hay

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COM1 LETTER

Dunlevie, Dorothy

From: Dods, Ranald
Sent: 09 October 2014 10:57
To: CB SupportServices
Subject: FW: 0648/P/14 - Brotherton - [INTERNAL ONLY]
Attachments: Norman_01.pdf

INFO IN
CB SUPPORT

OCTOBER

FILE

DATA LABEL: INTERNAL ONLY

Could you do a com1 to this attachment please?

R.

Ack. 10/10/14.

-----Original Message-----

From: [REDACTED]
Sent: 08 October 2014 12:28
To: Norman, Chris
Cc: Dods, Ranald
Subject: 0648/P/14 - Brotherton

Dear Mr Norman,

Please find attached a copy of a letter I have posted to you today containing the comments of Bellsquarry Community Council regarding the above planning application in principle for a housing development at Brotherton.

Yours sincerely

Peter Jeppesen

(Planning Secretary, Bellsquarry Community Council)

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Peter Jeppesen
24 Newpark Road
Bellsquarry, Livingston
EH54 9AE, UK
Tel: [REDACTED]
Mob: [REDACTED]

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P SAVE PAPER - Please do not print this e-mail unless absolutely necessary.

Bellsquarry Community Council

Bellsquarry, Livingston, West Lothian

From the Planning Secretary, Peter Jeppesen:

24 Newpark Road EH54 9AE

Telephone:

Mobile:

Email:

Wednesday, 08 October 2014

Mr Chris Norman,
Development Management Manager,
County Buildings,
High Street,
Linlithgow. EH49 7EZ

Dear Mr Norman,

Re: Planning application 0648/P/14: Brotherton

I am writing on behalf of Bellsquarry Community Council with reference to the above planning application in principle to develop land at Brotherton Farm for housing. This proposed development was the subject of a pre-application consultation (0176/PAC/14) registered on 13th March, 2014, which included a presentation by Gladman Developments Ltd at Bellsquarry Village Hall on the 18th March, 2014. Following that presentation, the proposal was discussed at an open meeting of Bellsquarry Community Council held on the 7th April, 2014, when it was the unanimous view of those present that the development as described by Gladman Developments Ltd would not be acceptable to the local community. A number of objections raised may be summarised as follows:

- The land in question is agricultural land designated as Countryside Belt.
- The proposed development would adversely affect the habitats and amenity value of the adjacent Wilderness Plantation, designated an Area of Special Landscape Control.
- Congestion at peak times on the Wilderness Roundabout would be exacerbated by the proposed access to the development, leading to concerns for the safety of pedestrians and vehicles entering Bellsquarry.
- The current inadequate public transport infrastructure would be completely overwhelmed by 182 new dwellings on the site.

On the 25th April, 2014, I wrote to Gladman Developments Ltd voicing the concerns of Bellsquarry residents and indicating that if a formal application for planning permission along the lines of the pre-application consultation presentation was lodged with West Lothian Council, Bellsquarry Community Council would object. The present application addresses none of the concerns outlined above.

1. Countryside Belt

The land it is proposed to develop is agricultural grazing land and in the current West Lothian Local Plan (2009) is designated 'Countryside Belt', the purpose of which is to prevent coalescence of Livingston with neighbouring settlements. As such, there is a presumption against development (Policies ENV22 and ENV23). The successor to the current plan, the West Lothian Development Plan, is still in the process of preparation. In 2011, as a preliminary to producing the new plan, a 'call for sites' to be considered for future development was made: Brotherton Farm was not put forward at this time. The Main Issues Report containing options to be considered in updating the West Lothian Local Plan to the new West Lothian Development Plan was published in August, 2014 and it includes no proposal for changing the status of the land at Brotherton Farm. It is our expectation, therefore, that the land at Brotherton Farm will remain designated 'Countryside Belt' when the new plan is published, currently expected to be in 2016.

In their application Gladman Developments Ltd concede that the land they propose developing is Countryside Belt, but state that there would still be an adequate separation between Livingston and Polbeth. We dispute this as there would be a single field only remaining between the two settlements if the development goes ahead. Inevitably, a future proposal to build on the last intervening field would argue that the Countryside Belt at this point was already so eroded and ineffective that it might just as well be abandoned altogether, leading to ribbon development along the A71 all the way from Livingston to West Calder.

2. The Wilderness

The proposed development is directly adjacent to the western edge of the Wilderness Plantation, managed by the Woodlands Trust (Scotland), classified as an 'Area of Special Landscape Control' (Policy ENV21) and 'safeguarded for open space' (Policy COM2) in the current West Lothian Local Plan (2009). The Wilderness is a valuable local amenity for exploration, dog walking, horse riding and general enjoyment of the woods. In addition, the Wilderness provides a natural habitat for several protected native flora and fauna species, in particular roe deer, which are often to be seen there. At present, the Wilderness is surrounded on three sides by residential and commercial developments, but an open countryside corridor to the west allows deer to move between the Wilderness and other protected woodland areas, for example, the Breich Valley. If the proposed development at Brotherton were to go ahead, this wildlife corridor would be cut off and the Wilderness would be completely surrounded by developments, leading to a loss of valuable natural habitat for the deer. Main Issue 6 in the Main Issues Report to the new West Lothian Development Plan mentioned above specifically refers to the creation and maintenance of a green network linking natural habitats across West Lothian, part of the Central Scotland

Green Network (CSGN). The closing off of the Wilderness from the countryside corridor to the west by the proposed development would be completely contrary to this policy.

As part of their application, Gladman Developments Ltd provide a 'Phase 1 Habitat Survey and Protected Species Walkover', carried out by Envirocentre. In this survey, The Wilderness is not mentioned by name, nor is its designation as an Area of Special Landscape Control stated; it is merely referred to as 'woodland to the east'. Evidence of roe deer in the Wilderness was found, but the fact that the proposed development site would close off the corridor for deer to access the Wilderness was not pointed out. The value of this survey is therefore questionable.

An additional point regarding the Wilderness is that the plans imply greatly increased access to the woods via paths directly entering from the proposed development. We believe this would considerably increase the likelihood of misuse of the Wilderness by, for example, motor-bikers and vandals generally, to the detriment of its amenity value and ecology. Gladman Developments Ltd also propose to extend the existing footpath that provides access to the Wilderness from the east (Adambrae) to link to the proposed new development. To our best knowledge, the Woodlands Trust has not been consulted, or even informed, of these proposals. No doubt the Woodlands Trust will have its own views on these matters.

3. A71/Wilderness Roundabout

The proposed access to the new development is off the A71 at the Wilderness Roundabout, which also serves the Brucefield Industrial estate and Bellsquarry village. As local residents know, this roundabout can be a highly congested bottleneck at peak times. Local traffic on the A71 is already set to increase when the agreed development of around 170 new houses at Limefield is built (HLv136 and 0487/P/10). The extra traffic feeding onto the A71 at the Wilderness Roundabout from 182 new dwellings in the Brotherton proposal would even further exacerbate this already unsatisfactory situation, and would greatly increase the risk of traffic accidents occurring at the Wilderness Roundabout. This is a serious safety concern for pedestrians and vehicles entering Bellsquarry village from the A71.

4. Public Transport

We believe that the majority of new residents in the proposed development would work outside Livingston, many commuting to Glasgow or Edinburgh. They would be encouraged to use public transport rather than private car, but the car parking facilities at both West Calder and Livingston South railway stations are already overstretched and greatly increased parking facilities at these stations would be required to make this travel option viable.

To summarise our objections to this proposal, we believe:

- a) Given that there is sufficient land for housing in the Livingston area already allocated or soon to be allocated in the upcoming West Lothian Development Plan, without the inclusion of Brotherton, it is unnecessary to destroy the rural character of this southwest corner of Livingston, which currently separates Bellsquarry from the settlements of Polbeth and West Calder, or to irreversibly damage the ecology of the Wilderness Plantation.
- b) The current local road and rail infrastructure is inadequate to cope with the additional 182 households that it is proposed to build at Brotherton.

Yours sincerely,

Peter Jeppesen

(On behalf of Bellsquarry Community Council)



0648/P/14