



*Have your say on the
West Lothian Local Development Plan Proposed Plan
Consultation Response Form*

West Lothian Council has published its *Proposed Plan* together with supporting documents including an *Environmental Report (SEA)*, *Habitats Regulation Appraisal*, *Strategic Flood Risk Assessment* and *Equalities & Human Rights Impact Assessment*. These can be viewed on the West Lothian Council website at <http://www.westlothian.gov.uk/proposedplan>

If you wish to make representations on the *Proposed Plan* or associated documents, you are encouraged to use the online consultation portal. It's quick and easy and will help us to process representations more efficiently, reducing the overall cost and environmental impact of the exercise.

If you need assistance with completing or submitting your representation online please call the Customer Service Centre (CSC) on 01506 280000. Please advise the Customer Service Centre that your enquiry relates specifically to the *Local Development Plan* and ask for it to be logged and directed to the Development Planning and Environment Team. Someone will contact you. Alternatively you can email us at wlldp@westlothian.gov.uk We will endeavour to respond as quickly as possible but in any event within three working days of receiving your enquiry.

It is important that all representations are submitted no later than midnight on Sunday 22 November 2015. Representations received after that time will not be considered.

Your comments should be concise, having regard to paragraph 84 of Scottish Government Circular 6/2013: Development Planning which states that representations should be no more than 2,000 words plus any limited supporting productions.

Data Protection Statement

Please be aware that when you make representations on the Proposed Plan through the consultation portal (and/or in a conventional written format) personal information provided as part of a representation cannot be treated as confidential. Representations require to be made available online and for public inspection at the council's office (this would include your name and postal address but would exclude any information which would be subject to the Data Protection Act 1998 i.e. signature, postal address, telephone number, email).

We are also required to pass these details to the Scottish Government's Directorate of Planning and Environmental Appeals (DPEA). This is because they may at a later date wish to invite you to an Examination of the Proposed Plan to discuss your representation. Before using the consultation portal you should also note that any information posted may be subject to disclosure under the Freedom of Information (Scotland) Act 2002. West Lothian Council will not be liable for any loss or damage arising from or in connection with the disclosure of any information including the disclosure of user generated content.

FOREWORD (page 4)

This introduction by the Leader of the Council establishes the role of the LDP and how it will help deliver the council's core objectives.

BACKGROUND (page 6, paragraphs 1.1-1.5)

Provides a brief historical context to the economic development of West Lothian which helps explain how settlements established and have developed.

CONTEXT (page 7, paragraphs 2.1-2.2)

Provides wider context for the LDP in geographic terms and explains how the LDP fits with the Strategic Development Plan (SDP1).

ROLE AND PURPOSE OF PLAN (page 7, paragraphs 3.1-3.5)

Establishes the role and purpose of the LDP in terms of its being a material consideration in the determination of any planning applications for development in West Lothian and, when adopted by the council, will replace the West Lothian Local Plan. It also sets out what documents the plan must comply with i.e. the Planning etc (Scotland) Act 2006 and what documents will accompany the plan i.e. the Action Programme etc.

VISION STATEMENT AND AIMS (page 8, paragraphs 4.1-4.3)

Establishes the vision for the LDP in terms of outcomes desired over the plan period and identifies the key aims of the plan by individual subject areas i.e. Economic Development & Growth, Community Regeneration, Sustainable Housing Locations, Infrastructure Requirements and Delivery, Town Centres and Retailing, the Natural and Historic Environment, Climate Change and Renewable Energy and Waste and Minerals.

THE SPATIAL STRATEGY (INCLUDING POLICY FRAMEWORK) (page 10, paragraphs 5.1-5.10)

In the context of the Strategic Development Plan (SDP), the LDP identifies West Lothian as being one of thirteen Strategic Development Areas where development will be focused in sustainable locations where infrastructure is either available or can be provided and in locations where there are no environmental constraints.

- **Economic Development and Growth** (page 12, paragraphs 5.11-5.22)
- **Flexibility within traditional industrial estates** (page 14, paragraphs 5.24-5.25)
- **Enterprise Areas** (page 17, paragraphs 5.24-5.25)
- **Local business opportunities, small business start-ups and working from home** (page 17, paragraph 5.26)
- **Tourism** (page 17, paragraphs 5.27-5.28)
- **Promoting community regeneration** (page 19, paragraphs 5.29-5.35)
- **Housing land requirements for the LDP** (page 20, paragraphs 5.36-5.49)
- **Effective Housing Land and Generous Supply** (page 23, paragraphs 5.50-5.53)
- **New Housing Sites and Design** (page 24, paragraphs 5.4-5.56)
- **Strategic Allocations (including previously identified Core Development Area Allocations)** (page 25, paragraphs 5.57-5.61)
- **Whitburn/Charette** (page 26, paragraph 5.62)
- **Linlithgow and Linlithgow Bridge** (page 26-27)
- **Deans South, Livingston; Area for Comprehensive Re-development** (page 27, paragraph 5.68)
- **Affordable Housing** (page 27, paragraphs 5.69-5.74)
- **Accommodation for Gypsies, Travellers and Travelling Show People** (page 29, paragraph 5.75)
- **Residential Care and Supported Accommodation** (page 29, paragraphs 5.76-5.77)
- **Infrastructure Requirements and Delivery** (page 30, paragraphs 5.78-5.84)
- **Providing for Community Needs** (page 32, paragraphs 5.85-5.88)
- **Education** (page 32, paragraphs 5.89-5.92)
- **Healthcare Provision** (page 33, paragraphs 5.93-5.96)
- **Sports Facilities** (page 33, paragraphs 5.97-5.101)
- **Green Infrastructure and Green Networks** (page 34, paragraphs 5.102-5.105)
- **Water and Drainage** (page 34, paragraphs 5.106-5.107)
- **Travel in and around West Lothian** (page 34, paragraphs 5.108-5.112)
- **Roads** (page 35, paragraph 5.113)

- **A71 Corridor** (page 35, paragraphs 5.114-5.115)
- **A801 Corridor** (page 35, paragraphs 5.116-5.117)
- **A89/A8** (page 35, paragraphs 5.118-5.126)
- **Rail** (page 37, paragraphs 5.127-5.130)
- **Walking and Cycling** (page 37, paragraphs 5.131-5.132)
- **Town Centres and Retailing** (page 39, paragraphs 5.133-5.138)
- **Landscape Character and Local Landscape Designations** (page 41, paragraphs 5.139-5.143)
- **Countryside Belts** (page 42, paragraph 5.144)
- **Development in the Countryside** (page 42, paragraphs 5.145-5.147)
- **Lowland Crofting** (page 44, paragraphs 5.148-5.152)
- **Green Networks, Local Biodiversity Sites and Geodiversity Sites** (page 45, paragraphs 5.153-5.155)
- **Forestry** (page 46, paragraphs 5.156-5.163)
- **Union Canal** (p.49 paragraphs 5.164-5.165)
- **Pentland Hills Regional Park** (page 49, paragraphs 5.164-5.165)
- **Country Parks** (page 50, paragraph 5.169)
- **Allotments/Community Growing** (page 51, paragraphs 5.170-5.171)
- **Temporary/Advance Greening** (page 51, paragraphs 5.172-5.174)
- **Biodiversity** (page 52, paragraphs 5.175-5.180)
- **Geodiversity** (page 53, paragraph 5.181)
- **West Lothian Open Space Strategy** (page 53, paragraphs 5.182-5.184)
- **Historic and Cultural Environment** (page 54, paragraphs 5.185-5.187)
- **Conservation Areas** (page 55, paragraphs 5.185-5.188)
- **Former Bangour Village Hospital, Dechmont** (page 56, paragraph 5.189)
- **Conservation Area at Abercorn/Hopetoun Estate** (page 56, paragraph 5.190)
- **Other Areas of Built Heritage and Townscape Value** (page 57, paragraphs 5.191-5.199)
- **Listed Buildings** (page 58, paragraphs 5.185-5.187)
- **Historic Gardens and Designed Landscapes** (page 59, paragraphs 5.200-5.201)
- **Historic Battlefields** (page 60, paragraph 5.202)
- **Archaeology** (page 60, paragraph 5.203)
- **Scheduled Monuments** (page 60, paragraphs 5.204-5.206)
- **Public Art** (page 61, paragraphs 5.207-5.208)
- **Climate Change Measures** (page 62, paragraphs 5.209-5.214)
- **Low Carbon Development and Renewable Energy** (page 63, paragraphs 5.215-5.221)
- **Wind Farms and Wind Turbines** (page 65, paragraphs 5.222-5.225)
- **Energy and Heat Networks** (page 66, paragraphs 5.226-5.229)
- **Off-gas Grid Areas and Renewable Heat Requirement for New-build Housing** (page 67, paragraphs 5.230-5.232)
- **The Water Environment and Flood Risk Management** (page 67, paragraphs 5.233-5.239)
- **Air Quality and Noise** (page 70, paragraphs 5.240-5.242)
- **Edinburgh Airport** (page 71, paragraph 5.243)
- **Noise** (page 71, paragraph 5.244)
- **Contaminated Land** (page 71, paragraphs 5.245-5.246)
- **Vacant and Derelict Land** (page 72, paragraphs 5.249-5.250)
- **Minerals and Waste** (page 73, paragraphs 5.251-5.256)
- **Site Restoration** (page 75, paragraphs 5.257-5.238)
- **Unconventional Gas Extraction including Hydraulic Fracking** (page 75, paragraph 5.259)
- **Waste** (page 76, paragraph 5.260)

DEVELOPMENT PROPOSAL BY SETTLEMENT (page 79)

Provides details of development proposals which are supported by the LDP in each town and village across West Lothian and assigns each one a unique reference for ease of identification.

- **Addiewell & Loganlea** (page 79)
- **Armadale** (page 80)
- **Bathgate** (page 81)
- **Blackburn** (page 82)
- **Blackridge** (page 83)
- **Breich** (page 83)
- **Bridgehouse & Bridgecastle** (page 83)
- **Bridgend** (page 83)
- **Broxburn** (page 84)
- **Burnside** (page 84)
- **Dechmont & Bangour** (page 85)
- **East Calder** (page 85)
- **East Whitburn** (page 86)
- **Ecclesmachan** (page 86)
- **Fauldhouse** (page 86)
- **Greenrigg** (page 86)
- **Kirknewton** (page 87)
- **Landward area** (page 87)
- **Linlithgow & Linlithgow Bridge** (page 89)
- **Livingston** (page 90)
- **Longridge** (page 93)
- **Mid Calder** (page 93)
- **Newton and Woodend** (page 93)
- **Philpstoun/East & West Philpstoun/Old Philpstoun** (page 93)
- **Polbeth** (page 93)
- **Pumpherstoun** (page 93)
- **Seafield** (page 93)
- **Stoneyburn/Bents** (page 94)
- **Threemiletown** (page 94)
- **Torphichen** (page 94)
- **Uphall** (page 94)
- **Uphall Station** (page 94)
- **West Calder & Harburn** (page 95)
- **Westfield** (page 95)
- **Whitburn** (page 96)
- **Wilkieston** (page 97)
- **Winchburgh** (page 97)

APPENDICES (page 99)

A number of appendices are included at the end of the LDP which provides additional detail on specific elements of the Proposed Plan.

- **Appendix 1 – Employment Land Allocations** (page 99)
- **Appendix 2 – Schedule of Housing Sites / Site Delivery Requirements** (page 119)
- **Appendix 3 – Schedule of Land Ownership** (page 259)
- **Appendix 4 – LDP Supplementary Guidance (SG) and Planning Guidance (PG)** (page 265)
- **Appendix 5 – List of Policies** (page 273)
- **Appendix 6 – List of Proposals** (page 275)

GLOSSARY (page 280)

An explanation of unfamiliar terms or expressions used in the LDP is provided to assist understanding of the document.

PROPOSALS MAPS

The LDP comprises a series of five maps which define settlement boundaries and illustrate land use zonings.

ACCOMPANYING DOCUMENTS

Alongside the LDP is a suite of documents which are required by statute as part of the preparation and supporting evidence for the LDP.

- **Strategic Environmental Assessment (SEA) Environmental Report.**
- **Equalities & Human Rights Impact Assessment (EQHRIA).**
- **Strategic Flood Risk Assessment (SFRA).**
- **Habitats Regulations Appraisal.**
- **Transport Appraisal (TA).**
- **Action Programme.**

ADDITIONAL COMMENTS

Do you wish to submit any additional comments on the LDP?

Thank you for your participation and contribution.

Your details (mandatory)

Please indicate in what capacity you are making this submission:

- as an individual (and representing your own views)
- as a representative of a private or commercial organisation (and representing the views of that organisation)
- as a representative of a public organisation (and representing the views of that organisation)
- as an agent (and making comments on behalf of other individuals that you represent or third parties)
- other

Please complete the following contact information:

Name	<input type="text" value="Scott Graham"/>
Email	<input type="text" value="[REDACTED]"/>
Telephone	<input type="text" value="[REDACTED]"/>
Address	<input type="text" value="[REDACTED]"/>
Organisation name	<input type="text" value="McInally Associates Ltd"/>
Client's name	<input type="text" value="Dr Rehana Karim"/>

Is this the first time you have made a written representation on the Proposed Plan? (mandatory)

- Yes No

If you have previously submitted a site to be considered for development when the council was initially seeking Expressions of Interest (EOI), or commented on the *Local Development Plan* at the *Main Issues Report (MIR)* stage, or made a previous submission to the *Proposed Plan* please provide the reference given to you at that time if known.

EOI & MIR reference number can be found on any email or written communication we may have previously sent you.

Enter EOI (Expression of Interest) reference here	<input type="text"/>
Enter MIRQ (<i>Main Issues Report</i>) reference here	<input type="text" value="MIRQ0153"/>

Once form has been completed please sign and date (mandatory)

You do not have to respond to all of the questions set out only those which you feel are of particular relevance to you.

Signature (McInally Associates Ltd) Date

FOR OFFICE USE ONLY

Proposed Plan reference

Please use this form for sections: Foreword; Background; Context; Role and Purpose of Plan; Vision Statement and Aims; Glossary; The Spatial Strategy (including Policy Framework); Appendices; Glossary; Proposal Maps; Strategic Environmental Assessment (SEA) Environmental Report; Equalities and Human Rights Impact Assessment (EQHRIA); Strategic Flood Risk Assessment (SFRA); Habitats Regulations Appraisal; Transport Appraisal (TA); and Action Programme.

Section title

Page nos.

Paragraph nos.

This representation concerns a consented residential development site at Balmoral Gardens, Livingston. The site subject to this representation is bounded to the north by existing residential development at Balmoral Gardens, to the east by existing woodland, to the south by an existing railway line and to the west by Murieston Road(see Appendix A). The site is a former railway siding and at present is disused and overgrown. It is considered significant to note that development of the site has previously been established via planning consent no. 0144/P/08 and has been subsequently renewed via planning consent no. 0816/FUL/10 and no. 0213/FUL/14. In this regard outline planning consent (0144/P/08) and the subsequent renewals allow for the erection of 4 houses on the Balmoral Gardens site.

In addition to the above, planning application 0351/P/09 proposed a 1.1ha retirement complex on the site with an indicative plan showing 18 flats in two blocks (see Appendix B). It is significant to note that this application received a recommendation to approve via a committee report (see Appendix B) and actually received a 'minded to grant' decision by the planning committee. This development did not proceed as the developer did not sign the required Section 75 document in time. The site has subsequently changed hands.

Given all the aforementioned history and the fact that the site has been shown capable of accommodating up to 18 units OBJECTION is raised to the NON INCLUSION of the Balmoral Gardens site within 'Appendix 2 - Schedule of Housing Sites / Site Delivery Requirements' of the Proposed West Lothian Local Development Plan. It is submitted that the Balmoral Gardens site should be included within the Livingston section of Appendix 2 (p201) and identified as a residential development site of 1.1 hectares with an indicative capacity of up to 18 units.

As a consequence of the above and attached information OBJECTION is also made to Proposals Map 3 'Livingston Area' of the Proposed West Lothian Local Development Plan as it relates to the Balmoral Gardens site. At present the site is coloured green and zoned as 'land safeguarded for open space'. It is submitted that the Balmoral Gardens site should be coloured brown and identified as a 'housing allocation' site on Proposals Map 3. It should also be noted that further justification for the inclusion of this site as a zoned housing site can be found within the 'additional comments' section of this form.

Section title

Page nos.

Paragraph nos.

Please use this form for sections: The Spatial Strategy and Development by Settlement

Settlement	Development by Settlement - Livingston Section		
Site address / location	BalmoralGardens		
Site Ref	-	Page nos.	P90

This representation concerns a consented residential development site at Balmoral Gardens, Livingston. The site subject to this representation is bounded to the north by existing residential development at Balmoral Gardens, to the east by existing woodland, to the south by an existing railway line and to the west by Murieston Road(see Appendix A). The site is a former railway siding and at present is disused and overgrown. It is considered significant to note that development of the site has previously been established via planning consent no. 0144/P/08 and has been subsequently renewed via planning consent no. 0816/FUL/10 and no. 0213/FUL/14. In this regard outline planning consent (0144/P/08) and the subsequent renewals allow for the erection of 4 houses on the Balmoral Gardens site.

In addition to the above, planning application 0351/P/09 proposed a 1.1ha retirement complex on the site with an indicative plan showing 18 flats in two blocks (see Appendix B). It is significant to note that this application received a recommendation to approve via a committee report (see Appendix B) and actually received a 'minded to grant' decision by the planning committee. This development did not proceed as the developer did not sign the required Section 75 document in time. The site has subsequently changed hands.

Given all the aforementioned history and the fact that the site has been shown capable of accommodating up to 18 units OBJECTION is raised to the NON INCLUSION of the Balmoral Gardens site within the 'Development by Settlement' section of the Proposed West Lothian Local Development Plan as it relates to 'Livingston'. It is submitted that the Balmoral Gardens site should be included within the Livingston section (p90 of the Proposed West Lothian Local Development Plan) and identified as a residential development site of 1.1 hectares with an indicative capacity of up to 18 units.

As a consequence of the above and attached information OBJECTION is also made to Proposals Map 3 'Livingston Area' of the Proposed West Lothian Local Development Plan as it relates to the Balmoral Gardens site. At present the site is coloured green and zoned as 'land safeguarded for open space'. It is submitted that the Balmoral Gardens site should be coloured brown and identified as a 'housing allocation' site on Proposals Map 3. It should also be noted that further justification for the inclusion of this site as a zoned housing site can be found within the 'additional comments' section of this form.

Settlement			
Site address / location			
Site Ref		Page nos.	

Additional comments

Please use this space to add any additional comments which have not been covered elsewhere in this questionnaire.

In all regards it is submitted that an increase in the number of allocated housing sites within the emerging West Lothian Local Development Plan will help increase the flexibility available to housebuilders and developers and will in turn encourage development.

As previously outlined, it should be noted that this representation seeks the identification of the site at Balmoral Gardens, Livingston (see Appendix A) as a zoned residential housing site (within the settlement boundary) in the emerging West Lothian Local Development Plan.

In assessing the site at Balmoral Gardens, Livingston for inclusion as a housing site within the emerging West Lothian Local Development Plan, the effectiveness criteria as stated within PAN 2/2010 entitled 'Affordable Housing and Housing Land Audits' should be considered with some significance.

In all regards, given the effectiveness criteria outlined in PAN 2/2010, it is submitted that the site at Balmoral Gardens, Livingston can be positively considered against the terms of the criteria. In this respect the site is under the control of a party which can be expected to develop it or release it for development, is capable of being free of constraints, does not require deficit funding and is considered highly marketable. The site is therefore considered to be an effective housing site and it is submitted that it should be allocated within the emerging West Lothian Local Development Plan for residential purposes.

In addition, it is considered significant to note that development of the site has previously been established via planning consent 0144/P/08 and has been subsequently renewed via 0816/FUL/10 and 0213/FUL/14. In this regard, outline planning consent (0144/P/08) and the subsequent renewals allow for the erection of 4 houses on the Balmoral Gardens site. In addition to the above, planning application 0351/P/09 proposed a 1.1ha retirement complex on the site with an indicative plan showing 18 flats in two blocks (see Appendix B) it is significant to note that this application received a recommendation to approve via a committee report (see Appendix B) and actually received a 'minded to grant' decision by the planning committee. This development did not proceed as the developer did not sign the Section 75 in time. The site has subsequently changed hands.

In light of the established consent and planning history of this site, it is submitted that the site at Balmoral Gardens has been established as a residential housing site and has been proven to be effective. It is therefore submitted that the site should be identified as a zoned residential housing site (within the settlement boundary) in the emerging West Lothian Local Development Plan. In all regards, such an allocation within the emerging local development plan would reflect the established planning consent and planning history which exists on the site. In addition, it is significant to note that the proposed development includes a tree management plan which will see existing trees protected while new planting will enhance the area and replace any trees removed as part of the development.

The site itself is a former railway siding which is currently overgrown scrubland with trees present. In this regard reports carried out during the previously mentioned planning application / consent process have indicated that a solution can be achieved whereby part of the site is developed while the remainder of the site is enhanced with additional planting to complement the existing woodland.

Furthermore, it is significant to note that the proposed site can be safely accessed via Balmoral Gardens and as such the proposed residential development will have a minimal impact in traffic terms. In relation to community facilities, the site is well placed to take advantage of local retail facilities at Murieston West Road (approximately 1 mile walk) and local transport facilities at Livingston South Railway Station (some 1 mile walk from the site). In addition local bus services and schools are accessible within acceptable walking distances.

In all regards it is submitted that the site is capable of positive consideration against relevant aspects of national planning policy.

Given all of the aforementioned, it is submitted that in order to maintain an effective 5 year housing land supply at all times an increased supply of land for housing should be allocated within the emerging West Lothian LDP. The site at Balmoral Gardens (see attached plan) is a small, consented, effective and deliverable housing site which would contribute to maintaining an effective 5 year housing land supply. It is considered significant to note that development of the site has previously been established via planning consent 0144/P/08 and has been subsequently renewed via 0816/FUL/10 and 0213/FUL/14. In addition a recommendation for approval from West Lothian Council's Planning Department and 'minded to grant' decision by West Lothian Council's Planning Committee was achieved on this site for 1.1ha retirement complex with an indicative masterplan showing 18 flats (see Appendix B). In all regards the site has been established as a residential site and has been proven to be effective. Given all of the aforementioned, it is therefore submitted that the site should be identified as a zoned residential housing site of 1.1 hectares with an indicative capacity of up to 18 units within the emerging West Lothian Local Development Plan (as previously outlined).

Further detailed history of the site and justification for its residential zoning in the emerging West Lothian Local Development Plan can be seen via reference to our previous submission to the emerging West Lothian Local Development Plan which is included as an Appendix C to this submission.

WEST LOTHIAN LOCAL DEVELOPMENT PLAN PROPOSED PLAN

BALMORAL GARDENS

APPENDIX A : Location Plan – Site at Balmoral Gardens, Livingston

WEST LOTHIAN COUNCIL
Development Control

16 NOV 2010 0816/10

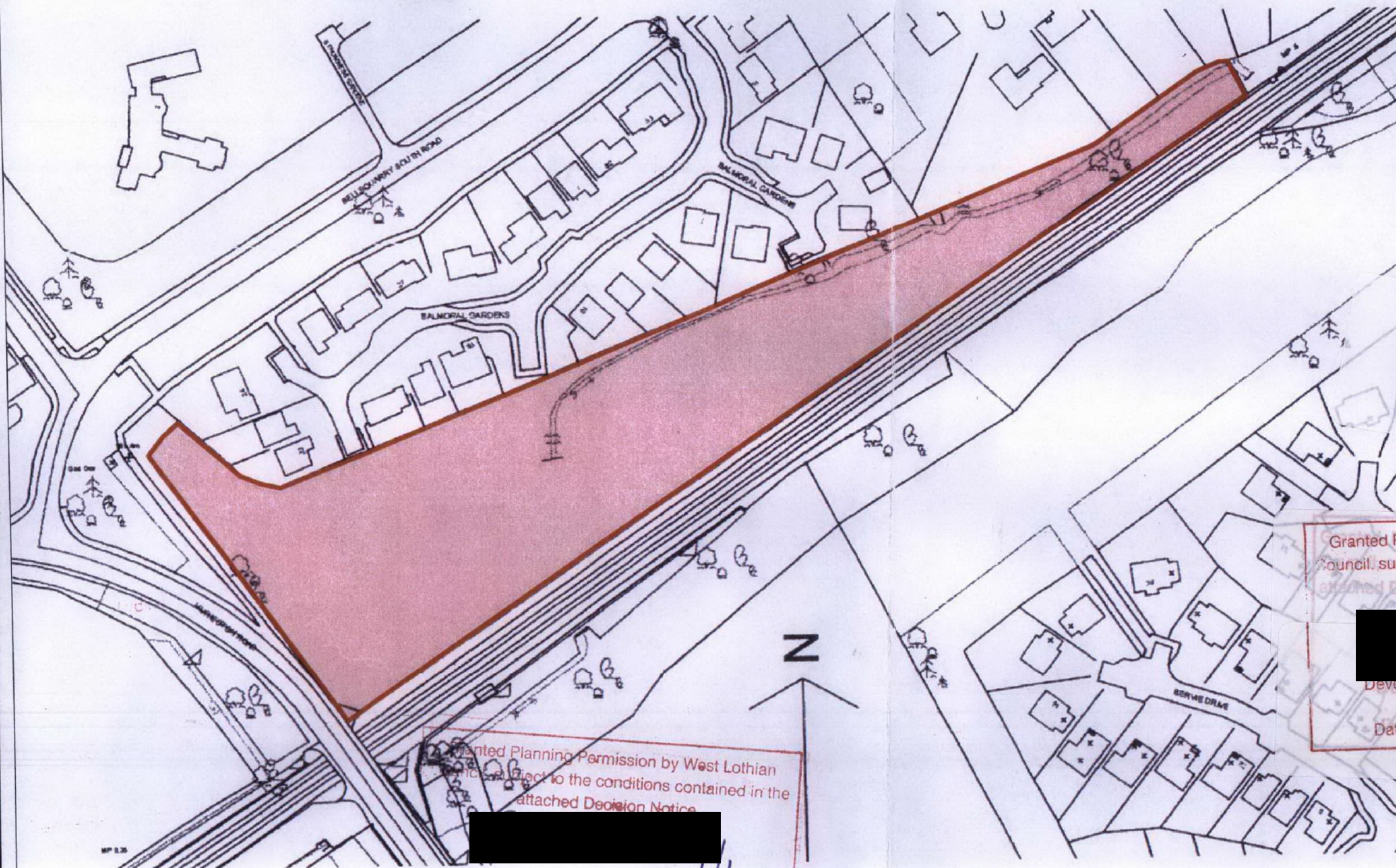
Received Ref No.

Balmoral Gardens

Location Plan

Scale 1 : 1250

January 2008



WEST LOTHIAN COUNCIL
Development Control

15 FEB 2008 0144/08

Received Ref No.

Granted Planning Permission by West Lothian Council, subject to the conditions contained in the attached Decision Notice.

[Redacted Signature]

Development Management Manager

Date 11 JAN 11

Granted Planning Permission by West Lothian Council, subject to the conditions contained in the attached Decision Notice.

[Redacted Signature]

Development Management Manager

Date 11 JAN 11



McINALLY

ASSOCIATES
PLANNING & DEVELOPMENT CONSULTANTS

WEST LOTHIAN LOCAL DEVELOPMENT PLAN PROPOSED PLAN

BALMORAL GARDENS

APPENDIX B : Planning Application 0351/P/09 details - proposed 1.1ha retirement complex on Balmoral Gardens site – Planning Committee Report and Indicative Site Layout Plan showing 18 flats in 2 blocks



DEVELOPMENT MANAGEMENT COMMITTEE

Report by Development Management Manager

1 DESCRIPTION

Planning permission in principle for a 1.1 ha retirement complex with associated car parking and landscaping on land at Balmoral Gardens, Livingston.

2 DETAILS

Reference no.	0351/P/09	Owner of site	The majority of the site is owned by Garden Wall Properties Ltd with a small portion at the access being outwith their control. See schedule appended to report.
Applicant	Garden Wall Properties Ltd	Ward & local members	<i>Livingston South</i> Lawrence Fitzpatrick Peter Johnston Danny Logue John Muir
Case officer	Ranald Dods	Contact details	Tel: 01506 775 225 Email: ranald.dods@westlothian.gov.uk

Reason for referral to Development Management Committee: More than 15 objections.

3 RECOMMENDATION

3.1 Grant planning permission in principle subject to the completion of a section 75 agreement.

4 DESCRIPTION OF THE PROPOSAL AND PLANNING HISTORY

- 4.1 The site lies to the south of Balmoral Gardens, Livingston. The site is a former railway goods yard. The Edinburgh to Glasgow Central railway line runs to the south of the site. There is a substantial number of trees on the site and there is an area wide tree preservation order covering the site.
- 4.2 The application is made for planning permission in principle for a "retirement complex". The applicant has provided an indicative plan showing 18 flats in two blocks. These flats would be two storeys in height. Car parking would be provided adjacent to the railway line. The indicative plan is included for members' information.
- 4.3 A tree survey was submitted and this has been assessed by the council's tree officer. In addition, a noise assessment relating to the railway noise has been provided, as has a flood risk assessment and a report into the potential of contaminated land.

4.4 The planning history associated with this property is set out in the table below.

Ref.	Proposal	Decision	Date
P1006/1990	Outline permission for residential development	Granted	23 Apr 91
O357/05	Erection of 12 flats with associated works	Withdrawn	14 Nov 05
O144/P/08	Outline planning permission for 4 houses	Granted contrary to recommendation	30 May 08

5 PLANNING POLICY ASSESSMENT

5.1 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 comprises the Edinburgh and the Lothians Structure Plan 2015 (ELSP) and the West Lothian Local Plan (WLLP).

5.2 The following development plan policies are relevant:

Plan	Policy	Assessment	Conform?
ELSP	HOU5 (infrastructure)	The development of housing land should not proceed beyond the existing infrastructure capacity of each site until the required improvements are provided or committed. Planning permission should not be granted for housing development until all relevant infrastructure in the Action Plan and/or local plan is provided or committed. Since the proposed development is for retirement flats, there will be no conflict with this policy.	Yes
ELSP	ENV1f (environmental or biodiversity assessments)	Development proposals that would affect any designated natural heritage site, protected priority habitat or species or other important non-statutory locations will require an appropriate level of environmental or biodiversity assessment. Where development is permitted, proposals must include measures for mitigation and, where appropriate, enhancement to reduce any adverse impact and/or to provide for sustainable habitat replacement. Bat and badger surveys have been assessed by Scottish Natural Heritage. No further action is required in terms of mitigation. Several orchids have been noted on the site and SNH recommends translocation of these. There is Japanese knotweed on the site. A licence must be obtained for its disposal.	Yes
ELSP	ENV12 (water management & flooding)	Development proposals for greenfield and brownfield sites should include sustainable drainage systems for the attenuation and treatment of surface water and to assist in reducing the risk of flooding unless local conditions prevent this approach. SEPA has assessed the FRA submitted with the application and has not objected. SUDS will be required for surface water.	Yes
WLLP	HOU2 (development within settlement envelopes)	Within the settlement envelopes shown on the proposals map there is a general presumption in favour of new development provided, amongst other things: there is no adverse impact on adjacent uses; sites can be serviced without excessive resource commitment; the site is not already identified for an alternative use in this local plan; the site is not of important open space value; infill developments will be resisted where they would exacerbate problems of infrastructure or traffic congestion to an unacceptable level, or adversely affect the character	Yes

Plan	Policy	Assessment	Conform?
		of the settlement. The proposed development will not have an adverse impact on the adjacent use. The development of a retirement complex can be serviced without excessive resource commitment. There is no alternative use identified for the site and the principle of development has been established. The development will not cause problems with infrastructure or traffic congestion, nor will it affect adversely the character of the settlement.	
WLLP	HOU7 (design)	The council will require developers to incorporate the highest quality of design and layout within new housing developments. Matters of design will be considered in a detailed application or in matters specified in conditions.	Yes
WLLP	HOU9 (residential amenity)	Development proposals will be assessed against the need to protect the residential and visual amenity of existing residents and other occupiers. Developments shown to impact adversely on amenity to a significant degree will not be supported. The proposed development is for 18 retirement flats in two, two storey blocks. There will be no detrimental impact on residential amenity.	Yes
WLLP	HOU10 (affordable housing)	Developers of residential development sites will be required to transfer fully serviced land capable of delivering 15% of the total site capacity (in terms of the number of units authorised by a planning permission) as affordable housing to: the local authority; a Registered Social Landlord (RSL) or; a social housing provider, to be nominated or otherwise agreed by the council. The developer is in discussion with the council's Social Policy unit about the potential of the council entering into an agreement to rent an agreed number of properties for a number of years. The effect of that would be the equivalent of the 15% affordable housing contribution.	Yes
WLLP	ENV14 (tree preservation orders)	Development will not be permitted that would damage or destroy trees protected by a tree preservation order, or which are within a conservation area, or which have particular local amenity, or nature conservation value. Where the council considers trees to be of particular merit and these are under threat, it will promote a tree preservation order. It is proposed to remove some eleven protected trees. However, those that are to be removed are relatively poor quality, self-seeded trees. The loss of these will be compensated by replacement planting, specified by condition.	Yes
WLLP	NWR19 (contaminated land)	Where it is suspected by the council that a development site may be contaminated, the developer will be required to undertake a site investigation, to the satisfaction of the council. Any proposal requiring remediation will require to accord with supplementary planning guidance entitled <i>Development on contaminated land</i> . The local plan has a general presumption in favour of proposals for the rehabilitation of derelict and contaminated land where there is no significant immediate or long term threat to local amenity, or the environment and where the proposals are consistent with other policies. The developer has provided an environmental investigation report. This has been assessed by the council's contaminated land officer who has advised that further testing should be undertaken. This can be secured by	Yes

Plan	Policy	Assessment	Conform?
		means of conditions.	
WLLP	IMP3 (education constraints)	The proposed development is for retirement flats and should, theoretically, not place a burden on the education infrastructure. However, in order to ensure that the development remains as a retirement complex, it is proposed to impose a condition on the consent and to enter into a legal agreement to restrict occupancy.	Yes
WLLP	IMP6 (sustainable urban drainage)	Development must comply with current best practice on sustainable urban drainage practices to the satisfaction of the council, Scottish Water and SEPA. SUDS proposals will be required by conditions.	Yes
WLLP	IMP11 (noise)	Housing and other noise sensitive developments will not normally be permitted close to existing noisy land uses. The only exceptions will be where it can be demonstrated that through design or mitigation, satisfactory internal and external noise levels can be achieved at the noise sensitive development. The applicant has submitted a noise assessment which concludes that there will be no disturbance to the residents of the proposed properties. In addition, the proposed development will be a minimum 27m from the railway line.	Yes
WLLP	IMP15 (design)	The council will through the development control process, ensure that high standards of design are achieved. Where appropriate, developers will be required to produce design statements. Development proposals which are poorly designed will not be supported. The application is made for planning permission in principle, therefore, matters of design will be reserved. Conditions will be imposed requiring the development to be compatible with the design of the surrounding area.	Yes

6 REPRESENTATIONS

- 6.1 Neighbours were notified of the proposals and, due to a part of the application site being outwith the control of the applicant, the application was advertised in the local press.
- 6.2 As a result of this process, 25 representations were received in relation to the application. Many of these letters were proforma letters. It should be borne in mind that it is the materiality and not the number of representations which is important. The material grounds of representation are summarised below.

Comments	Response
Impact of dealing with contaminated material on the site.	The application has been assessed by the council's Environmental Health unit and the Contaminated Land Officer. Neither has objected. Planning conditions will be used to ensure the satisfactory remediation of the site.
Impact of railway noise on the development	The flats are shown on the indicative layout drawing as being located some 27m from the railway line. This will be required by condition. A noise assessment was undertaken with sound measurements being taken at 27m from the railway. This has been assessed by the council's Environmental Health unit, which did not object but suggested locating bedrooms away from the railway line in order to avoid noise disturbance.
Loss of protected trees	It is accepted that there will be a loss of trees. The trees to be removed are of low quality and some need to be removed for safety reasons. Replacement planting will be required by condition.

Comments	Response
Development not in keeping with the area	Planning conditions will be used to ensure that the development is integrated into the area in terms of design.
Infrastructure	The education authority has not objected to the application due to the proposals being for retirement flats.
Impact on the amenity of surrounding residents	It is not considered that the proposed development would impact adversely on the amenity of the area.
Impact on wildlife	A badger survey has been undertaken and was assessed by SNH. The findings of that report are acceptable to SNH and no further work is required in respect of badgers. A number of orchids were evident on site and SNH have asked that these be protected or, where necessary, translocated to parts of the site which are to remain undeveloped. Development is proposed on the western portion of the site and it is not considered that it would have an adverse impact on the environmental quality of the area.
Road safety	The council's Transportation unit has assessed the application and has not objected.
Increased traffic	The increase in traffic will not be significant. The council's Transportation unit has not objected to the proposals.

6.3 In addition, a representation was received from the residents' association regarding ownership of part of the site. That representation states that part of the access for the proposed development would require entry over or through land which is owned jointly by all the residents. It should be noted that land ownership is not a material consideration and is a matter of private law. This issue is one which should be resolved by negotiations between the applicant and owners of the land. Further, in making the application, the applicants submitted an appendix to the land ownership certificate. That stated that there were "Owners unknown and subject to the appropriate advertisement". At the time the application was submitted, the responsibility for placing advertisements in cases where it was not possible to establish ownership, lay with the applicant. This had not been undertaken and, consequently, an advert was published in the local press on 4 February 2010 to rectify the situation. The advert expired on 26 February. One letter was received in response to that advert, stating that a portion of the application site was owned jointly by the residents of Balmoral Gardens. As stated above, land ownership is not a material consideration in the determination of a planning application.

7 CONSULTATIONS

7.1 This is a summary of the consultations which were undertaken. The full documents are contained in the application file.

Consultee	Objection?	Comments	Planning response
Transportation	No	The road layout should be designed, constructed and lit to adoptable standards. Parking should be at a 150% for residential development. SUDS must be provided.	Noted.
Education	No	The development is a retirement complex which will not cause capacity problems. There are no contributions required on that basis.	Noted.
WLC Social Policy	No	The council is in discussion with the applicant about the potential of the council entering into an agreement to rent an agreed number of properties at a reduced rate for 21 years. The reduced rent would be the equivalent of the 15% affordable housing contribution. The detail of this would require to be worked out - the applicant would need to supply the figures.	Noted, to be covered by legal agreement.

Consultee	Objection?	Comments	Planning response
Contaminated land officer	No	<p>The site investigation was carried out in 2003 and generally conformed to best practice and guidance at that time. However, contaminated land site investigation has evolved since then. Further testing and assessment is required and this can be dealt with by means of conditions. The council must approve a revised site investigation before the approval of matters specified in conditions. This will allow proper consideration to be given to any proposed methods of remediation.</p>	Noted. Conditions to be imposed.
Environmental Health	No	<p>The concerns raised by local residents that the site had been used for the historical import of incinerator bottom ash or similar from Edinburgh is noted. It is acknowledged that incinerator ash from Edinburgh was deposited on land to the north east of the site in the early part of the 20th century. Environmental Health would defer to the council's Contaminated Land Officer on the matter but believes the risk, if any, is likely to be small. The reasons for this are:</p> <ul style="list-style-type: none"> • If the site was used for import of material, it would have been with the permission of the railway company. It is unlikely that the railway would have permitted an operational goods yard to become a disposal site for ash, as this would have impeded other operations; • at the worst case, some short term storage may have arisen, but again it would have been in the railway company's interest to ensure it was not left with significant amounts of material in its yard; • some spillage from wagons or motorised lorries may have occurred but the volumes concerned would have been small, relative to the bulk of the site itself; • historical track diagrams would suggest the track layout to have been unsuited for easy handling of train loads of ash from the Edinburgh direction. Better suited would have been the sidings serving the former quarry or, to the west of the station, the former or operational Brucefield Mine. <p>If granted, the land should be subject to further ground investigation to determine what, if any, contamination exists on the site.</p> <p>The site has been categorised as NEC B in terms of PAN56. This is acceptable for domestic dwellings. The proposed flats should be orientated such as to minimise the exposure of bedrooms to noise from the railway.</p>	<p>Noted. Conditions to be imposed requiring further site investigations and orientation of bedrooms away from the railway line.</p> <p>A condition ought also to be imposed requiring the submission of a health impact assessment in line with the council's supplementary planning guidance, in the event of the contaminated land investigation indicating the potential for health risks.</p> <p>Any remedial action so identified would require to be addressed prior to the commencement of construction.</p>
Flood prevention	No	The recommendations of the 2005 FRA prepared by Scott Wilson should be adhered	Noted. DIA to be conditioned.

Consultee	Objection?	Comments	Planning response
officer		to. The council has no information to suggest the site is susceptible to flooding. A full and comprehensive drainage impact assessment (DIA) must be submitted and approved by the council.	
Arboricultural officer	No	Advises that the proposed tree works and management plan are acceptable. It is proposed to retain the woodland area to the east of the site. The management plan recommends felling a small group of 9 trees (5 birch, 4 willow) for reasons of safety. It is also recommended that a split willow and a dead birch should also be felled. General management should include the removal of deadwood and some selective thinning. The trees on the site are all of a relatively young age, comprise of self seeded trees (such as birch and goat willow) and are generally scrubby in nature. Works should be undertaken in accordance with BS 5837. A variety of native tree species will be introduced in order to enhance diversity. There should be some screen planting beside the railway line. There are proposals to introduce bird nesting boxes and other measures to enhance biodiversity. Measures will be taken to eradicate invasive species such as Japanese knotweed.	Noted. Conditions to be imposed regarding protection of trees during construction works and tree planting.
SEPA	No	There is a lack of topographical information. However, the development lies in excess of 4m above the 1 in 1000 year flood level and also the 45% blockage scenario. As a result, no objection. If it is proposed to extend the culvert below a proposed access road, it must be at least the same diameter as the existing culvert.	Noted.
Scottish Water	No	There is spare capacity at Marchbank Water Treatment Works & limited capacity at East Calder Waste Water Treatment Works. The applicant should discuss the development with Scottish Water.	Noted
SNH	No	Where it is not possible to retain orchids in their original position, they should be translocated to other suitable parts of the site. No further action required with regard to badgers. The trees on site are unlikely to provide roosts for bats. Any trees which are to be felled should be surveyed for evidence of bats and, if necessary, a license obtained. No felling of trees to take place during the bird breeding season (April – end of August). Content with the surveyor's findings that no bats are currently present on site and recommend that willow trees identified in the survey are felled as soon as possible (if earmarked for felling) as recommended in the report. Felling prior to March would also avoid potential delays as removal of vegetation used	Noted. Conditions to be imposed.

Consultee	Objection?	Comments	Planning response
		by breeding birds is an illegal act which can't be licensed. However, if this is not possible, SNH can advise further if required.	
Network Rail	No	Advice provided on various matters for development next to a railway line.	Noted.
Bellsquarry Community Council	Yes	Potential of noise disturbance to residents due to the proximity of the railway line. Increased traffic. Contaminated land.	A noise report has been submitted. It is recommended that no property is located within 17m of the railway line. The Transportation unit has not objected to the application. Further site investigations will be required by condition in respect of potential contamination.

- 7.2 The developer requested a meeting with the Balmoral Gardens Residents' Association (BGRA) in order to discuss the concerns they raised. This was organised for 18th February. The council's Environmental Health, Contaminated Land, Arboricultural and Planning Officers were going to be present to answer questions. The meeting was cancelled by the BGRA in order that they could have more members present. The meeting has been re-arranged but, at the time of writing, has yet to take place.

8 ASSESSMENT

- 8.1 As stated above, 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 comprises the Edinburgh and the Lothians Structure Plan 2015 (ELSP) and the West Lothian Local Plan (WLLP).
- 8.2 **Edinburgh & the Lothians Structure Plan 2015**
- 8.2.1 Policy HOU2 presumes in favour of developments on brownfield land suitable for housing. The proposed development complies with this policy.
- 8.2.2 Policy HOU5 requires there to be sufficient infrastructure to support a development. In this instance, the proposal is for retirement flats and, as such, will not impose a burden on the educational capacity of the area.
- 8.2.3 Policy ENV1f requires environmental or biodiversity assessments where development proposals would affect any protected species. Where development is permitted, proposals must include measures for mitigation and, where appropriate, enhancement to reduce any adverse impact and/or to provide for sustainable habitat replacement. The applicant has submitted both a badger survey and a bat survey. These have been assessed by SNH. There is no evidence of badgers on site and no mitigation is required in that respect. No evidence of bats was found on site, nor does any of the trees on site have features to support bat roosting. There is potential for foraging and commuting bats on site due to the vegetation. SNH does not require any mitigation measures to be taken but states that tree felling must be undertaken per the terms of the report, that is, between December and March, in order to avoid disturbance to bats which are temporarily roosting on the site and to breeding birds.

8.4 Scottish Planning Policy

8.4.1 SPP states that development which would have a significant probability of being affected by flooding or would increase the probability of flooding elsewhere should not be permitted. As stated above, the flood risk has been assessed by the council's flood risk officer and by SEPA. Neither has objected. SPP also states that all surface water is required to be treated by a sustainable drainage system (SUDS) prior to being discharged into watercourses. The submission of SUDS details will be a matter to be specified in conditions. SPP recognises the value that woodlands, hedgerows and individual trees may have in terms of biodiversity value and contribution to landscape character and quality so should be protected from adverse impacts resulting from development. The site and much of the surrounding area is covered by a tree preservation order, it should be noted that a TPO does not preclude development taking place. The application has been assessed by SNH in terms of its biodiversity. SNH concludes that the development can be accommodated but conditions should be imposed to safeguard the biodiversity of the area, specifically bats and orchids. The council's arboricultural officer has assessed the proposals and, as stated in section 8.3.5 above, considers them to be acceptable.

8.5 Supplementary Planning Guidance

8.5.1 The council's supplementary planning guidance (SPG) on health impact assessments (HIA) was published in August 2008. An HIA is a way to identify and improve health consequences of a development proposal. The aim of an HIA is to identify effects on health in order to enhance the benefits for health and to minimise any risks to health.

8.5.2 They are generally aimed at large scale developments such as the core development area (CDA) proposals. Larger scale developments should generally be accompanied by an HIA but it is not a requirement. The types of development specifically covered in the SPG include proposals for housing with more than 100 units and all brownfield sites that display or have a history of contamination.

8.5.3 In the case of the application under consideration, the number of units is below that threshold. It is acknowledged that the site is a brownfield site, being a goods yard for the former Newpark Station. However, the exact degree and type of contamination is unknown. In the conditions of the extant consent (0144/P/08), there is a requirement for the developer to undertake further site investigations and to include a programme of remediation works in the event that remediation is necessary. The same condition will apply if permission is granted for this proposed development. Further, if it is considered appropriate, the condition can be supplemented by requiring the submission of an HIA in line with council SPG should the site investigations indicate potential for health risks arising from the development of the site.

9 CONCLUSION AND RECOMMENDATION

9.1 The proposal for a residential retirement complex on this site is acceptable and there is no conflict with the development plan. There are no material considerations which indicate that the application should be refused. However, in order to safeguard the housing from being converted to mainstream residential accommodation, thereby potentially placing a burden on the education capacity of the area, the developer has indicated that they are willing to enter into a section 75 agreement to restrict occupancy to specific age groups and to secure compliance with the terms of the council's affordable housing policy if members are minded to grant planning permission in principle. Due to the development being some 4m above the open watercourse, SEPA has not objected to the proposal. SNH has assessed the site and reports submitted by the applicant in terms of biodiversity and European Protected Species. It

has not objected to the proposal. The council's arboricultural officer has assessed the tree report and is content that the works proposed will not have an adverse affect. The council's contaminated land officer has confirmed that he does not object to the proposals and that further investigation works can be required by condition. The council's Environmental Health unit has not objected to the proposal. The amenity of existing residents will not be adversely affected.

- 9.2 It is therefore recommended that planning permission in principle be granted subject to the execution of a legal agreement as outlined above. The consent would be subject to conditions covering, amongst other things: materials; design, layout and number of units; landscaping; tree, flora and fauna protection; construction times; submission of further site investigations; the submission of a health impact assessment if deemed necessary and; the submission of SUDS details.
- 9.3 However, if members are minded to refuse planning permission, contrary to recommendation, clear and material reasons must be specified for refusing consent.

10 ATTACHMENTS

- location plan;
- neighbour notification/ownership schedule;
- indicative layout plan;
- letters of representation.

CHRIS NORMAN
Development Management Manager

Date: 10 March 2010



2 bedroom flats - 18no.
 parking - 27no.

PROPOSED SITE PLAN for 18no./2 bedroom flats for the elderly.

WEST LoTHIAN COUNCIL
 Development Management
 11 NOV 2009
 0351/P/09

LAYOUT FOR ONLY.	
No.	

Garden V

Project
 PROPOSED F
 BALMORAL C
 BELLSQUARE
 LIVINGSTON
 Title
 PROPO