

**Planning Permission
Town and Country Planning (Scotland) Act 1997**

Reg. No. 16/00359/PPP



Ark Architecture and Design
14 Royal Terrace
Glasgow
G3 7NY

Midlothian Council, as Planning Authority, having considered the application by Buccleuch Property, 27 Silvermills Court, Henderson Place Lane, Edinburgh, EH3 5DG which was registered on 9 May 2016, in pursuance of their powers under the above Acts, hereby grant permission to carry out the following proposed development:

Planning permission in principle for residential development and formation of access road at Land at Wester Cowden Farm, Wester Cowden, Dalkeith

In accordance with the application and the following documents/drawings:

<u>Document/Drawing</u>	<u>Drawing No/Scale</u>	<u>Dated</u>
Location Plan	16-03 – Revised Planning Application Location Plan 07.12.17	07.12.2017
Coal Mining Risk Assessment Extended Phase 1 Habitat Survey Wester Cowden Final Updated September 2016		09.05.2016 26.09.2016
Wester Cowden Bat Survey Report 2016		26.09.2016

Please Note: A legal agreement is associated with this Planning Permission and can be viewed on the online file.

This permission is granted for the following reason:

Subject to the recommended conditions on a grant of planning permission in principle, the proposed development does not conflict with policies of the adopted Midlothian Local Development Plan 2017. The proposal to retain both accesses to the site is acceptable in transportation terms. There would be no significant harm to the privacy or residential amenity of any existing neighbouring residence.

Subject to the following conditions:

1. The development shall adhere to the following constraints:
 - I. No more than 25 residential units shall be erected on the site; and,
 - II. No building erected on the site shall exceed two-stories in height.

Reason for 1(I): To restrict the number of dwellings to that which the applicant has indicated will be erected on the site and which at this present time a developer contribution can be secured to increase the capacity within the local primary schools to accommodate the number of children likely to arise from that number of dwellings.

Reason for 1(II): Buildings higher than two-storey erected on the site would appear unduly incongruous and intrusive in the landscape, harmful to the landscape character and amenity of the area.

2. The masterplan submitted with the application is not approved.

Reason: *The application is for planning permission in principle only and the details delineated within the masterplan are for illustrative purposes only.*

3. Development shall not begin until an application for approval of matters specified in conditions regarding the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each residential phase of the development, the provision of affordable housing, the provision of open space, structural landscaping and landscaping in communal areas, SUDS provision and transportation infrastructure. Development shall thereafter be carried out in accordance with the approved phasing plan unless agreed in writing with the planning authority.

Reason: *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.*

4. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- i existing and finished ground levels and floor levels for all buildings, open space and roads in relation to a fixed datum;
- ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii proposed new planting in communal areas, road verges and open space, including trees, shrubs, hedging, wildflowers and grassed areas;
- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping;
- vii drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
- viii proposed car park configuration and surfacing;
- ix proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and,
- x details of existing and proposed services; water, gas, electric and telephone.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance 4(vi). Any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

Reason: *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies in the adopted Midlothian Local Development Plan and national planning guidance and advice.*

5. Development shall not begin on any individual phase of development (identified in

compliance with condition 3) until an application for approval of matters specified in conditions for the siting, design and external appearance of all residential units and other structures has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. These materials will also include those proposed in the area of improved quality (comprising no less than 20% of the proposed dwellings). Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

Reason: *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies in the Midlothian Local Development Plan and national planning guidance and advice.*

6. Development shall not begin until an application for approval of matters specified in conditions for details, including a timetable of implementation, of 'Percent for Art' have been submitted to and approved in writing by the planning authority. The 'Percent for Art' shall be implemented as per the approved details.

Reason: *To ensure the quality of the development is enhanced by the use of art to reflect its setting in accordance with policies IMP1 of the Midlothian Local Plan.*

7. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:

- i existing and finished ground levels for all roads, footways and cycle ways in relation to a fixed datum;
- ii the proposed vehicular, cycle and pedestrian accesses into the site;
- iii the proposed roads (including turning facilities), footpaths and cycle ways including suitable walking and cycling routes linking the new housing with the local primary school and the rest of Dalkeith;
- iv proposed visibility splays, traffic calming measures, lighting and signage;
- v proposed construction traffic access and egress and haulage routes;
- vi proposed car parking arrangements; and,
- vii a programme for completion for the construction of access, roads, footpaths and cycle paths.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

Reason: *To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

8. Development shall not begin until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:

- i. The nature, extent and types of contamination and/or previous mineral workings on the site;
- ii. Measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral

- workings originating within the site;
- iii. Measures to deal with contamination and/or previous mineral workings encountered during construction work; and,
- iv. The condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate/remediate the ground conditions of the site shall be fully implemented in accordance with the approved scheme to the approval of the planning authority.

Reason: *To ensure that any contamination on the site/ground conditions is adequately identified and that appropriate decontamination measures/ground mitigation measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

- 9. Development shall not begin until an application for approval of matters specified in conditions for a programme of archaeological works has been undertaken and reported upon in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Planning Authority. The programme of works shall comprise an appraisal level Historic Building Recording and a Monitoring Soil Strip which shall be reported upon initially through a Data Structure Report (DSR) submitted for the prior approval of the Planning Authority.

Reason: *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with Policies ENV24 and ENV25 of the adopted Midlothian Local Development Plan.*

- 10. Prior to the commencement of development, the scope of, and a subsequent report on, a feasibility study of the operation of a community heating scheme, and the installation of low and zero carbon generating technology, for the development hereby approved, and if practicable other neighbouring developments/ sites, in accordance with MLDP Policies NRG3, NRG4 and NRG6, shall be submitted for the prior written approval of the planning authority. Should the planning authority conclude, on the basis of this study, that a scheme is viable, no dwellinghouses on the site shall be occupied until a community heating scheme, and/ or low and zero carbon generating technology for the site, and, if practicable, other neighbouring developments/ sites, is approved in writing by the planning authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

Reason: *To ensure the provision of a community heating system for the site, to accord with the requirements of Midlothian Local Development Plan Policy NRG6 and in order to promote sustainable development.*

- 11. Prior to works commencing on site the additional bat surveys, badger mitigation and breeding bird mitigation recommended in the conclusions section of the updated Extended Phase 1 Habitat Survey (updated September 2016) and the recommendations made in the Bat Survey Report (dated April-September 2016) both prepared by Acorna Ecology Ltd, shall be carried out in full. The scope of the additional surveys shall be agreed in advance in writing by the Planning Authority.

Reason: *In the interests of safeguarding European Protected Species.*

- 12. Development shall not begin until details, including a timetable of implementation, of high speed fibre broadband have been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the occupation of each residential unit. The delivery of high speed fibre broadband shall be implemented as per the approved details.

Reason: To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure.

Dated 14 / 02 / 18



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Joyce Learmonth
Lead Officer – Major Developments and Enforcement,
Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN



The Coal
Authority

Any Planning Enquiries should be directed to:

Planning and Local Authority Liaison

Direct Telephone: 01623 637 119

Email: planningconsultation@coal.gov.uk

Website:

www.gov.uk/government/organisations/the-coal-authority

STANDING ADVICE - DEVELOPMENT LOW RISK AREA

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:

www.gov.uk/government/organisations/the-coal-authority

This Standing Advice is valid from 1st January 2017 until 31st December 2018

PLEASE NOTE

This permission does not carry with it any necessary consent or approval to the proposed development which may be required under the Building (Scotland) Acts and Regulations or under any other Statutory Enactment.

If the applicant is aggrieved by the decision of the planning authority to refuse permission for or approval required by a condition in respect of the proposed development, or to grant permission or approval subject to conditions, the applicant may require the planning authority to review the case under section 43A of the Town & Country Planning (Scotland) Act 1997 within 3 months from the date of this notice. The notice of review should be addressed to The Planning Manager, Planning, Midlothian Council, Fairfield House, 8 Lothian Road, Dalkeith, EH22 3ZN. A notice of review form is available from the same address and will also be made available online at www.midlothian.gov.uk

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

Duration of Planning Permission and/or Listed Building Consent

The permission hereby approved lapses on the expiration of a period of either:

- a) three years from the date of this decision notice, if the permission is for **detailed planning permission (DPP)** or **listed building consent (LBC)** as specified in Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006); or*
- b) two years from the date of approval by the planning authority of the last application for matters specified in conditions to be approved if the permission is for **planning permission in principle (PPP)** as specified in Section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended by Planning etc (Scotland) Act 2006). Applications for approval of matters specified in conditions shall be made to the planning authority within three years from the date of this permission.*

Prior to any work taking place on site all pre commencement conditions attached to a grant of planning permission must be agreed in writing with the planning authority. Failure to do so could result in any development works taking place being unauthorised and undertaken at your own risk and expense.

The Felling of Trees

Where full planning permission authorises the felling of trees on a development site, no further consent is required under the Forestry Act 1967 (as amended). However, developers should note that any tree felling not expressly authorised by full planning permission, and not exempted, requires a felling licence granted under the Forestry Act 1967 (as amended).

Developers should note that any felling carried out without either a licence or other valid permission is an offence. This can mean, on conviction, a fine of up to £2,500 (level 4 on the standard scale) or twice the value of the trees, whichever is higher with the conviction being recorded.

Contact your local Forestry Commission Scotland Office if you are not certain whether exemptions apply. You can get an application form for a felling licence from the Forestry Commission website www.forestry.gov.uk or any Forestry Commission Scotland Office.

Prior to Commencement (Notice of Initiation of Development)

Prior to the development commencing the planning authority shall be notified in writing of the expected commencement of work date and once development on site has been completed the planning authority shall be notified of the completion of works date in writing. Failure to do so

would be a breach of planning control under section 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc (Scotland) Act 2006). A copy of the Notice of Initiation of Development is available on the Council's web site www.midlothian.gov.uk

IMPORTANT NOTE REGARDING PUBLIC ACCESS TO INFORMATION

Making an application

Please note that when you submit a planning application, the information will appear on the Planning Register and the completed forms and any associated documentation will also be published on the Council's website.

Making comment on an application

Please note that any information, consultation response, objection or supporting letters submitted in relation to a planning application, will be published on the Council's website. The planning authority will redact personal information in accordance with its redaction policy and use its discretion to redact any comments or information it considers to be derogatory or offensive. However, it is important to note that the publishing of comments and views expressed in letters and reports submitted by applicants, consultees and representors on the Council's website, does not mean that the planning authority agrees or endorses these views, or confirms any statements of fact to be correct.