



DPEA
4 The Courtyard
Callendar Business Park
Falkirk
FK1 1XR

Your ref - **PPA-230-2112**

31 January 2014

Dear Sir,

Ref PPA-230-2112 Mansfield Road / Cockburn Crescent, Balerno, Edinburgh.

1. The Balerno Community Council ('the Council') opposes the appeal by David Wilson Homes against the refusal by Edinburgh Council of planning permission in principle for development at Mansfield Road, Balerno – Planning Application Ref. 13/02787/PPP. The Council requests that the following submissions be taken into account in the consideration of the appeal.

Preliminary comments

2. The Council represents the interests of over 6000 people who are the residents of Balerno and its surrounding area. The Council has convened two public meetings since August 2013 to facilitate discussion of the current raft of planning applications and processes to which our community has been subjected since January 2013, and to which it continues to be subjected. The current appeal is one of those applications and processes. The Council is in no doubt that the overwhelming majority of residents oppose the current application. The Council is aware from the CEC website of some 519 representations in response to the application of which some 514 were reported as having objected while only 3 were reported as being in favour of the application. The Council is in absolutely no doubt that it speaks on behalf of the community in presenting objections to the application.
3. The Council notes with some concern, the statement by the appellant¹ that there were no objections from statutory consultees. So far as the Council is aware it may properly be described as a statutory consultee. The Council presented objections to the application on 30 August and 28 October 2013. The objections are reproduced, for completeness, in the annex to this letter.
4. The Council further notes the appellant's comments as to the Balerno Green Belt Group. The Council believes that the Balerno Green Belt Group conducted themselves properly at all times providing a balanced and reasonable assessment of the issues.

¹ Para 2.2, p 15.



Grounds of opposition to the appeal

5. The particular grounds on which the Council opposes the appeal are as follows
 - a. Edinburgh Council was entitled to decide the application as it did, and the grounds for refusal cited by Edinburgh Council are sufficient and proper in all the circumstances.
 - b. The development is inappropriate for the reasons set out in the Council's submissions to Edinburgh Council dated 30 August and 28 October 2013, which the Council requests should be taken as being restated here.
 - c. The appellants' submissions in relation to the application and relevance of SESPlan Policy 7 are unfounded and should be rejected.

Comments in support of the grounds of opposition

Ground of opposition 5(b)

6. The Council requests that the following comments be considered in amplification of the ground of opposition referred to above.
7. This paragraph concerns the ground of opposition set out in paragraph 5(a) above. The Council supports and endorses the reasons given by Edinburgh Council for its refusal of the application as set out in the decision letter dated 21 November 2013. The Council has noted the advice to Edinburgh Council in particular as set out in the Development Management Sub-Committee Report and Recommendations dated 21 November 2013. The Council adopts those comments so far as they are consistent with the Council's previous representations referred to below, and with the further comments set out in this letter.

Ground of opposition 5(b)

8. This paragraph and paragraphs 9 to 11 concern the ground of opposition set out in paragraph 5(b) above.
9. **GREEN BELT –**
 - a. The site is within the Balerno Green Belt. Balerno Community Council has a policy of supporting the existing greenbelt boundaries and the associated planning policies. We therefore object to applications that do not conform to the green belt policies as contained within the Rural West Edinburgh Local Plan (RWELP). We are aware that the proposed new Edinburgh Local Development Plan (ELDP) also retains the existing Balerno GB boundaries and similar policies.
 - b. It appears that the main policies that apply are as follows and the relevant sections mention;
 - i. **RWELP Policy E5** - Development in the green belt will not be permitted except where necessary for the purpose of agriculture etc. This housing



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development application appears to fail this test. The Council notes that the appellant concedes that the proposal does not accord with Policy E5².

- ii. **RWELP Policy E6** - This Policy does not come into play, because the proposal fails the E5 Policy test.
 - iii. **RWELP Policy E7** - Permission will not be given for development, which would result in irreversible damage to, or the loss of, prime quality agricultural land. We believe this agricultural land is good quality; therefore the proposal appears to be contrary to planning policy. However this policy does not come into play, because the proposal fails the E5 Policy test.
- c. **Planning Policy Conclusion** Policy E5 is the over-riding policy that should be used in determining this appeal and the planning application clearly fails that test. Therefore this planning application appeal should be refused.
- d. **Balerno Green Belt has been upheld in recent appeals;** and in particular it should be noted that
- i. recent applications concerning sites within the Balerno Green belt have been refused on appeal. Balerno Community Council have recently been heavily involved in opposing other greenbelt housing proposals and appeal as follows; **DPEA PPA-230-2100** - 469 Lanark Road West, Balerno. Several homes proposed. Permission refused and subsequent appeal failed, main reason for refusal was contrary to green belt policy.
 - ii. the Balerno Green Belt boundaries and the associated planning policies have been fully supported by both the CEC planning refusals and the recent DPEA appeal refusal. We believe that some planning policies may at some future date be re-drafted, however we are hopeful that Balerno will continue to retain its existing green belt as shown within the existing RWELP and the proposed ELDP.

10. Housing Needs & Housing Land Supply

- i. *There is no local demand* - The Council are unaware of any demands from Balerno residents for major housing developments within the Balerno area.
- ii. *There is a sufficient supply of brown field sites* - The Council further believe that there are sufficient brown field sites to fulfil any possible shortfall in the Edinburgh housing land supply. In addition use of those sites, which are in general located within the city will reduce the necessity for lengthy car or bus trips in and out of the city.

11. Transport, water and drainage

- i. *The site presents significant traffic implications* - The Council is very concerned about the impact of hundreds or even thousands of additional vehicles using the already congested Lanark Road West towards the city. The traffic issue should also take into account that there are other proposals for new Balerno homes, totaling around 1,000. It is worth noting the comments made by the CEC Transport Planning (Andrew McBride) on the 1-11-13, it related to this application 13/02787/PPP. It mentioned the full transport implications need to be examined in the context of all the other

² Grounds of appeal at para 2.3.



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- housing site proposals and that the application appears to be premature, as we are still waiting for the new LDP plan to be updated and finalised.
- ii. **There are unresolved water issues**- The Council is unaware of Scottish Water responses in relation to the total of all Balerno proposals, therefore this issue can only be properly decided upon by the City Council in accordance with its Local Plans.
 - iii. **There are significant drainage issues** – CEC - SEPA - The Council believe some flooding on the lower part of the fields on the Mansefield Road site does occur. We are unaware of responses in relation to the total amount of the other Balerno PANs & PPPs, and again this can only be properly decided upon by the City Council in accordance with its Local Plans.

Ground of opposition 5(c)

12. This paragraph and paragraphs 13 to 20 concern the ground of opposition set out in paragraph 5(c) above.
13. **SESPlan Policy 7** provides
Sites for greenfield housing development proposals either within or outwith the identified Strategic Development Areas may be allocated in Local Development Plans or granted planning permission to maintain a five years' effective housing land supply, subject to satisfying each of the following criteria:
 - *The development will be in keeping with the character of the settlement and local area;*
 - *The development will not undermine green belt objectives, and;*
 - *Any additional infrastructure required as a result of the development is either committed or to be funded by the developer.*
14. **The application is premature** –
 - a. *LDP is the correct process for this issue* - The Council agrees with the submission by Edinburgh Council³ that 'The application is not supported by SDP Policy 7 at this time as the housing requirement by Council area will only be set once the SDP plan supplementary guidance is adopted.' The Council further agrees that 'Until then it is not possible to state conclusively whether or not there is a five year effective housing land supply in the Edinburgh Council area. The LDP is the appropriate mechanism to consider whether proposals for new housing development will undermine the green belt objectives as set out in Scottish Planning Policy and the SDP.'
 - b. Accordingly the Council submits that the application which gave rise to this appeal was premature and therefore the appeal should be refused.
15. **The application is not within the proper scope of Policy 7** –
 - a. Policy 7 cannot have been intended to be available in circumstances where the preparation of an LDP is at an advanced stage. The draft LDP will be agreed for consultation by Edinburgh Council in March and published in May with a view to its final agreement in June 2014. There is no basis for any belief that that LDP will not allocate sufficient housing land to provide a five-year supply. The

³ Committee report page 9



consultation on Supplementary Guidance on Housing Land supply has only recently concluded. The appellant relies on the proposition that the adopted Local Plan is based upon outdated strategic planning policy and, in particular, an outdated strategy for provision of housing land.⁴ The appellant would appear to suggest that Policy 7 is in place in order to address shortfalls in housing land allocation which have arisen through the failure of government centrally to set the targets or the mechanisms by which such targets may be determined with immediate effect. Preparation of an LDP is bound to take time and bound to involve complicated assessment of inputs. The appellant's position is accordingly unreasonable and unrealistic, and should not be preferred.

- b. The policy intent behind Policy 7 is that sites for greenfield housing development proposals should be identified primarily by the Local Development Plans, and that the grant of permission to maintain a supply outside of the LDP should be the exception. Policy 7 would only have been issued to address those cases where the local authority was confronted with a situation in which for whatever reason it was not otherwise able to maintain an adequate supply following on a properly prepared LDP. The Council concedes that there may be some application of Policy 7 where there is a clear and unequivocal failure on the part of the local authority to maintain the supply. However where a local authority is manifestly taking steps in accordance with a clearly agreed timetable to identify land to meet its obligations then it would be unreasonable to conclude that that authority is in continuing breach or failure, necessitating the application of Policy 7.
- c. In determining whether, in any particular case, there might be such a clear and unequivocal failure to allocate sufficient land the issue must be looked at in the context of whether there is a continuing failure which is unlikely to be remedied, as opposed to a current failure (which in any event is not accepted by the Council in the current case) which the local authority is manifestly taking steps to rectify. The Council respectfully submits that to construe Policy 7 as allowing planning permission to be given at variance with the provisions of a current Local Development Plan, where there is clear evidence that the local authority is taking proper steps to comply with its obligations in preparation of a replacement plan, would negate the purpose of the LDP and SESPlan processes, and would be unreasonable.
- d. The proper way to decide how to meet housing need in terms of allocation of sufficient land supply is through the Local Development Plan process. An *ad hoc* process instigated by individual developers each advancing their own project through specific planning applications subverts the proper operation of the planning processes and produces a chaotic approach to planning for housing land supply. Such an approach puts at risk any idea of a joined-up approach in planning policy. Accordingly it cannot have been the intention of Policy 7 to allow for a grant of planning permission in such circumstances, and therefore it cannot have been the intention that Policy 7 be available in the circumstances of the current case.

⁴ para 2.5



- e. Accordingly the Council submits that the provisions of Policy 7 should be disregarded in the determination of this appeal, that the appeal should be determined by reference to the provisions of RWELP, and that, on a proper analysis of the relevant policies, the appeal should be refused.
16. **The applicant has not demonstrated a relevant case on the existing authorities.** In any event the appellant has not produced any material touching on the application of Policy 7 to cases involving Green Belt. The cases referred to by the appellant do not relate to applications for development within the Green Belt;
17. **The criteria required by Policy 7 are not satisfied** – This paragraph – (e) - only applies if the Council's argument on application of Policy 7 at paragraph 14 and 15 are not accepted, and if Policy 7 was therefore held to be relevant.
18. If Policy 7 were held to apply the Council submits that the appeal must in any event be refused to the extent that conditions set out in Policy 7 cannot be satisfied in this case. In particular the Council contends that
- the development would not be in keeping with the character of Balerno and its local area and,
 - the development would undermine green belt objectives.
19. **The development would not be in keeping with the character of Balerno and its local area.** - The Council maintain that the development would not be in keeping with the character of the settlement and local area, and the Council asks that the following be taken into account, in that connection, namely;
- The objections previously submitted by the Council in response to the application
 - The comments already made by others who have lodged objections to the application;
 - The comments set out in the Committee Report and Representations of 20 November referred to above, and in particular those on pages 12 and 13 as follows;
- ...'The proposed development would increase the development at this edge of Balerno by approximately 25%. It would therefore have a significant impact on the character of this settlement and the relationship with its rural hinterland. ... Notwithstanding any potential mitigation measures, the proposed development would significantly change the rural setting at this end of the village, which is characterised by the scenic backdrop of the Pentlands. The loss of a wide expanse of open skyline would not be offset by inclusion of narrow vistas from green space or streets within a housing layout. The gradual rise of the site, coupled with two storey development and supplementary planting to the southern boundary, would obscure the current backdrop of the Pentland Hills and diminish the sense of place. ... The proposed development would also impact on the appearance of the surrounding countryside, on the approach to



the Pentland Hills Regional Park from the footpath to the west of the site and Core Path along Mansfield Road to the east. However, the proposal would have limited effect on the setting of the Regional Park itself, which is designated as an Area of Great Landscape Value, owing to its enclosed position in the wider landscape, as a result of existing shelter belts and contour levels within this undulating landscape.

.....development in this location would result in an adverse effect on Balerno's local landscape setting and valued views towards the Pentland Hills, features of value to the wider landscape setting of the city. For these reasons the proposal also has the potential to impact on the Special Landscape Area set out in the proposed LDP. The proposed development also has the potential to impact on the character of the surrounding landscape, including the proposed Area of Special Landscape Value, in conflict with policies E6 and E14 of RWELP.

20. *The development would undermine green belt objectives.* - The Council maintain that the development would undermine green belt objectives, and the Council asks that the following be taken into account in that connection;
1. The objections previously submitted by the Council in response to the application
 2. The comments already made by others who have lodged objections to the application;
 3. The Council's comments, in particular those set out at 6(a) and (b) above.
21. Accordingly the Council maintain that the criteria required by Policy 7 are not satisfied,. Therefore the provisions of Policy 7, were that policy to apply, are not satisfied, and consequently Policy 7 cannot be relied on.
22. For all of the above reasons the Council opposes the appeal and requests that it be refused. The Council request that this letter be treated as a statement in opposition to the appeal. The Council further request the right to comment further in relation to any matters which emerge in the course of the consideration of the appeal

Yours faithfully,

Ken Shade

Ken Shade
Planning Convener
Balerno Community Council



Balerno Community Council (BCC Planning)

8 Lovedale Road, Balerno, Edinburgh, EH14 7DW

Telephone 0131 449 3745

Email ken.shade@hotmail.com

City of Edinburgh Council
Planning Department
Waverley Court, 4 East Market Street
Edinburgh
EH8 8BG

30 August 2013

Ref 13/02787/PPP Cockburn Crescent, Balerno, Edinburgh.

Dear Sirs

Green Belt (GB) We note the site is located within the green belt. Balerno Community Council has a policy of supporting the existing greenbelt boundaries and the associated planning policies. We therefore object to applications that do not conform to the green belt policies as contained within the Rural West Edinburgh Local Plan (RWELP). We are also aware that the proposed new Edinburgh Local Development Plan (ELDP) also retains the existing Balerno GB boundaries and similar policies.

It appears that the main policies that apply are as follows and the relevant sections mention;

RWELP Policy E5

(a) Development in the green belt will not be permitted except where necessary for the purpose of agriculture etc. This application appears to fail this test.

RWELP Policy E6

This Policy does not come into play unless the proposal passes the E5 Policy test. It fails.

RWELP Policy E7

Permission will not be given for development, which would result in irreversible damage to, or the loss of, prime quality agricultural land. We believe the loss of this land may also affect the viability of the associated farm.



Housing Needs We are unaware of any demands from Balerno residents for major housing developments within the Balerno area

SES We believe that within the proposed strategic plans (SES) that it should indicate a five year housing land supply and that it is subject to supplementary guidance. However this has not yet been settled and there is no indication of where this land should be located. Therefore developers should not be proposing, that our Balerno green belt should be used to fulfil any possible shortfall in the five year housing land supply.

Brown Field Sites We believe that there is sufficient brown field sites to fulfil any shortfall in the housing land supply. In addition these areas are located well within Edinburgh and do not require lengthy car or bus trips in and out of the City.

Scottish Water We note they have not objected, however they have not stated that they can actually connect to the site.

SEPA We note that they do have some concerns about surface drainage etc. and that certain conditions would be place on any successful planning permission.

Archaeology We understand that part of the site is of interest to the CEC archaeologist and that some examination/excavation may be required. We may wish to comment on this at a later date after reading the completed archaeologist report.

Traffic We were hoping to have received a copy of a CEC traffic & transport report, but I understand this has not yet been completed. We therefore reserve our position until we have examined it. However we are very concerned about the impact of hundreds of additional vehicles using the already congested Lanark Road West towards the city. The traffic issue should also take into account that there appears to be other proposals for new Balerno homes, totalling around 1,000. Surely any proposed new housing development should firstly be located on brown field sites, or near to rail or tram routes.

Pentland Hills Regional Park (PHRP) We attended a CEC planning meeting today and requested that the PHRP be invited to comment on this application. The proposed site is within a farm that is adjacent to the park boundary and the loss of these arable farm fields may seriously affect the viability of the farm. This may result in the farm becoming derelict and we would lose our agricultural green belt buffer zone between the existing Balerno housing and the park boundary. This could eventually lead to housing being built right up to the boundary. We therefore would like the park authority to comment on this application.

Balerno
Community
Council



8 Lovedale Road
Balerno
Edinburgh
EH14 7DW

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Balerno Community Council (BCC) We represent several thousand local residents and we believe that they expect us to comment or object on their behalf and they have overwhelmingly supported our stance in protecting the green belt.

Objections We therefore wish for this letter to be treated as our objection.

Regards

Ken Shade

Ken Shade (BCC - Planning Convenor)



ANNEX B – second note of objection 23 October 2013

Carla Parkes

From: Ken Shade [REDACTED]
Sent: 28 October 2013 15:45
To: Carla Parkes
Cc: Richard Henderson; Bill Henderson (Councillor); Jack Kerr; Hugh Watt
Subject: FW: Balerno CC/planning - Mansfield Road/Cockburn Crescent - Addendum submission by developer

Hello Carla Parkes (CEC - Planner)

Ref. 13/02787/PPP Mansfield Road/Cockburn Crescent, Balerno, Edinburgh.

Balerno Community Council has noted that a document entitled Planning Statement Addendum has been lodged with the documents relevant to the above application, the Addendum being dated 23 October.

The Addendum appears to make two main points;

- (1). it makes submissions that the application should be considered in the context of the draft SESPlan Housing Supplementary Guidance and asserts that that draft guidance should be considered as a material consideration in the determination of the current application, and
- (2). it seeks to reiterate and augment the statements already made by the applicant in the application, by reference to SESPlan Policy 7.

Draft SESPlan Housing Supplementary Guidance

BCC does not consider that the Guidance either should or indeed may properly be considered, as argued for by the applicant.

The Guidance is in draft form and will be subject to consultation between 11 Nov and 20 December. It will thereafter be further considered and may be subject to further procedure before confirmation.

The applicant has not offered any authority in support of the proposition that the draft Guidance is to be treated as a material consideration. The Community Council is not aware of any such authority. In any event it would be a novel and highly unusual situation if draft proposals in any context were to assume a special status as if they had already been confirmed.

The Community Council has noted the argument set out by the applicant who concludes 'In this regard, sites which can be considered effective and deliverable within these identified areas [NW and SW Edinburgh] must be supported by the Council for approval ahead of LDP approval, as justified by SESPlan Policy 7. The Community Council would submit that the conclusion argued for cannot follow from the points set out by the applicant. To accept the applicant's argument would be to deny any substance to the LDP process. The logical conclusion of the applicant's argument would be that any housing shortfall could properly be met by applications presented in advance of the completion of the LDP process and without the need for the local planning authority to designate preferred areas.

Such a conclusion would undermine the statutory scheme for planning and cannot have been the intention of the legislation. It must accordingly be rejected.

SESPlan Policy 7



The Community Council has responded in detail to the points advanced by the applicant in support of the application. It does not consider that any new material has been submitted by the applicant in the document of 23 October. It does not consider that SESPlan Policy 7 was ever intended to be engaged in situations in advance of the confirmation of the LDP.

General comment

It is a matter of regret to the Community Council that a matter as potentially significant as that raised by the applicant in the Addendum, should have been presented only on 23 October. So far as the Community Council is aware, it is necessary for any comment in response to the Addendum to be lodged by not later than 2 November in order for the application to be considered by the Planning Committee on 20 November. Lodging on 23 October entails lodging after the final date for public comments has passed, and it is regrettable that those who may have commented already are effectively denied the opportunity to comment on the full case now to be considered.

I look forward to hearing from you in due course.

Regards
Ken Shade (Planning Convenor - Balerno Community Council)
8 Lovedale Road
Balerno
Edinburgh EH14 7DW