



T: 0131-244 7070

E: planning.decisions@gov.scot

Robin Holder, Holder Planning
[REDACTED]

cc: Jestyn Davies, Murray Estates
[REDACTED]

Our ref: NOD-EDB-002

4 April 2022

Dear Mr Holder

DECISION NOTICE

**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997
PLANNING PERMISSION IN PRINCIPLE FOR PROPOSED RESIDENTIAL
DEVELOPMENT, LOCAL CENTRE (INCLUDING CLASS 1, CLASS 2 & CLASS 3
USES) COMMUNITY FACILITIES (INCLUDING PRIMARY SCHOOL AND OPEN
SPACE) GREEN NETWORK, TRANSPORT LINKS, INFRASTRUCTURE,
ANCILLARY DEVELOPMENT AND DEMOLITION OF BUILDINGS AT LAND 1000
METRES NORTH-WEST, SOUTH-WEST & WEST OF HERMISTON JUNCTION, M8
GOGAR STATION ROAD, EDINBURGH, KNOWN AS “EDINBURGH GARDEN
DISTRICT” PLANNING REFERENCE: 15/04318/PPP (‘the proposed
development’)**

1. This letter contains Scottish Ministers’ decision on the above planning application submitted to the City of Edinburgh Council on behalf of Murray Estates Lothian Limited.
2. On 25 July 2016, Scottish Ministers issued a Direction, under section 46 of the Town and Country Planning (Scotland) Act 1997, requiring the application made by Murray Estates Lothian Limited dated 21 September 2015, to be referred to them for determination. This was in view of the potential impact on statutory works undertaken at the adjacent Science and Advice for Scotland Agriculture establishment, prematurity in relation to Edinburgh’s Second Proposed Local Development Plan, and potential impacts on infrastructure within the West Edinburgh Area.
3. Following submission of the Reporter’s original report on 6 February 2019, it became apparent that more recent housing land audits had been produced but not

submitted to the Reporter. On 21 October 2019 Planning and Architecture Division returned the case to DPEA for further consideration of this matter. An updated report was submitted to Scottish Ministers on 13 January 2020.

4. On 16 May 2017, the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 came into force. The 2017 regulations revoked the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 with certain exceptions. The 2011 Regulations continue to have effect for an application (and any subsequent appeal) for planning permission where the applicants submitted an environmental statement in connection with the application before 16 May 2017. That was done in this case. This appeal has been determined in accordance with the 2011 regulations as they applied before 16 May 2017.

Scottish Ministers' Decision

5. Scottish Ministers have carefully considered all of the evidence presented and the Reporter's conclusions. For the reasons given below, Scottish Ministers grant planning permission in principle for the proposed development subject to the conditions set out in the annex to this notice. References to paragraphs in the sections below, unless stated otherwise, are to the Reporter's report (dated 13 January 2020).

The Proposed Development and Site

6. The application is for a proposed residential development (approx. 1350 units), a local centre, community facilities (including primary school and open space), green network, transport links, infrastructure, ancillary development and demolition of buildings. The application site extends to 53.99 hectares and is mainly in agricultural use located on the urban fringe to the west of the city of Edinburgh.

Main Issues

7. Ministers are required to determine this application in accordance with the development plan, unless material considerations indicate otherwise. Having regard to the provisions in the development plan, Ministers agree with the reporter, in paragraph 9.1, that the main issues in this case are: (i) housing land supply and effectiveness of the application site; (ii) settlement fit (including green belt issues) and landscape and visual effects; (iii) infrastructure impacts; (iv) impacts on the nearby SASA facility; and (v) whether any other relevant issues point towards approval or refusal of planning permission in principle.

Development Plan

8. The development plan is principally comprised of the SESplan Strategic Development Plan (2013) and the Edinburgh Local Development Plan (2016, LDP). Accompanying SESplan, is the Housing Land Supplementary Guidance (2014). This set the housing land requirement for each LDP area, for the period 2009–2024. The site is located within the West Edinburgh Strategic Development Area, as identified by SESplan. The site is designated as green belt by the LDP where restrictive policies apply.

9. Ministers disagree with the Reporter that the development plan as a whole is out of date. SESplan, its accompanying Housing Land Supplementary Guidance and the LDP are more than five years old. Ministers consider that the SESplan and supplementary guidance policies relating to housing land requirement are out-of-date. It is noted that the LDP restates the housing supply target and housing land requirement set for Edinburgh by SESplan's Housing Land supplementary guidance.

10. The Reporter has considered the proposed development against Policy 7 of SESplan and Policy Hou 1(2) of the LDP as these policies remain part of the development plan, despite SESplan and the LDP being more than 5 years old. In any event the Reporter considers that these policies reflect the relevant provisions of paragraph 29 of Scottish Planning Policy (SPP), where 13 principles of sustainable development are set out. In chapter 3 and paragraph 9.15 the Reporter concludes that the proposed development accords overall with the relevant provisions of the development plan and that other material considerations, principally the provisions of SPP, indicate that planning permission should be granted.

11. Ministers do not agree with the Reporter's view that overall the proposed development complies with the provisions of the development plan. The site is allocated as green belt within the LDP and in terms of policies Hou1 and Policy 7 of SESplan, related to development in the greenbelt, it does not meet the necessary criteria as the Reporter was unable to conclude that there is a 5-year effective housing land supply – or identify that there is a shortfall in the effective housing land supply. Scottish Ministers have taken into account that as the relevant policies relating to housing land requirement of SESplan and accompanying supplementary guidance are out of date and both SESplan and the LDP are more than five years old that paragraph 33 of SPP is engaged. Paragraph 33 of SPP sets out that in these circumstances, the presumption in favour of development that contributes to sustainable development will be a significant material consideration.

Proposed Plan

12. The site remains designated as greenbelt in the draft proposed City Plan 2030 published for consultation in September 2021. However, it is indicated in the plan that if planning permission is granted, then the site will be included as an allocation in City Plan. Further written submissions were sought from interested parties on 18 October 2021 on the draft City Plan. Comments were received from the City of Edinburgh Council (CEC), the applicant Murray Estates, and Burges Salmon for West Craigs Ltd. Murray Estates and CEC consider that as the draft City Plan is at an early stage, the weight to be attached to it as a material consideration should be very light. Burges Salmon considered that the proposed plan was an opportunity for CEC to endorse residential development at the Garden District site and indicates that CEC members do not support the release of this site from the greenbelt for residential development.

13. Ministers have taken written submissions into account and have given the draft City Plan limited weight in the determination of this application given its draft consultation status.

14. The draft NPF4 was submitted to Parliament and published for consultation on 10 November 2021. Similarly, Ministers give draft NPF4 limited weight in the determination of this application given its consultation draft status. NPF3 and Scottish Planning Policy (2014) remain in force until such time as NPF4 is adopted.

Housing Land Supply and effectiveness of the application site

15. Ministers have taken into account the Reporter's consideration in chapter 3 and para 9.2 that he has been unable to conclude with certainty that there is currently an effective 5 year housing land supply. Based on the evidence before him the Reporter considers that there is serious difficulty in deciding what conclusions to draw from the output of the housing land audit, as the housing land supply target figures are taken from SESplan which is more than 5 years old. In para 3.44 the Reporter concludes that there would be too many uncertainties in order to somehow roll forward the housing supply target set out in SESplan and that such an approach would likely lead to widely varying demand-side calculations from case to case.

16. The Reporter concludes that SPP paragraph 33 is engaged and that this is the appropriate mechanism intended by SPP for situations such as this one, rather than an ad-hoc rolling forward of supply targets, any concept of which is absent from SPP. Scottish Ministers accept the Reporter's reasoning that at the time it had not been possible to calculate whether or not there is a housing land supply shortfall for the SESplan area given that the housing land supply figures for SESplan are out of date.

SPP and Sustainable Development

17. The judgment on the Gladman Developments Limited v The Scottish Ministers decision of 3rd June 2020, post-dates the Reporter's Report. In the Gladman case, the Court of Session considered further the interpretation of SPP, in particular regarding the "Presumption in favour of development that contributes to sustainable development". The court found that this was not a 2 stage process that would require a development to be sustainable before the presumption could be applied.

18. The Reporter has considered whether the proposed development represents sustainable development. The Reporter acknowledges that development of a mainly greenfield site in a green belt location inevitably weighs, to some degree, against finding the proposed development to represent sustainable development. Ministers agree with the Reporter's conclusions in paragraphs 7.22 and 9.77 that the proposed development does represent sustainable development based on: the significant contribution to housing land supply which the site would make; the location of the site adjacent to public transport and active travel opportunities; the acceptable landscape and settlement fit of the proposed development; and that there would be no other unacceptable impacts not capable of being mitigated by means of planning conditions or a planning obligation. The Reporter concludes that the proposed development is sustainable and has considered but identified no adverse impacts of the proposed development which significantly and demonstrably outweigh its benefits. Overall the Reporter states that this consideration points strongly towards granting planning permission in principle. Ministers agree with the Reporter that the proposed development is development that contributes to sustainable development, and regard

the presumption in favour of such development as a significant material consideration in this case.

19. While Ministers disagree with the Reporter that the proposed development overall complies with the development plan, they do agree with the Reporter that material considerations, specifically the provisions of the SPP presumption, indicate that planning permission should be granted.

Settlement fit and landscape and visual impacts

20. The Reporter has considered the issues of settlement fit, and of landscape and visual impacts arising from the development. The site is located within an area designated as greenbelt in the LDP. The Reporter concludes that the information set out in the environmental statement provides an accurate prediction of the likely landscape and visual effects of the proposed development. The site is well contained visually and due to the largely enclosed nature of the site and its relationship with adjacent development significant adverse effects on landscape character would not arise, other than the direct effect caused by development of the site itself. The same conclusion applies to the effect on the special landscape area.

21. In terms of settlement fit, the Reporter has found the site to be extremely well located. The site is located in the vicinity of the West Edinburgh Strategic Development Area, as defined in SESplan, a significant area of change. It is adjacent to significant employment and retail opportunities. It is also well-located to take advantage of public transport infrastructure, including train and tram. Major road junctions would also be easily accessed and a bus route could be provided through the site. Cycling infrastructure and countryside access routes are also close to hand and the proposed development would provide for links to those routes. Scottish Ministers agree with the Reporter's overall conclusions in chapter 4 that significant adverse effects on landscape character would not arise.

Infrastructure impacts

22. The Reporter has considered relevant infrastructure impacts including in relation to flooding, education, transport and access, and has concluded that the infrastructure impacts of the development can be addressed via planning conditions and planning obligation. Scottish Ministers agree with the Reporter's conclusions in para 5.80 there are no insurmountable infrastructure impediments to development of the application site, consistent with the relevant terms of SESplan and the LDP.

Planning obligation

23. Scottish Ministers issued a Notice of Intention (NoI) on 30 April 2020 indicating their intention to approve the application, subject to conditions and the completion of a planning obligation. This obligation was to secure financial contributions by the developer towards education, healthcare, transport, SASA and community facilities as well as the provision of onsite affordable housing, transport upgrades, SASA mitigation and transfer of a serviced site for the provision of a non-denominational primary school within the site to CEC together with funding for its construction. Ministers received

confirmation on 31 August 2021 that a section 75 agreement has been signed by the applicants, CEC and relevant parties.

24. Since the Nol was issued, representations have been made by Burges Salmon on behalf of West Craig's Ltd (WCL), the developers of a nearby housing development, regarding the section 75 agreement. A procedure notice was sent to the main parties on 18 October 2021 seeking views on the completed section 75 agreement in response to the concerns raised. Written submissions were submitted on behalf of Murray Estates Lothian Ltd and City of Edinburgh Council (CEC) and West Craig's Limited (WCL). Ministers have considered the comments received in relation to these further written procedures.

25. In their written submissions, WCL have expressed no concerns with the level of payments that are being made to CEC under the Education Contribution, or the principle of land being transferred to CEC to facilitate the building of a new primary school. However, WCL consider that the obligations contained in the section 75 agreement do not go far enough to ensure that the necessary infrastructure will be delivered by the point in time that it is required by the Garden District development. They consider there is a lack of certainty around this issue and that it could jeopardise the delivery of neighbouring development. WCL are concerned that the Garden District development will utilise education capacity at WCL's new Maybury Primary School before the new primary school can be built and will put further pressure on the capacity at local secondary schools. WCL consider that there should be a restriction on occupancy that is tied to the completion of the new primary school.

26. A further written submission from CEC notes that the executed section 75 agreement was drafted and agreed in full consultation and agreement with the CEC to give effect to the terms set out within the Ministers' Nol, in respect of the requirement for a planning obligation. CEC consider that the section 75 agreement fully reflects the infrastructure requirements for the delivery of the scheme and complies with the terms of Circular 3/2012 and the policy tests set out within the circular.

27. Murray Estates considers that CEC is best placed to decide exactly when the new school should be built taking account of its duties as Education Authority under the Education (Scotland) Act 1980 to ensure the "adequate and efficient provision of school education" for its area and to undertake any procedures required to amend catchment areas. They note that these are the same actions that WCL was required to undertake in relation to its development at Maybury. Given the Council's duties, the early delivery of land and the guarantee of funding for the construction of the primary school, Murray Estates consider there is no need for any further restriction in the section 75 agreement.

Summary

28. The main points for CEC on education infrastructure are set out in paragraphs 5.28 – 5.33 of the Reporter's report. This notes that CEC and the applicant submitted a statement of agreed matters in respect of education infrastructure. This agreement covers that, if interim solutions are required in advance of completion of the primary school on the application site to accommodate children from the application site, CEC has a statutory duty to provide these without the need for further education

contributions. Similarly, in paragraph 5.76 the Reporter notes CEC's confirmation that whatever the outcome may be in regard to the siting of a secondary school in West Edinburgh, it would provide for the education of pupils arising from the proposed development. That may mean the council would require to exercise its education functions, including in regard to catchment zoning.

29. Paragraphs 5.37 – 5.48 of the Reporter's report sets out the main points for WCL in regard to education provision including their consideration that there is an absence of controls on the number of units that could be built and occupied before a new primary school is provided. The Reporter notes in paragraph 5.41 that WCL proposed a condition to the council which would have required an assessment of school capacities to be undertaken to ensure the appropriate limits on development could be put in place. The council rejected this proposal on the basis that "this condition is not required as the council is under a statutory obligation to provide a school place for every child within its local authority area".

30. CEC have made it clear that they have a statutory obligation to provide school places for children arising from the development. The Reporter concluded in paragraphs 5.74 - 5.78 that he was satisfied that CEC would provide for the educational needs of residents of the development site and that there can be sufficient certainty that the educational demands arising from the proposed development could be appropriately addressed. The Heads of Terms recommended by the Reporter did not refer to restrictions on development in respect of primary school capacity and therefore this was not an issue to be resolved in the detail of the section 75 agreement. Ministers accept the Reporter's conclusions as regards CEC's fulfilment of its statutory obligations in regards to education provision. Ministers are satisfied that no further restrictions are required.

31. Ministers consider that the section 75 agreement satisfactorily reflects the terms set out in the Heads of Terms in the Annex to the Notice of Intention.

Impacts on Science and Advice for Scottish Agriculture (SASA)

32. The Reporter has considered *Impacts on Science and Advice for Scotland Agriculture establishment (SASA) Science*. SASA provides scientific services and advice in support of Scotland's agriculture and wider environment. The Reporter notes that the SASA objection has been withdrawn. Agreement has now been reached between the applicant and SASA in regard to mitigation of the impacts of the proposed development on the SASA facility. The Reporter is satisfied that this mitigation would be appropriate and that it can be safeguarded by planning obligation. Ministers agree with the Reporter's overall conclusions in chapter 6 that the mitigation scheme now agreed between the applicant and SASA would reduce potential impacts to a manageable level, and that it would also be likely in some respects to enhance the operation of the facility.

Other relevant issues

Cultural Heritage

33. Ministers agree with the Reporter's conclusions at paragraph 7.19 that that there would be no direct impacts on archaeological features that are not capable of being mitigated by condition. Ministers also agree with the Reporter's conclusions that the setting of listed buildings would be preserved by a condition and that the character and appearance of the Hermiston conservation area would be preserved.

Natural Heritage

34. Ministers agree with the Reporter's conclusions at paragraph 7.19 that there would be no significant adverse effects on ecological receptors, subject to appropriate mitigation. Minister agree that the re-routing and naturalisation of the Gogar Burn would contribute towards increased biodiversity within the application site.

Compatibility with neighbouring land uses

35. Ministers have taken into account in paragraph 7.20 that the objections of RBS and SASA, two significant neighbouring uses, have now been conditionally withdrawn and that the initial concerns of Edinburgh Airport have been addressed by the applicant and that this matter is capable of being safeguarded by means of condition.

Design and residential environment/ noise/ air quality

36. Ministers agree with the Reporter's conclusion at paragraph 7.21 that the site is capable of providing a good quality residential environment, provided that the necessary noise and air quality mitigation measures are satisfactorily undertaken.

Conclusion

37. Scottish Ministers have considered the terms of the section 75 agreement and are satisfied that the agreement addresses the requirements set out in the Notice of Intention dated 30 April 2020.

38. In summary, Scottish Ministers do not agree with the Reporter that the proposed development complies with the development plan overall due to the loss of greenbelt at this location. However, Ministers do agree with the Reporter that there are significant material considerations that indicate that planning permission in principle should be granted, including: the presumption in favour of development that contributes to sustainable development being a significant material consideration; the site being effective or capable of becoming effective in the relevant timeframe; defensible greenbelt boundary; the significant contribution to housing land supply which the site would make; the location of the site adjacent to public transport and active travel opportunities; and the acceptable landscape and settlement fit of the proposed development. We agree with the Reporter that the proposed development represents sustainable development in line with the 13 principles of SPP paragraph 29.

39. Accordingly, Scottish Ministers grant planning permission subject to the conditions set out at annex 1.

40. This decision of Scottish Ministers is final, subject to the right conferred by Sections 237 and 239 of the Town and Country Planning (Scotland) Act 1997 of any person aggrieved by the decision to apply to the Court of Session within 6 weeks of the date of this letter. If such an appeal is made, the Court may quash the decision if satisfied that it is not within the powers of the Act, or that the appellant's interests have been substantially prejudiced by a failure to comply with any requirements of the Act, or of the Tribunals and Inquiries Act 1992, or any orders, regulations or rules made under these Acts.

41. A copy of this letter has been sent to the City of Edinburgh Council and parties who participated at the hearings and in further written procedure. Those parties who lodged representations will also be informed of the decision.

Yours sincerely



Dr Fiona Simpson
Chief Planner

Annex 1: Schedule of conditions

1. No development shall be undertaken on site until a detailed Masterplan for the whole site has been approved in writing by the Council as Planning Authority. The Masterplan shall include a plan identifying individual sub-sites and their proposed phasing including the maximum amount of retail floor space; all being no greater than the maximum levels assessed by the EIA supporting this application. Hereafter, reference to sub-sites in subsequent conditions relates to the identified sub-sites within this phasing plan.

Reason: *In order to secure an integrated layout and satisfactory urban design for the site as a whole, restrict the quantum of development to that appropriate to the site characteristics and to that assessed by the associated Environmental Statement, and to protect the vitality and viability of existing town centres.*

2. The development hereby approved shall provide for a maximum of 1,350 residential units of which a maximum of 650 shall be dwelling houses and the remainder shall be flatted units.

Reason: *In order to secure an appropriate level of development with regard to its impact on existing and proposed local infrastructure.*

3. No development shall take place on the development site until full details of the specification of a scheme of works for (first) the improvement and widening of Gogar Station Road between the northern site access and its junction with the A8; (second) the signalisation of the Royal Bank of Scotland junction and works for the widening of approach roads to the roundabout have been submitted to and approved by the Council. Those details shall:-

- a) include all the road widening, signalisation, pedestrian/cycle crossing and road layout works shown on the SWECO Drawings ref SK047 SK048 and SK056;
- b) including the re-engineering of the Royal Bank of Scotland service yard entrance together with the provision of the necessary 90 metre visibility splays to that junction as shown on SWECO Drawing ref SK056;
- c) include a detailed scheme of replacement tree planting to be carried out along the new western boundary of the widened Gogar Station Road;
- d) In the event that footway to the west side of Gogar Station Road is to be realigned as shown on SWECO Drawing SK047 then include proposals for closure of the extent of existing footway on the west side of Gogar Station Road which would no longer be required;
- e) demonstrate that there is control over all land required for the works;
- f) demonstrate that there is agreed scheme in place for the maintenance of all required traffic management signals which are not located on a public road which shall fund such maintenance in perpetuity or until they are adopted by the roads authority.

The approved works shall thereafter be implemented in full and completed before the commencement of any development, including any preparatory works, other than those works necessary for the construction of the cycle path identified at condition 24, within the development site the subject of this application.

Reason: *In order to ensure that the public road network has been suitably improved so as to provide a safe means of access between the development site and the wider public road network. Also to ensure a suitable level of replacement planting so as to retain the landscaped appearance of this part of Gogar Station Road and the Royal Bank of Scotland premises.*

4. No development shall take place on the development site until full details of the specification of works, resolution of all land ownership issues, and construction management plan for the upgrade of both the northern and southern underpasses of the A720 have been submitted to and approved by the Council. Those details shall provide a package of measures for the upgrade of both the northern and southern underpasses of the A720 to incorporate pedestrian, cycle and bus access, including their integration with Edinburgh Park infrastructure to permit the safe movement of pedestrians and cyclists from and to the site. Those works shall thereafter be implemented in full and be available for use on or before the occupation of the first residential property within the development hereby approved.

Reason: *In order to ensure that there is a suitable means of pedestrian, cycle and bus access between the development site and the road network to the east of the application site prior to the first occupation of any part of that development.*

5. No development shall take place on the development site until full details of a scheme of work for provision of the cycle route to and through the development, starting north of the M8 overbridge on Gogar Station Road, have been submitted to and approved by the Council. Those works shall thereafter be implemented in full and be available for use on or before the occupation of the first residential property within the development hereby approved. These details shall:

- a) Include a cycle path heading North East across the field immediately to the North of the M8 overbridge on Gogar Station Road and connecting with the Eastern end of the Gogar Station Road spur, near the distribution warehouse and continuing from there over the railway to the Southern Underpass;
- b) Include details of connection points from the new route into the existing cycle networks to the north and south of the site so as to demonstrate how it will provide a genuine alternative to Gogar Station Road, and beyond that, onto RBS Gogarburn (including the RBS Business School); and
- c) Demonstrate that there is control over all land required for the works

Reason: *In order to ensure that there is a suitable means of cycle access to and through the development site that provides a genuine alternative to Gogar Station Road prior to the first occupation of any part of that development.*

6. a) No development shall commence on site until full details of the flood prevention measures (including any diversion of the Gogar Burn) have first been submitted to and approved by the Council as Planning Authority in consultation with SEPA. This shall include full details of the proposed realigned Gogar Burn channel, the proposed enhanced storage area and the proposals for managing the risk of flooding from the Lesser Mill Burn at the later planning stages.

b) Thereafter the agreed flood prevention measures shall be implemented in full prior to the occupation of the first dwelling.

Reason: *In order to ensure a satisfactory scheme of water management within the site.*

7. No residential dwelling shall be occupied until the poultry farm use on the site has ceased and the operational land and buildings related to the poultry farm have been suitably decommissioned.

Reason: *In the interests of human health and amenity.*

8. Prior to the commencement of any work on a site which forms part of an identified sub-site development plot details of the undernoted matters shall be submitted to and approved in writing by the Council as Planning Authority; the submission shall be in the form of a detailed layout of the site within the relevant development plot.

Approval of matters

- Height, massing, siting and ground floor levels within the Masterplan approved by condition 1.
- Design and external appearance of all buildings, roof form, open space, public realm and other structures;
- All operational aspects of open space and public realm including the incorporation of the diverted Gogar Burn - note:- all development shall be placed outside the predicted 200 year plus climate change flood extent for the 25% culvert blockage scenario.
- Existing and finished site and floor levels in relation to Ordnance Datum;
- Roads, footways, cycleways, servicing and layout of car parking and cycle parking provision in accordance with standards agreed within the Masterplan;
- The provision of a pedestrian link directly between the northern boundary of the site and the existing pedestrian footway on the south side of the A8;
- Amendments of any treatment to adopted roads and footways;
- Signing of pedestrian and cycle access routes to/from and through the development;
- Surface water management, drainage arrangements, SUDs proposals and SUDs maintenance plan;
- All operational aspects of the commercial and business uses including details of servicing arrangements, opening hours, all external plant, machinery and/or ventilation, hours of deliveries and collections;
- Waste management and recycling facilities;
- External lighting, including floodlighting and street lighting arrangements for the development;
- Site investigation/decontamination arrangements;
- Ecological studies including mitigation works to protect against any damage to protected species; including bats, otters and badgers.

Landscaping

- Detailed soft and hard landscaping plan and levels;
- A schedule of all plants to comprise species, plant size and proposed number and density;

- Inclusion of hard and soft landscaping details including tree removal;
- Landscape management plan including schedule for implementation and maintenance of planting scheme;
- Any boundary treatments, including noise (acoustic) barriers and details of the boundary treatment with the property and 'designed landscape' at Millburn Tower, for an increase in the width of the proposed planting belt and specific details of the tree species to be planted, appropriate to blend with that 'designed landscape';
- A method statement for the treatment of invasive non-native species, such as Giant Hogweed.

Reason: *In order to secure a satisfactory design.*

9. As part of the Masterplan requirement at Condition No 1 there shall be a full tree survey carried out across the entire application site. Thereafter those trees identified to be retained shall be appropriately protected during the construction period by the erection of fencing, in accordance with clause 2 of BS 5837:2012 "Trees in relation to design, demolition and construction".

Reason: *In order to adequately protect trees within the site.*

10. Construction details, specification, including trade names where appropriate, of all proposed external materials shall be submitted to and approved in writing by the Council as Planning Authority before work is commenced on each sub-site. Note: sample panels of the materials are to be erected and maintained on a site for an agreed period during construction. Thereafter only those approved materials shall be used in the subsequent development unless materials have first been subject to further written submission and agreement by the Council as Planning Authority.

Reason: *In order to consider these matters in more detail.*

11. Prior to the commencement of construction works on each of the identified sub-sites:

(a) A site survey (including intrusive investigation where necessary) must be carried out to establish to the satisfaction of the Council as Planning Authority, either that the level of risk posed to human health and the wider environment by contaminants in, on or under the land is acceptable, or that remedial and/or protective measures could be undertaken to bring the risks to an acceptable level in relation to the development; and

(b) Where necessary, a detailed schedule of any remedial and/or protective measures, including their programming, must be submitted to and approved in writing by the Council as Planning Authority.

Any required remedial and/or protective measures shall be implemented in accordance with the approved schedule and documentary evidence to certify those works shall be provided to the satisfaction of the Council as Planning Authority.

Reason: *In the interests of human health.*

12. No development shall take place on each sub-site until a scheme for protecting the residential development hereby approved from noise from the adjoining roads [A8 & A720] as well as any commercial noise (existing and proposed) has first been submitted to and approved in writing by the Council as Planning Authority (in consultation with Transport Scotland in relation to trunk roads). All works which form part of that approved scheme shall be completed to the satisfaction of the Council as Planning Authority before any part of that sub-site is first occupied.

Reason: *In the interests of human health and amenity.*

13. Class 1 Retail hours of operation including servicing and deliveries require to be agreed at the Approval of Matters specified in Conditions (AMC) stage.

Reason: *In the interests of amenity.*

14. Retail floor space quantum requires to be agreed at the Approval of Matters in Conditions (AMC) stage.

Reason: *In order to protect the vitality and viability of existing town centres.*

15. No development shall take place on each of the identified sub-sites until the applicant has secured the implementation of a programme of archaeological work (excavation, field walking and metal detecting, reporting and analysis and publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the Council as Planning Authority. The work must be carried out by a professional archaeological organisation, either working to a brief prepared by the City of Edinburgh Council Archaeology Service (CECAS) or through a written scheme of investigation submitted to and agreed by CECAS for the site. Responsibility for the execution and resourcing of the programme of archaeological works and for the archiving and appropriate level of publication of the results lies with the applicant.

Reason: *In the interests of archaeological heritage.*

16. Prior to the commencement of development details of landscape planting and fencing along the boundaries with the trunk road shall be submitted for the approval of the Council as Planning Authority in consultation with Transport Scotland.

Reason: *To minimise the risk of pedestrians and vehicles gaining uncontrolled access to the trunk road with the consequential risk of accidents and also to provide adequate environmental screening.*

17. Prior to the commencement of development, and as part of the Masterplan requirement at Condition No 1, a detailed Air Quality Impact Assessment shall be submitted to and approved in writing by the Council as the Planning Authority. That assessment shall specifically deal with potential impacts of the adjoining trunk roads upon the future occupants of the proposed development site and also the cumulative impacts of the traffic generated by this development upon other Air Quality Management Areas (AQMAs) as

defined by the Council. Thereafter the development of the site shall be carried out in full accord with the agreed recommendations and mitigation measures.

Reason: *In order to fully assess the air quality impacts resulting from the development.*

18. Prior to the commencement of development road modification proposals at Gogar Roundabout to achieve safe pedestrian and cycle access to the Edinburgh Gateway/ Tram Interchange shall be submitted to and approved in writing by the Council as Planning Authority. The approved measures shall be implemented prior to the occupation of the first dwelling.

Reason: *In order to ensure satisfactory pedestrian and cycle connectivity at this location.*

19. Development shall not commence until a Bird Hazard Management Plan has been submitted to and approved in writing by the Council as Planning Authority. The submitted plan shall include details of:

- monitoring of any standing water within the site temporary or permanent;
- sustainable urban drainage schemes (SUDS) - Such schemes shall comply with Advice Note 6 'Potential Bird Hazards from Sustainable Urban Drainage schemes (SUDS)' (available at <http://www.aoa.org.uk/policy-safeguarding.htm>);
- management of any flat/shallow pitched/green roofs on buildings within the site which may be attractive to nesting, roosting and "loafing" birds. The management plan shall comply with Advice Note 8 'Potential Bird Hazards from Building Design';
- reinstatement of grass areas;
- maintenance of planted and landscaped areas, particularly in terms of height and species of plants that are allowed to grow;
- which waste materials can be brought on to the site/ what if any exceptions e.g. green waste;
- monitoring of waste imports (although this may be covered by the site licence) physical arrangements for the collection (including litter bins) and storage of putrescible waste, arrangements for and frequency of the removal of putrescible waste; and
- signs deterring people from feeding the birds.

The Bird Hazard Management Plan shall be implemented as approved, on completion of the development and shall remain in force for the life of the development. No subsequent alterations to the Plan are to take place unless first submitted to and approved in writing by the Council as Planning Authority.

Reason: *In the interests of aircraft safety.*

20. The Bird Hazard Management Plan must ensure that flat/shallow pitched roofs be constructed to allow access to all areas by foot using permanent fixed access stairs ladders or similar. The owner/ occupier must not allow gulls, to nest, roost or loaf on the building. Checks must be made weekly or sooner if bird activity dictates, during the breeding season. Outside of the breeding season gull activity must be monitored and the roof checked regularly to ensure that gulls do not utilise

the roof. Any gulls found nesting, roosting or loafing must be dispersed by the owner/ occupier when detected or when requested by Edinburgh Airport Airside Operations staff. In some instances it may be necessary to contact Edinburgh Airport Airside Operations staff before bird dispersal takes place. The owner/ occupier must remove any nests or eggs found on the roof. The breeding season for gulls typically runs from March to June. The owner/ occupier must obtain the appropriate licences where applicable from Scottish Natural Heritage before the removal of nests and eggs.

Reason: *In the interests of aircraft safety.*

21. Height Limitation on Buildings and Structures: No building or structure of the development hereby permitted shall exceed 25 metres AGL.

Reason: *In the interests of aircraft safety.*

22. Prior to the commencement of any work on a site which forms part of an identified sub-site development plot, full details of soft and water landscaping works relating to that sub-site, shall have been submitted to and approved in writing by the Council as Planning Authority, details must comply with Advice Note 3 'Potential Bird Hazards from Amenity Landscaping & Building Design' (available at <http://www.aoa.org.uk/operations-safety/>). These details shall include:

- any earthworks;
- grassed areas;
- the species, number and spacing of trees and shrubs;
- details of any water features;
- drainage details including SUDS - Such schemes must comply with Advice Note 6 'Potential Bird Hazards from Sustainable urban Drainage Schemes (SUDS)' (available at <http://www.aoa.org.uk/policy-safeguarding.htm>);
- others that you or the Authority may specify and having regard to Advice Note 3: Potential Bird Hazards from Amenity Landscaping and Building Design and Note 6 on SUDS.

No subsequent alterations to the approved landscaping scheme are to take place unless submitted to and approved in writing by the Council as Planning Authority. The scheme shall be implemented as approved.

Reason: *In the interests of aircraft safety.*

23. Development shall not commence until details of the Sustainable Urban Drainage Schemes (SUDS) have been submitted to and approved in writing by the Council as Planning Authority. Details must comply with Advice Note 6 'Potential Bird Hazards from Sustainable Urban Drainage Schemes (SUDS)'. The submitted Plan shall include details of:

- Attenuation times;
- Profiles & dimensions of water bodies;
- Details of marginal planting.

No subsequent alterations to the approved SUDS scheme are to take place unless first submitted to and approved in writing by the Council as Planning Authority. The scheme shall be implemented as approved.

Reason: *In the interests of aircraft safety.*

24. Prior to the commencement of any works, a site-wide Construction Environmental Management Plan (including a Construction Travel Plan) shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include the following matters:

- Signage for the construction traffic, cyclists, pedestrians and other users of the site
- Details of the routes, signage, lighting and surfacing of any temporary cycle paths that demonstrate that these temporary routes are an attractive alternative to Gogar Station Road for cyclists
- Scheduling of the construction of temporary cycle routes, so that a safe and attractive alternative to cycling on Gogar Station Road is available
- Controls on the route taken by construction vehicles along Gogar Station Road to minimise the risk of conflict between large vehicles and cyclists
- Controls on the arrival and departure times for the construction vehicles
- Hours of working
- Prevention of mud/debris being deposited on public highways and any temporary cycle paths or footpaths

The approved Construction Environmental Management Plan shall be implemented accordingly.

Reason: *to ensure that construction traffic is managed.*

Advisory notes

1. **The length of the permission:** Application for approval of matters specified in the conditions set out in this decision shall be made to the Planning Authority before whichever is the latest of the following:

- a. the expiration of three years from the date of this permission, or
- b. the expiration of six months from the date on which an earlier application for approval of matters specified in the conditions set out in this decision notice was refused or dismissed following an appeal. Only one application may be submitted under paragraph (b) of this direction, where such an application is made later than three years after the date of this consent.

The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the matters specified in the conditions set out in this decision.

2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

4. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013).