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Decision by Keith Bray, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-230-2241
- Site address: land 95 metres north west of 10 Glenbrook Road, Balerno, EH14 7BE
- Appeal by Simon Thomson against the failure of The City of Edinburgh Council to issue a decision within the prescribed period
- Application for planning permission in principle 17/040001/PPP dated 30 August 2017
- The development proposed: residential development and associated roads, footpaths and landscaping
- Date of site visit by Reporter: 3 October 2018

Date of appeal decision: 28 December 2018

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## Decision

I dismiss the appeal and refuse planning permission in principle.

## Preliminary

1. The scale and nature of this proposal is such that it was within the description of development set out in Schedule 2 of the Environmental Impact Assessment (EIA) (Scotland) Regulations 2011. It was however the subject of a screening opinion issued by the council (17/02058/PAN) to the effect that Environmental Impact Assessment was not required. The screening request was made before 16 May 2017 and the council adopted a screening opinion on 9 June. I agree with the council's decision that, based on the characteristics and location of the development, together with the potential impacts, the proposal was not a development that required an Environmental Impact Assessment.
2. The appellant has requested that I delay my decision until the second South East Scotland Strategic Development Plan is approved by Scottish Ministers. This is because the housing land position in the region may change at that point. However, I am not aware of a firm timetable for its approval. It is not reasonable to delay a decision in the absence of a clear understanding of when the South East Scotland Strategic Development Plan would form part of the development plan or the Minister's position on housing land matters.



## Reasoning

### Development Plan

3. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. I must also have special regard to the desirability of preserving nearby listed buildings or their setting and any special features of historic or architectural interest which they possess.

4. Having regard to the provisions of the development plan the main issues in this planning permission in principle appeal are the impacts of the proposal on the:

- setting of listed buildings;
- transportation network;
- green belt and special landscape areas; and
- supply of housing land.

5. The development plan consists of the South East Scotland Strategic Development Plan 2013, its supplementary guidance (including housing land, 2014), and the Edinburgh Local Development Plan 2016, together with its supplementary guidance.

6. The purpose of a strategic development plan is to set out the planning framework to assist the preparation of local development plans. The South East Scotland Strategic Development Plan primarily sets a policy context for this appeal in relation to housing land. The policy framework for housing land supply is set out in policies 5, 6 and 7, the associated supplementary guidance. Policy Hou 1 of the local development plan also relates to housing land.

7. The appeal site is not an allocated housing site. It is located in the green belt; to the west of the local development plan settlement boundary. The site is also within the Pentlands Special Landscape Area.

8. The planning application was subject to representations covering a wide range of concerns; including those of the Balerno Community Council. The most frequent issues raised related to conflicts with green belt objectives and the transportation impacts.

9. Based on the main issues above, I consider that the development plan policies of key relevance are:

- South East Scotland Strategic Development Plan policies 1A, 1B, 5, 6, 7, 8, 12 and its supplementary guidance on housing land; and
- Edinburgh Local Development Plan policies Env 3, Env 10, Env 11 Hou 1, Tra 1-4, Tra 8 and Des 9.

10. Following the consideration of the development plan I turn later in my decision to material considerations which I must take into account.

#### *Setting of listed buildings*

11. The appellant's historic environment assessment identifies three B listed buildings in the immediate vicinity of the site which merit discussion. These are Bankhead House, Johnsburn House, and Larch Grove House and Stables. The assessment concludes that their settings would not be significantly impacted.

12. The council has not commented on the impacts upon listed buildings. However, those making representations are of the view that the setting of Johnsburn House and Bankhead House (in particular) would be adversely affected.

13. I carried out a site inspection at the appeal site and surrounding area. This demonstrated to me that Larch Grove, to the north east, is not likely to be visible from the site. With no likelihood of inter-visibility, together with the intervening woodland and self-contained gardens, I conclude that the proposal would not impact the setting of Larch Grove.

14. The principal elevation of Johnsburn House faces away from the development; to the south east. Also, the setting of the building appears to me to be contained within its mature gardens. Therefore, I have no concerns regarding the impact of the proposal on the setting of Johnsburn House.

15. Bankhead House (and its related walled gardens, bothy and green house), to the north west of the site, is situated within its own mature gardens. On my site visit I observed that the main elevation of the house looks north east; to the north of the proposal site. I noted that the setting of this building is largely contained within the garden ground. Mature woodland forms a perimeter to the grounds of the house and extends along the driveway. In my view, the field (development site) to the south east plays a limited part in the context for the setting of Bankhead House. I therefore do not consider that the development of housing on that site would have a significant adverse impact on the setting of Bankhead House.

16. Based on my conclusions above, I find that local development plan policy Env 3 (listed buildings - setting) would be satisfied, together with the second development principle of policy 1B of the South East Scotland Strategic Development Plan.

#### *Transportation network*

17. Transport related impacts, in particular an increase in car movement, are a significant concern for those making representations.

18. In response to a further information request, I note the council are in agreement with the appellant that the scale of the proposal would not lead to significant impacts on the existing road network. This includes the A70 corridor. The appellant has also stated a willingness to contribute to local road network improvements as part of any planning obligation.

19. Despite the number of local concerns, I am satisfied that the number of houses proposed would not have significant transportation impacts. This is based on the scale of the proposal, the appellant's transport assessments, and the council transport advisor's opinion that the network is capable of accommodating traffic generated by the development.

20. I note that the council wished to see a cumulative cross-boundary transport impact assessment and that there have been difficulties with regard to running the necessary models. However, the council has not indicated that such an assessment could alter their transport advisor's opinion that the proposed development would not significantly impact the existing road network.

21. I also note that a footpath would link the proposed site, at a reasonable distance of around four hundred metres, to the number 44 bus service on Johnsburn Road and to other services in Balerno. I recognise however that the number 44 service provides only one route, towards the city centre, and that does limit public transport options. Securing a connecting footpath and related improvements would be a matter for a planning condition or as part of a planning obligation. I also note that the appellant has taken the opportunity to reflect current street design guidance in the proposed layout. Given that the proposal is a planning permission in principle, any further issues concerning the design of the internal road layout, level of parking, and charging points could be addressed by planning conditions.

22. I find that the development, subject to the application of planning conditions and a contribution to transportation improvements through a planning obligation, would not be in conflict with policy 8 of the strategic development plan or the transport policies Tra 1 to Tra 4 and Tra 8 of the local development plan.

#### *Green belt and special landscape area*

23. The 3.23 hectare site is agricultural land in pasture, located in the green belt west of the settlement of Balerno. To the north of the site is a small water course; Glen Burn. To the south is Glenbrook Road. To the south of Glenbrook Road is a wooded area. Western and eastern boundaries of the site are edged with mature, predominantly deciduous trees. A stone boundary wall also forms a solid boundary on the east of the site and the lack of built development beyond the stone boundary accentuates the rural character of the site.

24. To the south east corner of the site there are a limited number of properties on Glenbrook Road. These properties are also in the green belt and of a rural character, in contrast to the properties east of Johnsburn Road. To the north west of the site is Bankhead House and a number of associated buildings. They form a closely related cluster, in what I would regard as open countryside.

25. The appellant's view is that the proposal would not be detrimental to the settlement character or green belt objectives. A landscape and visual impact assessment, and a design statement make the case that the site has a strong sense of enclosure and there would be limited visibility of the site from the surrounding area. Furthermore, the appellant is of the view that the scale of the proposal is proportionate to the surrounding area. According to the appellant, there is no risk of the proposal setting a precedent for further urban expansion in a westerly direction. Trees would also be retained as part of this development along with

additional planting. The appellant's conclusion is that, in landscape terms, the development would create a strong edge to the existing settlement.

26. I have also been pointed to a number of new housing developments under construction in the green belt to the north of the A70. However, I consider that Balerno, to the south of the A70, retains a distinct identity and the landscape setting of a rural, self-contained settlement. The historical context in the design and access statement reinforces the rural nature of the appeal site. It confirms that this location has not been linked to the growth of Balerno over the last century. The southern growth of Balerno up to the 1980's did not impact on the rural nature around the appeal site.

27. At my site inspection, I also took the opportunity to familiarise myself with the surrounding area. My visit confirmed that the site and its immediate environs possess a strong rural character. Moving from Johnsburn Road, along Glenbrook Road, gives the impression of moving into the open countryside and out of the urban area. A matter confirmed by the demarcation of a new landscape character type (the distinctive Cockburn geometric wooded farmland). I find that this rural landscape would be significantly altered in this particular location. The sense of moving into the open countryside would be lost if the proposal were to be implemented. This is of greater importance for this location as the site is at the western extremities of the Edinburgh settlement boundary and would represent outward growth of the city.

28. I acknowledge that the proposed housing would constitute a relatively modest scale of development. It would be contained within a relatively discrete area of the rural landscape. However, I consider that the impact of losing this area of green belt would be of significance to the rural character, landscape setting and the identity of the western fringe of Balerno.

29. The proposal would result in the effective coalescence of the existing housing along Glenbrook Road with the cluster of rural buildings around Bankhead House. While this is not the coalescence of two settlements, the existing clear demarcation between the urban area and the countryside would be removed. This conflicts with the narrative of the local development plan which seeks a clear demarcation between town and country to ensure the defensibility of the green belt boundary and its objectives. The rural character and landscape setting of the cluster of buildings around Bankhead House would also be significantly diminished and their location in the open countryside lost.

30. The existing green belt boundary follows a line along Cockburn Crescent, Johnsburn Road and along the outer fringe of housing built to the north of Johnsburn Road; adjacent to the Water of Leith. The green belt encircles this part of Balerno, delineating a distinct settlement, bounded by water courses on three sides; John's Burn, the Water of Leith and Bavelaw Burn.

31. The appeal site is separated from the edge of the settlement by extensive mature tree cover and shelterbelts to the east, including the rural properties and gardens of Johnsburn House, West Lodge and Larch Grove. The proposal site therefore does not abut the urban settlement boundary. Development in this location would mean that the proposal site would be encircled by the green belt designation. The site would become a separate element of urban development surrounded by a rural context. It would not have immediate adjacency with the urban fabric of Balerno.

32. I accept that Glenbrook Road and Glen Burn could create elements of an alternative green belt boundary if the site were developed. However, the fact that an alternative green belt boundary may be provided would not, in itself, provide a justification for the development of the site.

33. The South East Scotland Strategic Development Plan, in policy 12, sets out the purpose of the green belt. The green belt objectives of particular relevance to this proposal relate to preventing coalescence, and maintaining the identity, character and landscape setting of settlements.

34. With regard to local development plan policy Env 10 (development in the green belt and countryside), I find that the proposal would not satisfy the relevant policy tests. This is because the proposal is not any of the limited range of uses and developments which are permitted under the policy.

35. The proposal could be judged to promote access to the surrounding countryside. However, as discussed above, I find that the proposal does not conserve or enhance the landscape setting and special character of the area. The green belt boundary would not be strengthened. Therefore, the proposal would be contrary to local development plan policy Des 9 (urban edge development).

36. Based on my conclusions above, I consider that the impact of losing this area of green belt on the rural character, landscape setting and identity of the western fringe of Balerno would be in direct conflict with the objectives of the green belt. Therefore policy 12 of South East Scotland Strategic Development plan is undermined.

37. The site is also within the Pentlands Special Landscape Area as identified in the local development plan and described in the appellant's landscape and visual assessment. I do not consider that the impacts of the housing proposal to be of significance with regard to the qualities of the large special landscape designation when it is considered as a whole. This is primarily due to the relatively small size and partially enclosed nature of the appeal site. It is also due to the lack of clear views and relationships southwards from the site towards the Pentlands. I also agree with the appellant's landscape assessment that inter-visibility would be limited. I conclude that the overall level of change on this large special landscape area should not be considered significant despite the proposal negatively affecting the localised landscape setting of the settlement of Balerno as discussed above.

38. I also agree with the appellant's visual assessment conclusions that the impacts on the Water of Leith Special Landscape Area would be limited due to low levels of inter-visibility. Seeing glimpses of houses from within the designation would not be out of character for the special landscape area.

39. I therefore find that the proposals would comply with local development plan policy Env 11, special landscape areas, and South East Scotland Strategic Development Plan policy 1B (the first principle), as the character and qualities of the local landscape designations would not be adversely affected to a significant degree.

40. A number of those making objections also indicate that the site is part of a historic landscape and should be protected under local development plan policy Env 7. However, the site is not within a designated Garden and Design Landscape (as set out on the local development plan proposals map). Therefore, I find that policy Env 7 is not relevant.

### *Supply of housing land*

41. Policy 5 of the South East Scotland Strategic Development Plan establishes a housing requirement of 107,545 houses for 2009 to 2024. Supplementary guidance on housing land shares this across six local authority areas. The Edinburgh area was to provide 22,300 houses from 2009-2019 and then 7,210 houses from 2019 to 2024.

42. Policy 6 requires each council to maintain a five year effective supply of land for housing. This is to be derived from supplementary guidance housing requirements for each of the local development plan areas. In order to maintain a five year supply housing may be permitted on green field sites under policy 7. Edinburgh Local Development Plan, through policy Hou 1, essentially repeats that approach where there is a lack of a five year housing land supply. I note that the supplementary guidance nor the local development plan is more than five years old.

43. There is an acceptance in previous decisions, as presented in evidence for this case, that the council, under the 2016 local development plan, had not identified an effective housing land supply in the past. There is also a general acceptance that there is not a single specific methodology to estimate housing land supply. However, a housing land audit should be able to demonstrate the sufficiency of effective land for a continuous five year supply. Guidance is provided on that matter in Planning Advice Note 2/2010.

44. Further written submissions were requested in this case on the matter of housing land. In response, the council presented the recently completed 2018 housing land audit. As far as the council is concerned, the audit shows more than sufficient effective land to meet the housing land requirement for the entire plan period of up to 2026. A five year effective land supply is also said to be demonstrated for 2018 to 2023. On that basis, compliance with policy 6 (housing land flexibility) of the South East Scotland Strategic Development Plan would be achieved. The council has also said that the contents of the 2018 audit were agreed as reasonable by Homes for Scotland.

45. The appellant is of the view that the approved South East Scotland target of 22,300 homes to 2019 will not be achieved. I agree with that position as a deficit of nearly 3,000 units is shown in year one of the council figures from 2018/19 to 2022/23. I find this figure is attributable to the historic 'rolled-up' under supply in relation to the housing requirement from earlier years. I also acknowledge the minor errors in calculations which have been pointed out by the appellant.

46. I find that the appellant does not however contest that a five year effective land supply is now identified in the 2018 Audit. The appellant does however have significant doubts over the deliverability of a number of those sites in the 2018 housing land audit. The appellant also favours the housing requirements presented by reporters after the examination of the second South East Scotland Strategic Development Plan as the most up-to-date position. The position of Homes for Scotland (of 7 December) was also submitted as evidence on 14

December. However, the appellant did not confirm whether he is in agreement with the analysis of Homes for Scotland. I should nevertheless consider it as a material consideration.

47. In relation to housing land, I find that the appellant does not disagree that a five year housing land supply has been demonstrated by the 2018 housing land audit. Local development plan policy Hou 1, which allows for the consideration of green field and green belt sites if a deficit in five year housing supply is identified, would not therefore be engaged.

48. Finally, the site is not within a Strategic Development Area for Edinburgh as set out in the development plan. However, the supplementary guidance to the South East Scotland Strategic Development Plan makes it clear that there is a need to develop outside the Strategic Development Areas in order that housing requirements are met.

#### *Development plan conclusions*

49. My key findings in relation to the development plan are that: the proposals would not affect the setting of listed buildings; the scale of the proposals would not negatively impact transport infrastructure; a five year housing land supply is presented in the 2018 land audit; and, that the development of this green belt site would undermine the rural character and landscape setting of the settlement.

50. My assessment is that the proposal would be in direct conflict with the objectives of the green belt. As a consequence, policy 12 of the South East Scotland Strategic Development plan is undermined. In addition, the proposal would conflict with allowances within local development plan policy Hou 1 for when a shortage in housing land supply is identified. The proposal would also not be compliant with local development plan green belt policy Env 10.

51. I do not find evidence of clear conflicts with development plan policy on the other matters raised in this case. Such matters include sustainability, health and amenity, open space, design quality, green networks, flood risk, affordable housing, and financial contributions for infrastructure provision and education capacity. I note that specific matters would require planning conditions and financial contributions negotiated and agreed through a planning obligation e.g. for any agreed education capacity provision. I note that some of these issues are a significant concern for those making representations and recognise that local infrastructure is considered by local residents to be under pressure. Finally, I am of the view that the amenity of nearby residents on Glenbrook Road could be secured by planning conditions and the requirement to present a finalised layout, house design and landscaping scheme.

#### Material Considerations

52. In further written submissions, the appellant has cast doubt over the deliverability of a number of housing site contained in the 2018 housing land audit. Furthermore, the appellant suggests that I should use housing supply targets set out by reporters after the examination of the proposed second South East Scotland Strategic Development Plan. These figures are reproduced by the appellant, and if used, I agree would demonstrate a housing land shortage in the period 2018 to 23 and increasing thereafter.

53. This is matter which is not disputed by the council. However, the council's view is that it is not appropriate to second guess the Scottish Ministers' consideration of the examination report (and subsequent submissions made on it e.g. concerning the split between affordable and market housing targets). I am aware that Scottish Ministers' have not published their conclusions on the reporters' examination report. It cannot be assumed that any recommendations in that report will be adopted.

54. The appellant has also submitted the position statement from Homes for Scotland of 7 December. That statement shows an analysis of the 2018 Housing Land Audit. The conclusion of which is that the council has a shortfall in its 5-year effective housing land supply of nearly 10% when assessed against the housing figures contained in the 2016 local development plan. In its response, the council points to Homes for Scotland using different calculations upon which to base its conclusions. The council does not agree with that basis.

55. The appellant also points me towards modified policy criteria contained within the proposed South East Scotland Strategic Development Plan which would deal with when a shortfall in the five year effective housing land supply is identified.

56. I also note that the National Planning Framework not only provides an emphasis on the supply of new housing as a priority but recognises that the supply of housing land in South East Scotland as a priority.

57. My conclusion on these important material considerations relating to housing land supply is as follows. Had I not found the proposal to undermine the objectives of the green belt and the rural character and setting of Balerno, I would have required further procedure to investigate the housing land position still further.

58. I understand the context to appellant's case; including the regional housing land position and that Edinburgh may need additional housing land in the next local development plan. Edinburgh would have a shortfall in its effective housing land supply from the point of approval of the South East Scotland Strategic Development Plan 2 if it were to be approved as recommended after examination. Furthermore, I have no reason to doubt the effectiveness or deliverability of this appeal site.

59. Scottish Planning Policy advises that where a shortfall in the 5-year effective housing land supply emerges, development plan policies for the supply of housing land will not be considered up-to-date. If I had found a clear shortfall and policies were out-of-date, the Scottish Planning Policy presumption in favour of sustainable development would be a significant material consideration. It involves the consideration of a proposal in light of a group of principles. These are aimed at achieving the right development in the right place; it is not however to allow development at any cost.

60. Given the adverse impacts on the rural character and landscape setting of the settlement, I find that the proposal would not be "*the right development in the right place*" and that the cost of undermining the green belt objectives in this particular location would outweigh the positive contributions of a relatively small scale housing development. I recognise that green belts are also a priority for Scottish Planning Policy as set out in paragraph 49.

61. I also note that the proposed wording for the objectives of the green belt are not significantly altered within the proposed second South East Scotland Strategic Development Plan. Therefore there would be no change to the outcome of my assessment in relation to impacts on the objectives of the green belt. It is an assessment which is, in part, reflected in the Edinburgh Local Development Plan Environmental Report Second Revision 2014 which discounted the site.

62. Finally, the site is not identified as prime agricultural land. Although a number of those making representations have indicated so. The site has been categorised as class 3.2 of the Macaulay Land Use Research Institute agricultural classification. Scottish Planning Policy paragraph 80, regarding prime agricultural land, would therefore not apply.

### Conclusion

63. I therefore conclude, for the reasons set out above, that the proposed development does not accord with development plan provisions for the protection of the green belt. I find that green belt objectives would be undermined in this particular location. I also find that there are no material considerations which are of such importance that they would still justify granting planning permission. I have considered all the other matters raised and the submissions made, but there are none which would lead me to alter my conclusions.

*Keith Bray*  
Reporter