



PRE-APPLICATION CONSULTATION REPORT REGARDING FOR MIXED USE DEVELOPMENT COMPRISING CLASS 4 (BUSINESS), CLASS 5 (GENERAL INDUSTRIAL), CLASS 6 (STORAGE OR DISTRIBUTION) WITH ASSOCIATED CLASS 3 /SUI GENERIS DRIVE THROUGH AT LAND AT SHERIFFHALL SOUTH, GILMERTON ROAD, DALKEITH (21/00416/PAC)

Report by Chief Officer Place

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of the submission of a Proposal of Application Notice (PAN) and corresponding pre-application consultation for a mixed use development comprising Class 4 (Business), Class 5 (General Industrial), Class 6 (Storage or Distribution) with associated Class 3 (Food and Drink)/Sui Generis drive through at land at Sheriffhall South, Dalkeith (21/00416/PAC).
- 1.2 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

2 BACKGROUND

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 The pre-application consultation for mixed use development (21/00344/PAC) was submitted on 19 May 2021.
- 2.3 As part of the pre-application consultation process, a public event would have been arranged in 'normal' times, however, this is no longer an option as a consequence of the ongoing Covid-19 public health emergency. Legislative requirements for pre-application consultations have been amended for a temporary period under the Town and

Country Planning (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020. The changes remove the requirement for a public event, but as an alternative require prospective developers to advertise where relevant consultation material can be viewed online. The legislation does not prescribe the method of consultation but the guidance does set out the Scottish Government's expectations - which includes giving interested parties the opportunity to make comment. On the conclusion of the online event the applicant could submit a planning application for the proposal.

- 2.4 In terms of submission timescales, the applicant could submit a planning application for the proposal from 12 August 2021 if they have undertaken appropriate pre application consultation.
- 2.5 Copies of the Proposal of Application Notice have been sent by the prospective applicant to the Leader of the Council, Deputy Leader of the Council, local elected members for Dalkeith, Dalkeith & District Community Council, Eskbank & Newbattle Community Council, Bonnyrigg & Lasswade Community Council, the local Member of Parliament (MP), and the local Member of Scottish Parliament (MSP).
- 2.6 There are to be two virtual public events - the first nominated for 22 June 2021 and the second for 2-4 weeks later, around mid-July 2021. It is reasonable for an Elected Member to attend such a virtual public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

3 PLANNING CONSIDERATIONS

- 3.1 In assessing any subsequent planning application, the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP).
- 3.3 The 8.5 hectare site is located on land to the south of Sheriffhall Roundabout and east of the A7 to the northwest of Dalkeith. The site forms part of Site e32 allocated for business (Class 4) employment use under Policy STRAT1 of the Midlothian Local Development Plan 2017 (MLDP). This employment allocation also retains its green belt status until the entire e32 site is developed. Part of the site (the north-eastern corner) is also allocated within the green belt and for prime agricultural Land.
- 3.4 The site currently comprises agricultural fields and extensive woodland planting around the south-eastern and eastern site boundaries. A high

voltage electricity pylon and overhead cables also bisect the site. Existing vehicular access is via a field access off Gilmerton Road. The site is bounded to the south by Gilmerton Road and to the east by Melville Gate Road. An agricultural field is located to the north, with Sheriffhall Roundabout beyond. To the east lies an office building with another agricultural field, a public house/restaurant and (Dobbies) garden centre located to the west. As outlined above, the site is subject to the following allocations within the MLDP:

1. Policy STRAT 1 - Committed Development (Site e32 - Sheriffhall South): Forming part of the established economic land supply solely for 'Business' (Class 4) use within Appendix 1B); and
2. Policy ENV 1 - Protection of the Green Belt - This includes Site e32 and land outwith Site e32 within the site's north-eastern corner.

- 3.5 Site Specific issues for Site e32 require solely business (Class 4) uses, given the site's 'high profile and sensitive location'. A pub-restaurant has been provided on part of the wider Site e32 allocation with the intention of providing an 'impetus to attract acceptable business uses within the remainder of the site'. These business uses have not yet materialised since the pub-restaurant's development. Moreover, and crucially, the site specific requirements note that 'loss of further land to other ancillary uses will be discouraged'. The applicant is currently assessing the possibility of delivering some start up units speculatively in modern modular units which will enable a wide range of businesses to use the site as the units can be adapted to meet evolving business need – to enable this approach Class 5 and 6 uses are proposed in addition to the allocated Class 4 uses. An onsite café/drive through will also support the development of the business park.
- 3.6 Provision of non-business (Class 4) uses within this part of the site would unlikely be supported, particularly any storage and distribution (Class 6) uses given that they include substantially lower employment densities and job creation figures, unless there are material considerations which support taking a more open approach to the commercial uses on the business park. In addition, such outcomes would result in the loss of business (Class 4) employment land which forms part of the Council's established economic land supply for such uses. Loss of such employment areas to non-class 4 business uses is not justified within the Council's latest Employment Land Audit nor would it comply with Policy STRAT1 and Policy ECON1 which seek to protect such areas from competing non-business (Class 4) uses in this instance.
- 3.7 Land within Site e32 is allocated within the Green Belt under Policy ENV1. This allocation is retained within the MLDP to avoid pressure from alternative land uses until employment uses within the entire e32 site are delivered. As such, any non-business (Class 4) uses proposed within the site would not accord with the green belt objectives which does not permit uses that are not related to agriculture, horticulture and outdoor recreation nor any related uses that do not complement the rural character of the green belt.

- 3.8 Irrespective of the green belt priorities for Site e32, the green belt allocation within the remainder of the site forms an important function and retains the continuity of the green belt in this location and is not proposed to be removed. As such, any future development on this land would fail to comply with respective green belt priorities and would be contrary to the development plan objectives for this part of the site.
- 3.9 Consideration of potential impacts to established trees within the site will also be critical to any future decision-making in line with Policy ENV11. It is noted that a series of large tree groupings are located within and around the perimeter of the site. Any future design will be required to take cognisance of these existing features and complement their retention in order to minimise any potential tree loss.
- 3.10 Any future application would be required to be accompanied by a coal mining risk assessment given that the site is located within an area of 'High Risk'. In addition, a drainage strategy and concise flood risk assessment will also be required to accompany any future application to mitigate any potential flood risk within the site and the immediate area. A preliminary ecological appraisal would also be required to consider the existing habitats for protected species and a transport assessment considering potential traffic impacts associated with the proposed development on the local road network will also be required.
- 3.11 In addition to the above principle of development, consideration will also have to be given to design matters such as layout, siting, design, appearance, materials, landscaping and parking in order to accord with the policies in the Sustainable Place-making section of the MLDP.
- 3.12 If an application is submitted there is a presumption in favour of business (Class 4) development but not for the remaining general industrial (Class 5), storage or distribution (Class 6) employment use nor any drive through component - which are all contrary to the MLDP. However, any assessment of a planning application would evaluate any material considerations in support of the application, in particular economic and employment arguments, which may outweigh the restrictive policy position and support the Council's economic aspirations in response to the COVID-19 pandemic. If any non-employment (i.e. drive through) component is retained, and suitable justification is accepted, restrictions on its delivery would be required to limit its operation until employment uses are constructed/operational to maintain its function as a use associated to any future employment uses.
- 3.13 Any potential support would be also subject to technical and design requirements, conditions and securing developer contributions towards infrastructure including strategic transport infrastructure.

4 PROCEDURES

- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a

‘without prejudice’ view and to identify material considerations with regard to a major application.

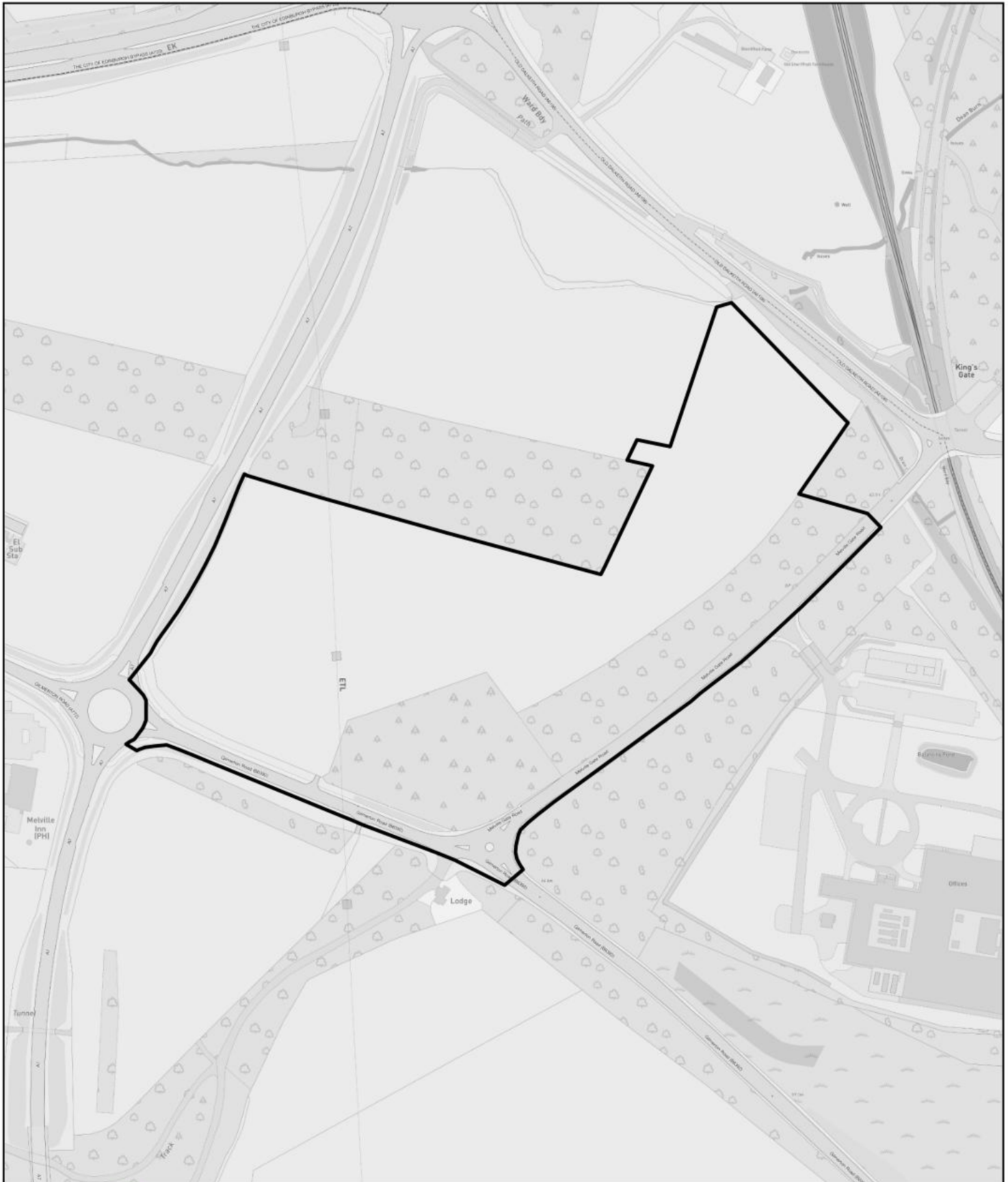
- 4.2 The Committee is invited to express a ‘without prejudice’ view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.
- 4.3 The Scottish Government’s Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

5 RECOMMENDATION

- 5.1 It is recommended that the Committee notes:
- a) the provisional planning position set out in this report;
 - b) that any comments made by Members will form part of the minute of the Committee meeting; and
 - c) that the expression of a provisional view does not fetter the Committee in its consideration of any subsequent formal planning application.

Peter Arnsdorf
Planning Manager

Date:	4 June 2021
Application No.	21/00344/PAC
Applicant:	Online Mayfield Scotland LLP
Validation Date:	26 April 2021
Contact Person:	Steve Iannarelli



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Mixed use of Class 4, 5 and 6 Employment Uses with
associated Class 3 (Food & Drink) / Sui Generis Drive Thru |
Land At Sheriffhall South Gilmerton Road Dalkeith

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