



**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE
23/00694/PPP FOR RESIDENTIAL DEVELOPMENT AND ASSOCIATED
WORKS AT SCOTTS TOURING CARAVANS, LAND NORTH OF
MAYFIELD INDUSTRIAL ESTATE, MAYFIELD, DALKEITH**

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

1.1 The application is for planning permission in principle for a residential development and associated enabling works. The application site is the site of a former caravan sales, servicing and storage business situated on land to the north of Mayfield Industrial Estate, Mayfield Road (B6482), Mayfield, Dalkeith.

1.2 There has been one representation and consultation responses from the Coal Authority, Scottish Water, Scotia Gas Networks, SP Energy Networks, the Mayfield and Easthouses Community Council, the Council's Ecological Advisor (TWIC), the Council's Education Executive Business Manager, the Council's Land and Countryside Manager, the Council's Senior Manager Neighbourhood Services (Roads), the Council's Senior Manager Protective Services and the Midlothian Health and Social Care Partnership.

1.3 The relevant development plan policies are policies 1, 2, 3, 4, 5, 6, 9, 12, 13, 14, 15, 16, 18, 20, 21, 22, 23 and 26 of the National Planning Framework 4 (NPF4) and policies STRAT1, STRAT2, DEV2, DEV3, DEV5, DEV6, DEV7, DEV9, ECON1, TRAN1, TRAN5, IT1, ENV9, ENV10, ENV11, ENV15, ENV16, ENV17, ENV18, WAST5, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017 (MLDP).

1.4 The recommendation is to refuse planning permission.

2 LOCATION AND SITE DESCRIPTION

2.1 The site measures 2.4 hectares and is situated at the western edge of Mayfield. The ground is level and mostly covered with grass scrub. There are scattered trees along the north and east boundaries; two groups of trees at the southern and western corners of the site; and a line of trees in the centre of the site. In total there are 125 trees on the

site. The site previously included two buildings; these have now been demolished. The site was used from the early 1970s by a caravan sales, servicing and storage business; that use ceased in the early 2010s.

- 2.2 The site is bounded to the east by the B6482 with flats and housing on the opposite side of the road from the site. The site is bounded to the north by a petrol filling station and by woodland and a footpath. To the west of the site is the housing at the Suttieslea area of Newtongrange. To the south the site is bounded by the Mayfield Industrial Estate. Vehicle access to the site is from the B6482 via a junction shared with the neighbouring petrol filling station.

3 PROPOSAL

- 3.1 The application seeks planning permission in principle for a residential development. The application is accompanied by an indicative site layout which shows a new vehicle access to the site being formed midway along the B6482 frontage. The indicative layout shows 78 units (12 x 2 bed houses; 28 x 3 bed houses; 8 x 4 bed houses; 6 x 1 bed flats; 21 x 2 bed flats; and 3 x 3 bed flats). The layout requires the felling of the majority of trees on the site with only five mature trees shown as being retained.
- 3.2 The application is accompanied by the following reports:
- Design and Access Statement;
 - Drainage Assessment;
 - Extended Phase 1 Habitat Survey;
 - Landscape and Visual Appraisal;
 - Pre-Application Consultation (PAC) Report;
 - Site Investigation Report;
 - Supporting Planning Statement (submitted 15/02/2024);
 - Transport Statement; and
 - Tree Survey and Arboricultural Report.
- 3.3 The applicant contacted elected members directly, via email, prior to the January meeting of the Planning Committee. The email included responses to the reasons for refusal. The applicant's comments are addressed in section 8 of the report.

4 BACKGROUND

- 4.1 Planning application 141/69 for the formation of a caravan sales and service centre and for the principle of the erection of a workshop and office was approved in 1969. There were subsequent grants of planning permission in 1969, 1970 and 1973 that established the longstanding layout of the site.
- 4.2 Planning application 08/00447/FUL for a change of use of vacant land to allow the temporary siting of eighteen static caravans, formation of

access road and car parking, erection of fence and gates was granted in 2008. The permission was a temporary one for a period of two years and related to the land in the southeast corner of the application site.

- 4.3 Pre application consultation (21/00344/PAC) for residential development at the application site was submitted in April 2021. The notice was reported to Committee at its meeting of June 2021.
- 4.4 Planning application 22/00597/PPP for planning permission in principle for residential development and associated works was registered on 24 October 2022. The supporting information and indicative layouts were the same as the current proposal. The application was included on the agenda for the Planning Committee's meeting on 12 September 2023 with a recommendation for refusal, but the application was withdrawn on 11 September 2023.
- 4.5 A report for the current application was included on the agenda for the January 2024 meeting of the Planning Committee, however prior to the committee meeting an error in the plotting of the application on the case management system was identified. The error had resulted in insufficient neighbour notification being carried out. The report was withdrawn prior to the meeting and consideration of the application was deferred for a cycle. The additional neighbour notification was sent out on 24 January 2024.
- 4.6 As part of the assessment of the previous application the Council as planning authority issued a screening opinion for the current proposals on 4 November 2022. The screening opinion confirmed that an Environmental Impact Assessment (EIA) was not required.
- 4.7 The application site area exceeds 2 hectares, the application therefore constitutes a 'Major Development' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and thereby it requires to be determined by the Planning Committee

5 CONSULTATIONS

- 5.1 The **Coal Authority** does not object to the application subject to any grant of planning permission including conditions to secure remedial stabilisation works to address land instability arising from coal mining legacy; and a validation report detailing the remedial works carried out. The response confirms that there are two recorded mine entries and their resultant zones of influence within, or within close proximity, of the site.
- 5.2 The application falls below the consultation thresholds set out in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended) and NatureScot's Guidance – How and when to consult NatureScot and therefore **NatureScot** was not consulted.

- 5.3 The application falls below the consultation thresholds set out in the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 (as amended) and SEPA's triage framework guidance and therefore **Scottish Environment Protection Agency (SEPA)** was not consulted.
- 5.4 **Scottish Water** does not object to the application. The water supply will be fed from Rosebery Water Treatment Works. The foul water drainage will be dealt with by the Edinburgh PFI Waste Water Treatment Works. Both have sufficient capacity at present; however, it is not possible to reserve capacity for future developments – this will be subject to a separate regulatory process between the applicant and Scottish Water.
- 5.5 For reasons of sustainability and to protect Scottish Water customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into the combined sewer system. There may be limited exceptional circumstances where Scottish Water allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical and technical challenges.
- 5.6 In order to avoid costs and delays where a surface water discharge to the combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. The evidence will be assessed in a robust manner and any decision will reflect the best option from environmental and customer perspectives.
- 5.7 **Scotia Gas Networks (SGN)** does not object to the application. The plan provided with the response shows that there is no SGN infrastructure within the application site.
- 5.8 **SP Energy Networks** does not object to the application. The plan provided with the response shows that there is a high voltage overhead line and a low voltage underground cable within the site.
- 5.9 The **Mayfield and Easthouses Community Council** is broadly in favour of the proposal and welcomes the redevelopment of this brownfield site. The community council has provided comments on the following matters:
- Site capacity – the indicative number of units is acceptable, but increasing the density would be unacceptable;
 - Affordable/Social housing – the proposed 25% provision of affordable housing is welcomed. Affordable housing should be distributed across the site and not concentrated close to the

industrial estate. Allocation of the affordable housing should give priority to local residents;

- Amenities – redevelopment of the site should include provision of a dedicated children’s play area. Provision should be made for the inclusion of works of public art;
- Greenspace/Countryside – the development should be as permeable as possible in order to increase access to surrounding woodland and paths;
- Wildlife and habitat – the site in its current state is known to be used by local wildlife. Development of the site should seek to maintain some wildlife habitat, particularly at the boundaries with the industrial estate and the neighbouring Suttieslea residential estate;
- Road access and traffic flow – the B6482 has high levels of traffic flow to and from Mayfield and the development will add to this. Any assessment of trip generation should take account of proposals to build a new distributor road for South Mayfield, which would require a new road junction next to Newbattle Medical Practice. Provision of a new pedestrian crossing on the B6482, to serve new residents and surgery patients crossing to the bus stop, should be considered;
- Proximity to petrol station – a buffer between housing and the petrol filling station should be provided for the purposes of safety and residential amenity;
- Economic land use – part of the site is an allocated economic land supply site. Given that part of the site’s relationship to the remainder of the site and the amount of vacant land elsewhere on the industrial estate, its retention for economic use would be impractical;
- Mayfield Industrial Estate – the existing businesses located on the estate are vitally important to the economy of the local community. Any development of the application site should ensure that the interests of existing businesses are safeguarded and that their viability will not be compromised by new residential neighbours;
- Local services (GP services) – the biggest concern amongst local people regarding service provision is access to GP services. It would be reassuring to local residents if assurances could be obtained by the developer from Newbattle Medical Practice that the additional housing will not adversely affect existing service levels;
- Local services (Council services) – local residents are concerned that the additional housing will create additional demand for Council services and that any additional Council Tax revenue provided by the development will be insufficient to cover the increased demand. Assurances from Midlothian Council would help to alleviate concerns;
- Education – whilst it is acknowledged that the developer will be making significant developer contributions towards education provision, local residents are concerned about the possibility of up to 30 more primary school pupils and 15 plus secondary school

pupils being added to school rolls. Reassurances from the Council that these additional pupils can be accommodated within the planned expansion of education provision in the Mayfield area, would be welcomed;

- Community identity and integration – The development will be a standalone estate similar to others along the B6482. The design of the development should promote a single identity that integrates private and social housing;
- Site layout and house styles (Design) – one of the main complaints from local residents is that new housing developments are bland with layouts designed to maximise density and using standard house designs. The project should seek to vary house styles and design features to ensure visual variety. Front and back garden sizes should not be compromised. Three storey apartment blocks should be set back from the main road with adequate screening. A buffer between the site and the Suttieslea housing should be provided to reduce overlooking and overshadowing;
- Site layout and house styles (Housing mix) – provision should be made within the development for housing for the elderly. The indicative layout places the social housing in an unattractive location that will not aid social inclusion;
- Mayfield town centre – developer contributions towards improvements within Mayfield town centre should be secured; and
- Drainage – any assessment of drainage and flood risk should take account of the fact that there are existing problems with surface water drainage on the B6482.

5.10 The **Council's Ecological Advisor – The Wildlife Information Centre (TWIC)** has advised that the Extended Phase 1 Habitat Survey submitted in support of the application is out of date. The survey was prepared in September 2021 following an onsite survey carried out in May 2021. Guidance from the relevant professional body (Chartered Institute of Ecology and Environmental Management) advises that surveys should be updated after a period of 18 months has elapsed from the date of preparation.

5.11 The **Council's Education Executive Business Manager** does not object to the application. The development would give rise to 22 primary school pupils and 16 secondary school pupils. Developer contributions towards education facilities would be required to mitigate the demand from the proposed development. The catchment schools are:

Non-denominational primary – Easthouses Primary School

Denominational primary – St Andrew's/St Luke's RC Primary School

Non-denominational secondary – Newbattle High School

Denominational secondary – St David's RC High School

5.12 The Council utilises a primary school pupil product ratio of 0.28 per dwelling and a secondary school pupil product ratio of 0.2 per dwelling

when calculating anticipated primary and secondary school pupil numbers from developments and also for the purposes of negotiating developer contributions with applicants.

- 5.13 The Council's **Land and Countryside Manager** does not object to the application. The response confirms that the existing upgraded footway on the B6482 provides sufficient access to the core path, situated immediately to the north of the application site, and therefore a direct link is not required.
- 5.14 The **Council's Senior Manager Neighbourhood Services (Roads)** offered no comments on the current proposal. The response for the previous application confirmed that the Manager did not object to the application subject to the imposition of conditions to secure details of:
- Visibility splays;
 - Cycle parking;
 - EV charging;
 - Larger bus shelters;
 - Reinstatement of redundant vehicle access points; and
 - Surface water drainage including outfall connection.
- 5.15 The **Council's Senior Manager Protective Services** does not objection to the application in relation to the Service's **Environmental Health** remit. The site's proximity to the adjacent industrial estate and petrol filling station raises concerns in relation to noise, and the history of mining in the surrounding area raises concerns in relation to potential ground contamination/instability. Any grant of planning permission should include conditions to secure a scheme of site investigation and, if required, remediation to address potential contaminated land issues. A noise impact assessment should be secured to assess the impact of noise on the amenity of houses.
- 5.16 The Council's **Senior Manager Protective Services** does not objection to the application in relation to the Service's Trading Standards (**Petroleum Officer**) remit.
- 5.17 The **Midlothian Health and Social Care Partnership** does not object to the application and advise there is capacity and scope to absorb the population increase from the proposed housing into the Newbattle practice list. The response also advises that

there are concerns about the longer-term suitability of the existing practice to absorb the increased list size and need for more face-to-face consultations. This, coupled with supporting the implementation of the GP contract and providing additional services for patients in practices, means space is a premium and is becoming increasingly challenging to manage.

The HSCP is therefore keen that the council give consideration to capital investment into Newbattle GP premises as part of the planning application as an extension of the current Newbattle building -to help practices to suitably accommodate and support the population growth in the area. Newtongrange site has limited opportunities for expansion, and the practice already experience considerable issues with regards parking and patient access, particularly in term time, based on current population in the area.

- 5.18 The consultation responses are available to view in full on the online planning application case file.

6 REPRESENTATIONS

- 6.1 The application has received one objection - the grounds for objection are as follows:

“I strongly object to this development at my back garden as being overlooked by a two story house it will be depriving me off natural light but more importantly privacy when using my garden.”

7 PLANNING POLICY

- 7.1 The development plan is comprised of National Planning Framework 4 (2023) and the Midlothian Local Development Plan 2017.

- 7.2 The following policies are relevant to the proposal:

National Planning Framework 4 (NPF4)

- 7.3 **Policy 1 Tackling the climate and nature crisis**; sets out to encourage, promote and facilitate development that addresses the global climate emergency and nature crisis.
- 7.4 **Policy 2 Climate mitigation and adaptation**; sets out to encourage, promote and facilitate development that minimises emissions and adapts to the current and future impacts of climate change.
- 7.5 **Policy 3 Biodiversity**; sets out to protect biodiversity, reverse biodiversity loss, deliver positive effects from development and strengthen nature networks.
- 7.6 **Policy 4 Natural Places**; sets out to protect, restore and enhance natural assets making best use of nature-based solutions.
- 7.7 **Policy 5 Soils**; sets out to protect carbon-rich soils, restore peatlands and minimise disturbance to soils from development. The policy also sets out acceptable scenarios for development on prime agricultural land.

- 7.8 Policy **6 Forestry, woodland and trees**; sets out to protect and expand forests, woodland and trees.
- 7.9 Policy **9 Brownfield, vacant and derelict land and empty buildings**; sets out to encourage, promote and facilitate the reuse of brownfield, vacant and derelict land and empty buildings, and to help reduce the need for greenfield development.
- 7.10 Policy **12 Zero Waste**; sets out to encourage, promote and facilitate development that is consistent with the waste hierarchy.
- 7.11 Policy **13 Sustainable Transport**; sets out to encourage, promote and facilitate developments that prioritise walking, wheeling, cycling and public transport for everyday travel and reduce the need to travel unsustainably.
- 7.12 Policy **14 Design, quality and place**; sets out to encourage, promote and facilitate well designed development that makes successful places by taking a design-led approach and applying the Place Principle.
- 7.13 Policy **15 Local Living and 20 minute neighbourhoods**; sets out to encourage, promote and facilitate the application of the Place Principle and create connected and compact neighbourhoods where people can meet the majority of their daily needs within a reasonable distance of their home, preferably by walking, wheeling or cycling or using sustainable transport options.
- 7.14 Policy **16 Quality homes**; sets out to encourage, promote and facilitate the delivery of more high quality, affordable and sustainable homes, in the right locations, providing choice across tenures that meet the diverse housing needs of people and communities across Scotland.
- 7.15 Policy **18 Infrastructure first**; sets out to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking.
- 7.16 Policy **20 Blue and green infrastructure**; sets out to protect and enhance blue and green infrastructure and their networks.
- 7.17 Policy **21 Play, recreation and sport**; sets out to encourage, promote and facilitate spaces and opportunities for play, recreation and sport.
- 7.18 Policy **22 Flood risk and water management**; sets out to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding.
- 7.19 Policy **23 Health and Safety**; sets out to protect people and places from environmental harm, mitigate risks arising from safety hazards and encourage, promote and facilitate development that improves health and wellbeing.

- 7.20 Policy **26 Business and industry**; sets out to encourage, promote and facilitate business and industry uses and to enable alternative ways of working such as home working, live-work units and micro-businesses.

Other National Policy

- 7.21 The **Scottish Government's Policy on Architecture for Scotland** sets out a commitment to raising the quality of architecture and design.

Midlothian Local Development Plan 2017 (MLDP)

- 7.22 Policy **STRAT1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, including sites in the established economic land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.
- 7.23 Policy **STRAT2: Windfall Housing Sites** supports housing on non-allocated sites within the built-up area provided: it does not lead to loss or damage of valuable open space; does not conflict with the established land use of the area; has regard to the character of the area in terms of scale, form, design and materials and accords with relevant policies and proposals.
- 7.24 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted within existing and future built-up areas where it is likely to detract materially from the existing character or amenity of the area.
- 7.25 Policy **DEV3: Affordable and Specialist Housing** seeks an affordable housing contribution of 25% from sites allocated in the MLDP. Providing lower levels of affordable housing requirement may be acceptable where this has been fully justified to the Council. This policy supersedes previous local plan provisions for affordable housing; for sites allocated in the Midlothian Local Plan (2003) that do not benefit from planning permission, the Council will require reasoned justification in relation to current housing needs as to why a 25% affordable housing requirement should not apply to the site.
- 7.26 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.27 Policy **DEV6: Layout and Design of New Development** states that good design and a high quality of architecture will be required in the overall layout of development proposals. This also provides guidance on design principles for development, materials, access, and passive energy gain, positioning of buildings, open and private amenity space provision and parking.
- 7.28 Policy **DEV7: Landscaping in New Development** requires development proposals to be accompanied by a comprehensive

scheme of landscaping. The design of the scheme is to be informed by the results of an appropriately detailed landscape assessment.

- 7.29 Policy **DEV9: Open Space Standards** sets out the necessary open space for new developments. This policy requires that the Council assess applications for new development against the open space standards as set out in Appendix 4 of that plan and seeks an appropriate solution where there is an identified deficiency in any of the listed categories (quality, quantity and accessibility). Supplementary Guidance on open space standards is to be brought forward during the lifetime of the plan.
- 7.30 Policy **ECON1: Existing Employment Locations** seeks to safeguard those sites allocated for economic land uses against loss to non-business or industrial uses. Alternative uses for such sites will only be permitted if there is no net detriment to the overall supply of economic land.
- 7.31 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.32 Policy **TRAN5: Electric Vehicle Charging** seeks to support and promote the development of a network of electric vehicle charging stations by requiring provision to be considered as an integral part of any new development or redevelopment proposals.
- 7.33 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals.
- 7.34 Policy **ENV9: Flooding** presumes against development which would be at unacceptable risk of flooding or would increase the risk of flooding elsewhere. It states that Flood Risk Assessments will be required for most forms of development in areas of medium to high risk, but may also be required at other locations depending on the circumstances of the proposed development. Furthermore, it states that sustainable urban drainage systems will be required for most forms of development, so that surface water run-off rates are not greater than in the site's pre-developed condition, and to avoid any deterioration of water quality.
- 7.35 Policy **ENV10: Water Environment** requires that new development pass surface water through a sustainable urban drainage system (SUDS) to mitigate against local flooding and to enhance biodiversity and the environment.
- 7.36 Policy **ENV11: Woodland, Trees and Hedges** states that development will not be permitted where it could lead directly or indirectly to the loss of, or damage to, woodland, groups of trees (including trees covered by a Tree Preservation Order, areas defined as ancient or semi-natural woodland, veteran trees or areas forming part of any designated

landscape) and hedges which have a particular amenity, nature conservation, biodiversity, recreation, landscape, shelter, cultural, or historical value or are of other importance.

- 7.37 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.38 Policy **ENV16: Vacant, Derelict and Contaminated Land** supports the redevelopment of vacant and derelict land for uses compatible with their location. Developments will be required to demonstrate that the site is suitable for the proposed new use in terms of the risk posed by contamination and instability from historic uses.
- 7.39 Policy **ENV17: Air Quality** states that the Council may require further assessments to identify air quality impacts where considered requisite. It will refuse planning permission, or seek effective mitigation, where development proposals cause unacceptable air quality or dust impacts.
- 7.40 Policy **ENV18: Noise** requires that where new noise sensitive uses are proposed in the locality of existing noisy uses, the Council will seek to ensure that the function of established operations is not adversely affected.
- 7.41 Policy **WAST5: Waste Minimisation and Recycling in New Developments** states that development should include provision for waste separation and collection to meet the requirements of the Waste (Scotland) Regulations. Locations for the collection and storage of waste should be conveniently sited for both the householder (or other user) and the Council as waste collection authority.
- 7.42 Policy **IMP1: New Development** ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are education provision, transport infrastructure; contributions towards making good facility deficiencies; affordable housing; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; acceptable alternative access routes, access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural and conservation interests affected; archaeological provision and 'percent for art' provision.
- 7.43 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.

7.44 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

8 PLANNING ISSUES

8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

Principle of development

8.2 As is noted above the development plan comprises National Planning Framework 4 (NPF4) and the Midlothian Local Development Plan 2017 (MLDP). Section 24(3) of the Town and Country Planning (Scotland) Act 1997 states that where there is an incompatibility between the provisions of the National Planning Framework and the provisions of a local development plan whichever of them is the later in date is to prevail. At present NPF4 is the more recent document and therefore it prevails where there is an incompatibility between NPF4 and the MLDP.

8.3 The application site is within the built-up area of Mayfield where there is a presumption in favour of appropriate redevelopment. However, the site is not identified as an allocated housing site in the MLDP and as such the application is being considered as a windfall housing proposal. The relevant policies in relation to windfall housing are policies 16(f) of NPF4 and STRAT2 of the MLDP.

8.4 NPF4 Policy 16(f) states:

Development proposals for new homes on land not allocated for housing in the LDP will only be supported in limited circumstances where:

- i. the proposal is supported by an agreed timescale for build-out; and*
- ii. the proposal is otherwise consistent with the plan spatial strategy and other relevant policies including local living and 20 minute neighbourhoods;*
- iii. and either:*
 - delivery of sites is happening earlier than identified in the deliverable housing land pipeline. This will be determined by reference to two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained; or*
 - the proposal is consistent with policy on rural homes; or*

- *the proposal is for smaller scale* opportunities within an existing settlement boundary; or*
- *the proposal is for the delivery of less than 50 affordable homes as part of a local authority supported affordable housing plan.*

*in the absence of any interpretation of ‘smaller scale opportunities’ Midlothian’s Planning Service is taking the position that smaller residential developments are 10 or less units – this is subject to ongoing review based on appeal decisions across Scotland, but is based on a reasoned judgement regarding the impacts of different scales of development.

8.5 MLDP Policy STRAT2 states:

Within the built-up areas, housing development on non-allocated sites, including the reuse of buildings and redevelopment of brownfield land, will be permitted provided that:

- A. It does not lead to the or damage of valuable public or private open space;*
- B. It does not conflict with the established use of the area;*
- C. It has regard to the character of the area in terms of scale, form, design and materials;*
- D. It meets traffic and parking requirements; and*
- E. It accords with other relevant policies and proposals, including policies IMP1, IMP2, DEV3, DEV5 – DEV10.*

8.6 NPF4 Policy 16(f)’s reference to the deliverable housing land pipeline is a key difference from policy STRAT2 of the MLDP which makes no reference to housing land supply. Policy 16(f) is a more onerous approach to windfall housing than that set out in the MLDP and represents a clear incompatibility between the provisions of NPF4 and the MLDP.

8.7 A recent Scottish Ministers appeal decision at Mossend, West Lothian (PPA-400-2147) makes clear that Policy 16(f) is intended to be engaged from the date of NPF4’s publication and that if the housing land pipeline has yet to be identified then *“the exception permitting development on unallocated sites in the circumstances set out in the first bullet of branch (f)(iii) is not engaged”*. The deliverable housing land pipeline in Midlothian will be identified once Midlothian Local Development Plan No2 (MLDP2) has established Local Housing Land Requirements (LHLR). Until a pipeline has been established there is *“a policy restriction on housing development on unallocated sites”* such as the application site. The appellant in the Mossend decision has appealed the decision (on procedural grounds) to the Court of Session. The hearing for the appeal took place on 24 January 2024, however at present no decision has been issued on the appeal.

- 8.8 Whilst there are three further exceptions permitting development listed in the three latter bullet points of Policy 16(f)(iii), the proposed development does not comply with any of these latter bullet points. The proposed development is contrary to Policy 16(f) of NPF4 and therefore there is currently no support within the development plan for the principle of this development at this location.
- 8.9 In his representation to elected members the applicant has stated that material considerations can sometimes outweigh policy considerations. Whilst this is true, as is made clear in paragraph 8.1 above, in this instance the planning authority does not consider there to be sufficient material considerations to outweigh the non-compliance with NPF4 Policy 16(f). As the fastest growing local authority in Scotland, Midlothian has experienced significant growth over the last ten years and does not have the capacity to provide the services for major scale windfall residential developments.
- 8.10 The applicant has advised that he is in discussion with social housing providers with a view to all the proposed units being developed as social housing. Neither the applicant nor his agent have advised the case officer of this proposal and no details have been provided to the planning authority. One of the latter bullet points in Policy 16(f)(iii) does offer support for development if

The proposal is for the delivery of less than 50 affordable homes as part of a local housing authority supported affordable housing plan

The site is not included in Midlothian Council's Strategic Housing Investment Plan 2024/25-2028/29 and a proposal for 78 units exceeds the 50 unit threshold. The proposal does not comply with the affordable homes exception detailed in the latter bullet points of NPF4 Policy 16(f)(iii).

- 8.11 The application is a windfall application for major scale residential development, the key policies for determining the principle of development are the policies relating to windfall residential development. At present NPF4 is the more recent document and therefore it prevails where there is an incompatibility between NPF4 and the MLDP. The relevant policy in NPF4 is Policy 16(f) and the proposal is clearly contrary to that policy.

The supply of effective housing land

- 8.12 Notwithstanding the fact that the housing land pipeline has yet to be identified, in assessing the current application it would be prudent to consider the supply of effective housing land within Midlothian. Annex E of NPF4 sets out a Minimum All-Tenure Housing Land Requirement (MATHLR) for all of Scotland's planning authorities. The MATHLR is the minimum amount of land that a planning authority must provide for a 10 year period, the MATHLR is expected to be exceeded in each

planning authority's local development plan. The MATHLR figure for Midlothian is 8850 housing units.

8.13 In seeking to reflect the view of Scottish Ministers that MATHLR already forms part of the development plan and is to be taken into account when making planning decisions, the NPF4 Housing Land Figures Method Paper gives some assistance. It indicates that National Records of Scotland (NRS) 2018 based household projections over a 15 period from 2022 to 2036 inclusive (15 years) were used, from which a 10 year requirement was derived. The method paper states that including figures to 2036 allows the flexibility for all new style plans to look ahead 10 years, whenever they are prepared in those first 5 years after NPF4 approval (the method paper appears to assume that NPF4 would be approved in 2021). Although the MLDP2 is expected to become operative in 2026, and address a requirement to 2036, the MATHLR indicates a target that could be used on an annualised basis from 2022 or from NPF4 adoption in 2023. However, Policy 16(f)(iii) requires “two consecutive years of the Housing Land Audit evidencing substantial delivery earlier than pipeline timescales and that general trend being sustained”.

8.14 Midlothian's most up to date 2023 Housing Land Audit (HLA) describes take up and supply to end March 2023. The MATHLR requirements on an annualised basis represent 885 units per annum. Whilst this figure could be used as an interim annual delivery pipeline quantity, the planning authority is of the view that as the Local Housing Land Requirement (LHLR) and Local Development Plan (LDP) delivery programmes are not ready, it will be 2025 at the earliest, that an assessment of delivery over two consecutive years from the commencement of NPF4 could be made. Bearing these considerations in mind, HLA 2023 finds the following:

Effective housing supply at April 2022 – 11,052 units

Programmed completions for the next 10 years from HLA 2023 are set out below. (This agreed programming is arrived at from discussion with housebuilders, although will become less accurate towards the later years of the programme period.)

Year	Programmed Completions
23/24	810
24/25	660
25/26	1058
26/27	756
27/28	760
28/29	727
29/30	711
30/31	662

31/32	614
32/33	591

- 8.15 The completions for the year to March 2023 totalled 908 units, which exceeds the MATHLR annual target by 2.6%. This represents the highest number of completions recorded in Midlothian (in an HLA dataset reaching back to 1992), and the only time completions have exceeded 885 units. In the preceding year (2021-22) there were 818 units completed, which represents a shortfall of 7.6% compared to the MATHLR annual target. The average completion rate over the most recent 2 years is 863 units per year, which represents an average shortfall of 2.5% per year. It is clear that the completions for the last two HLAs do not represent the substantial delivery in excess of pipeline required by Policy 16(f)(iii).
- 8.16 Over the first two years of NPF4 the programmed delivery falls short of the MATHLR by 75 units in 2023/24 and 225 units in 2024/25. These represent shortfalls of respectively 8.5% and 25.4% below the annualised MATHLR. It has also been the planning authority's experience that the programmed delivery in HLAs has tended to exceed the actual delivery. The programmed delivery does not indicate a likelihood of a sustained trend of substantial delivery earlier than pipeline timescales.
- 8.17 Policy 16(f)(iii) requires evidence of completions from the HLA, and it would therefore not be appropriate to use forward HLA programming to assess an application under 16(f)(iii). The appellant in the West Lothian appeal case is seeking judicial review of the decision, however it is clear from the above figures that were a judicial decision to conclude that existing figures can be used to determine a housing land pipeline there is an adequate housing land supply within Midlothian to accommodate the MATHLR figure.

Vacant and derelict land

- 8.18 The Supporting Planning Statement submitted on 15 February 2024 emphasises that the proposal seeks to re-develop a vacant and derelict site. The Statement concludes that the support for redevelopment of brownfield vacant and derelict land provided in NPF4 Policy 9(a) of and in MLDP policy ENV16 is sufficient to outweigh the non-compliance with NPF4 Policy 16(f). Whilst the planning authority would welcome appropriate redevelopment of this vacant and derelict site, it is the planning authority's view that the proposed development is not appropriate for the site and that any policy support for redevelopment is insufficient to outweigh the lack of support for the principle of major scale non-allocated residential development on the site.

Ground stability

- 8.19 The application is supported by a Site Investigation Report which includes information relating to risks from the legacy of coal mining in the area. The report includes the results of intrusive site investigations (six rotary boreholes) that were carried out on the site. Having reviewed the results of the investigations the report authors conclude that there is insufficient rock cover present across the majority of the site. The report recommends that the shallow mine workings below the site be treated by drilling and pressure grouting prior to the commencement of development on the site. The Coal Authority agrees with this assessment. Were the planning authority minded to grant the application suitable remediation, and a gas migration strategy, could be secured via condition.

Biodiversity

- 8.20 The Extended Phase 1 Habitat Survey submitted in support of the application was prepared in September 2021 following an onsite survey carried out in May 2021. Guidance from the relevant professional body (Chartered Institute of Ecology and Environmental Management - CIEEM) advises that surveys should be updated after a period of 18 months has elapsed from the date of preparation. The Survey is out of date.
- 8.21 The Survey identifies the presence of protected species (badgers) in the surrounding area and recommends further survey work. The proposal is for planning permission in principle, meaning that further consents would be required before any construction could commence, and it can sometimes be appropriate to secure further biodiversity survey work via condition. This approach has the benefit of ensuring that up to date surveys are undertaken prior to work commencing. Such an approach would not be appropriate in this instance as the initial baseline survey is out of date and therefore it cannot be relied upon to determine which further surveys should be secured via condition.
- 8.22 The failure to provide an up to date biodiversity survey means that it is not possible to demonstrate that the proposal will conserve, restore and enhance biodiversity. The proposal is therefore contrary to Policy 3 of NPF4. Furthermore, the absence of an up to date biodiversity survey means that it is not possible to demonstrate that a protected species, badgers, will be sufficiently protected. The proposal is therefore contrary to policy ENV15 of the MLDP.
- 8.23 In his representation to elected members the applicant has stated that the *original ecological survey showed no ecological issues, and a new ecological survey would accompany any subsequent application for detailed planning permission*. As is noted above the survey identifies the presence of protected species (badgers) in the surrounding area

and recommends further survey work and irrespective of whether further surveys will be submitted with subsequent applications for Approval of Matters Specified in Conditions, the base line information submitted with the current application is out of date.

- 8.24 The Supporting Planning Statement acknowledges *that the Ecological Appraisal submitted with the application is strictly speaking 'out-of-date'* and concludes that *there is nothing to suggest that circumstances on site have significantly changed in the interim*. Whilst that may be the case, it is equally true that without up-to-date survey work there is nothing to suggest that circumstances have not changed in the 2 years and 10 months that have elapsed since the site was surveyed. The previous survey identified the presence of protected species in the area, and it is in the interests of the applicant to identify whether this is still the case. It is entirely reasonable of the planning authority to expect that an application be supported by up to date surveys and supporting information when there is a known issue on a site.

Trees and hedgerow

- 8.25 The Tree Survey and Arboricultural Report submitted with the application provides an assessment of the location and condition of 125 trees on the site. Whilst many of the trees are of poor 'U' category and low 'C' category, more than half of the surveyed tree population has been assessed as 'A' or 'B' Category (good/ fair quality). The indicative layout proposes the removal of all but five of the existing trees, this equates to the felling of 96% of the existing trees on the site. Whilst the layout proposes 66 new trees it relates poorly to the existing tree and hedgerow cover on the site and the indicative level of felling would not be compatible with Policies 1, 2, 3 and 6 of NPF4 and policies DEV5 and ENV11 of the MLDP.
- 8.26 Most of the site is open and not covered by trees and could potentially accommodate development, however any development of the site should seek to retain trees that are in good or fair quality, and this will restrict the developable space available. The indicative layout requires significant tree felling and re-planting to ensure that proposed tree cover can accommodate the development. This is a fundamental misinterpretation of the intent of NPF4 Policy 6 – Forestry, Woodland and Trees which seeks to protect and expand forests, woodland and trees. Developments should seek to accommodate the existing tree cover rather than removing it and starting afresh. Were the planning authority minded to grant planning permission, conditions could be used to restrict tree felling and hedgerow removal.
- 8.27 In the representation to elected members the applicant stated that the *indicative layout within the application is for planning is (sic) principal (sic), the concerns about loss of trees could be easily addressed by planning conditions attached to any subsequent application for detailed planning permission (sic)*. This point was noted in both the September

2023 and January 2024 committee reports however it does not remove the fact that the indicative layout proposes the removal of all but five of the existing trees. The applicant could have addressed this point when submitting the current application but chose not to.

Design and layout

8.28 The application is for planning permission in principle. This means that the detailed layout, form and design of the development would be subject to further applications (matters specified in conditions) and assessment if the proposal is granted planning permission. In this case conditions would be imposed, if permission is granted, requiring the following details to be submitted by way of an application:

- layout, form and design of any proposed buildings – which will dictate the number of residential units;
- proposed materials to be used in the construction of the dwellinghouses, ground surfaces and ancillary structures – including those to be used in the area of improved quality;
- details of landscaping and boundary treatments;
- provision of open space and play areas/facilities;
- percent for art;
- sustainable urban drainage systems (SUDS);
- details of road, access and transportation infrastructure;
- sustainability and biodiversity details;
- archaeology mitigation details (if required);
- the provision of broadband infrastructure;
- ground conditions/mitigation of coal mining legacy; and
- construction management, including hours of operation and haulage routes.

8.29 It is common for applications for planning permission in principle to be accompanied by indicative layouts that are not usually approved if permission is granted. However, the indicative plan does give an idea of the applicant's development expectations and in reviewing the indicative layout it is evident that the proposed development expectation represents an over-development of the site that provides poor levels of private and communal open space; and relates poorly to the surrounding streetscape. Whilst it must be acknowledged that there are a number of constraints that limit the available land for development within the site, a successful development will need to work with the constraints to provide a development that enhances the character and amenity of the surrounding area.

Residential amenity

8.30 The site's proximity to the industrial estate to the south and the petrol filling station to the north raises potential issues with regard to the residential amenity of potential future occupants of the site. There are

currently residential properties adjoining the industrial estate to the west and there are examples of residential development in close proximity to petrol stations elsewhere in Midlothian and Scotland. Careful layout design and appropriate conditions relating to the specification of residential soundproofing could address issues of residential amenity if the planning authority were minded to grant permission.

- 8.31 As is noted above the site layout submitted with the application is an indicative layout. If planning permission were to be granted the finalised layout would be determined via further applications for Approval of Matters Specified in Conditions. Any such layout would need to demonstrate that it did not result in unacceptable levels of overlooking, for both existing and proposed dwellings, and that the provision of daylight and sunlight to existing and proposed dwellings complies with recognised residential standards.

Loss of economic land supply

- 8.32 The site is identified in the MLDP as being within the built-up area of Mayfield, Easthouses, Newtongrange and Dalkeith. A small portion (approximately 0.2 hectares) of the site is also identified as forming part of the established economic land supply at Mayfield Industrial Estate. The economic land within the site is a fenced compound at the southern edge of the plot, the compound was historically used for the secure storage of caravans. The compound has been part of the application site since the original application in 1969 and the only access to the site is from the main application site, there is no access from the neighbouring industrial yard to the south. Whilst the compound may appear to be linked to the economic land supply when viewed on a map the history of the site and the physical development of the site clearly indicate that it does not function as part of the economic land supply to the south. Were the compound to form part of a residential development there would be no practical loss of economic land.
- 8.33 It is, however, reasonable to consider whether residential development would be the best use of the site. If the site were to come forward for development through the local plan process the planning authority may consider it more appropriate for economic or community uses rather than residential. Its proximity to the industrial estate to the south and the petrol filling station to the north are constraints that could be better addressed via non-residential uses. Furthermore, occupancy levels within Mayfield Industrial Estate indicate that there is a strong demand for small and medium sized roller shutter units in the Mayfield area and the site represents the last remaining option for expansion of the Estate. The site's position and historical use would make it a logical site for expansion of Mayfield Industrial Estate.

Developer contributions

- 8.34 Scottish Government advice on the use of Section 75 Planning Agreements is set out in Circular 03/2012: Planning Obligations and Good Neighbour Agreements. The Circular advises that planning obligations should only be sought where they meet all of the following tests:
- Necessary to make the proposed development acceptable in planning terms (paragraph 15)
 - Serve a planning purpose (paragraph 16) and, where it is possible to identify infrastructure provision requirements in advance, should relate to development plans
 - Relate to the proposed development either as a direct consequence of the development or arising from the cumulative impact of development in the area (paragraphs 17-19)
 - Fairly and reasonably relate in scale and kind to the proposed development (paragraphs 20-23)
 - Be reasonable in all other respects
- 8.35 In relation to Midlothian Council, policies relevant to the use of Planning Obligations are set out in the MLDP and Midlothian Council's Developer Contributions Guidelines (Supplementary Planning Guidance).
- 8.36 This proposed residential development has been assessed in relation to the above guidance and it is considered that a Planning Obligation is required in respect of the following matters:
- A financial contribution towards additional primary education capacity;
 - A financial contribution towards additional secondary education capacity;
 - A financial contribution towards Borders Rail,
 - A financial contribution towards improvements within Mayfield town centre; and
 - Provision of affordable housing (25%).
- 8.37 At the point of drafting the January Committee report the applicants were not prepared to make the required developer contributions to mitigate the impact of development – this is critical, and any shortfall in developer contributions, if planning permission is granted, effectively is subsidised by the Council. Following clarification of contribution levels, the applicant's agent confirmed on 15 February 2024 that the proposed contribution levels are acceptable. The reasons for refusal, in Section 9 below, have now been amended to remove the reason relating to developer contributions.

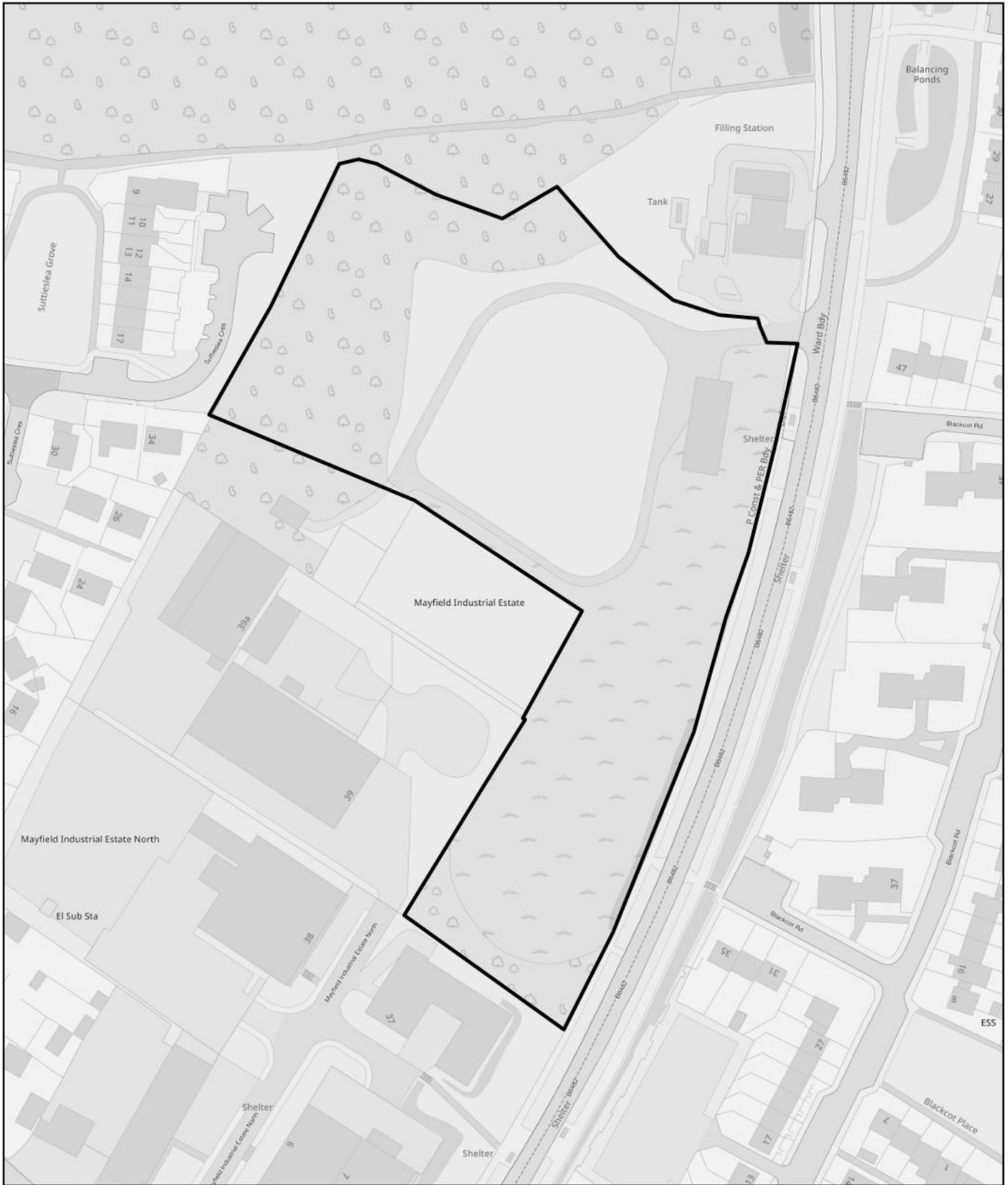
9 RECOMMENDATION

9.1 It is recommended that planning permission be refused for the following reasons:

- 1. The site is not allocated for housing. No housing land pipeline has been identified at present for Midlothian and the Council's Housing Land Audit does not identify a shortfall or future shortfall in housing land supply and as such there is no policy exception that would support windfall housing development of the scale proposed on the unallocated site. The principle of residential development, of the scale anticipated, at this location is contrary to National Planning Framework 4 Policy 16(f).*
- 2. The proposed development, based on the indicative layout and associated reports submitted with the application, will result in the significant and unacceptable loss of trees contrary the Scottish Government and Midlothian Council ambitions with regard climate change, biodiversity enhancement and tree retention. As such the development is contrary to National Planning Framework 4 Policies 1, 2, 3 and 6 and Midlothian Local Development Plan Policies DEV5 and ENV11.*
- 3. The ecological survey submitted in support of the application is out of date. It has not been satisfactorily demonstrated that the proposal will conserve, restore and enhance biodiversity or that the interests of a protected species have been adequately assessed. The proposal is contrary to National Planning Framework 4 Policy 3 and Midlothian Local Development Plan ENV15.*

Peter Arnsdorf
Planning, Sustainable Growth and Investment Manager

Date: 1 March 2024
Application No: 23/00694/PPP
Applicant: Online Mayfield Scotland LLP
Agent: Alan Farningham, Farningham Planning Ltd
Validation Date: 23 October 2023
Contact Person: Graeme King, Planning Officer
Email: graeme.king@midlothian.gov.uk
Background Papers: 21/00344/PAC; 22/00597/PPP
Attached Plans: Location plan and indicative site layout.



**Planning Service
Place Directorate**
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3AA

Application for planning permission in principle for residential development and associated works at Scotts Touring Caravans, Mayfield Industrial Estate, Dalkeith, EH22 4AD

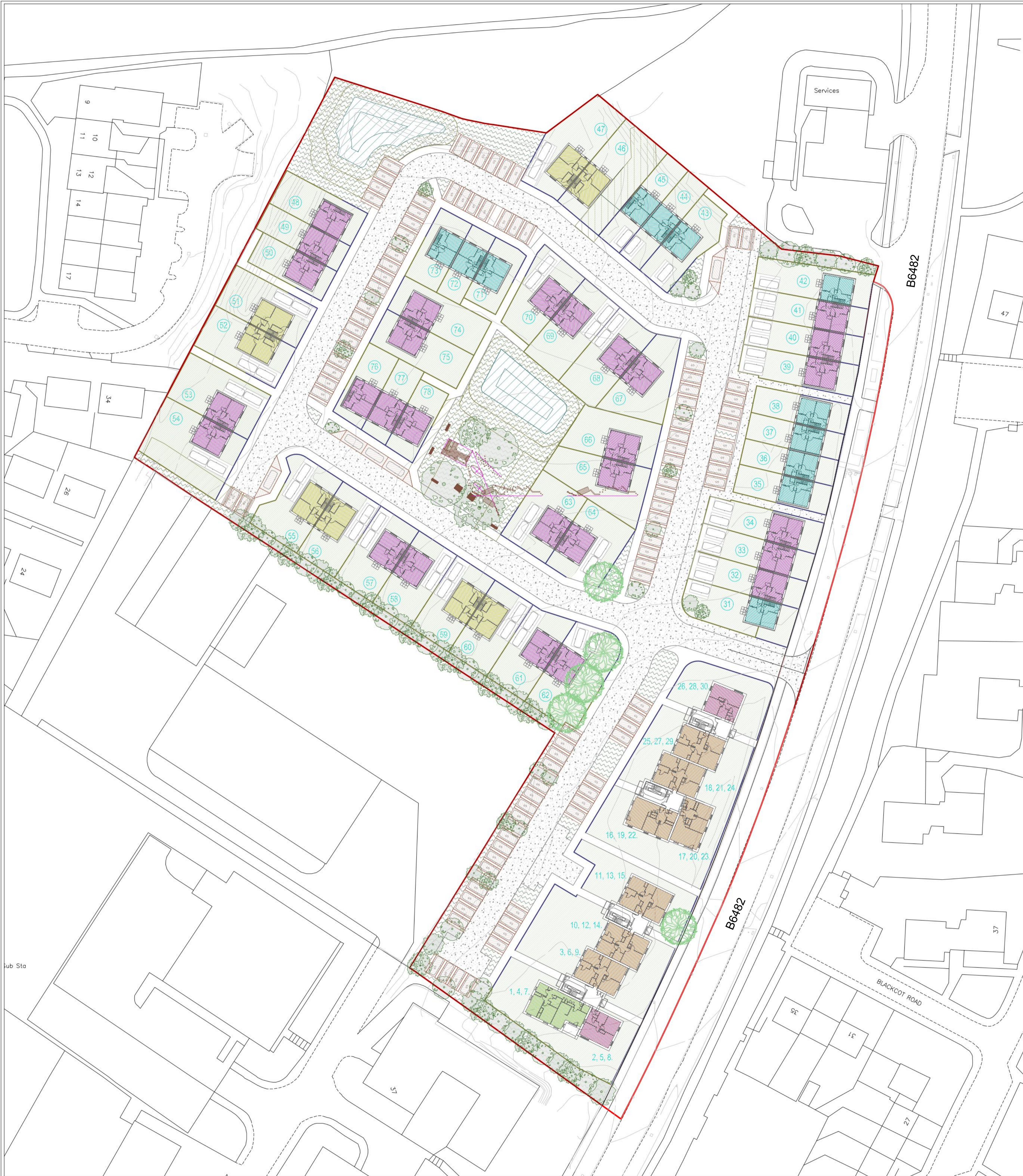
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File No: 23/00694/PPP

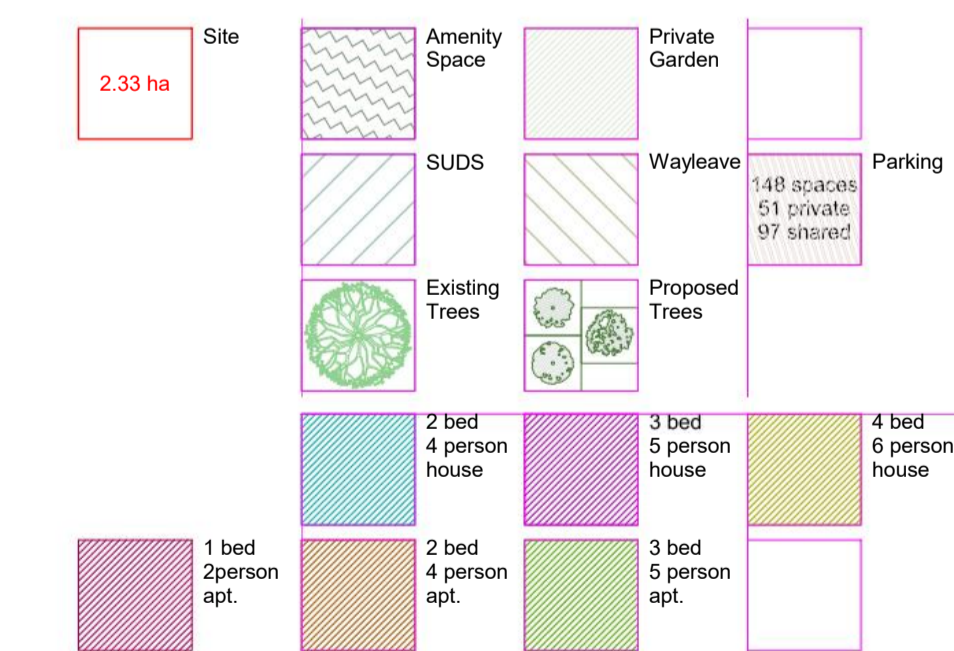
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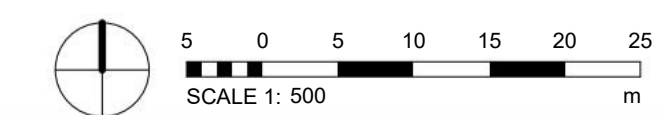


**Indicative layout:
For information purposes only**



	1 bed 2 person	2 bed 4 person	3 bed 5 person	4 bed 6 person	Total
Semi-detached:	/	/	16 units	8 units	24 units
Terraced:	/	12 units	12 units	/	24 units
Apartments:	6 units	21 units	3 units	/	30 units
					78 units

1 Site Plan
1 : 500



Notes

THIS DRAWING READ IN CONJUNCTION WITH :

GENERAL NOTES:

1. Do not scale from this drawing.
2. All dimensions are in millimetres unless noted otherwise.
3. The Contractor is responsible for checking all dimensions, levels and co-ordinates on site before commencing the Works.
4. All new works are to be in accordance with the Building (Scotland) Regulations 2004 and all current amendments.
5. All new works, products and processes are to be in accordance with the relevant British Standards and Manufacturers written guidance.

Rev	Description	Date	Dr by	App by
original by	Author	date created	05/10/23	approved by
			Approver	

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client name	Online Mayfield Scotland LLP
project	Former Caravan Park off the B6482, Mayfield
drawing	Site Plan
computer file	Z:\Public\AMP\Projects\21 01 Mayfield 10 BM\10.0 WIP\Drawings\Rev.rvt
plot date	
project number	Project Number
scale	As indicated@A1
drawing number	LL(90)01
issue status	
rev	

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