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**APPLICATION FOR PLANNING PERMISSION 24/00148/DPP FOR FORMATION OF ACCESS; SITE REMEDIATION, INCLUDING GROUTING; INSTALLATION OF UTILITIES AND DRAINAGE INFRASTRUCTURE; AND, CREATION OF SOIL STORAGE BUNDS AT SITE OF FORMER MONKTONHALL COLLIERY, NEWTON VILLAGE, DALKEITH**

Report by Chief Officer Place

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**1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1 The application is for the formation of a site access, remediation works and installation of utilities and drainage infrastructure at the site of the former Monktonhall Colliery. The site forms part of the Shawfair new settlement.**
- 1.2 There have been no representations and consultation responses have been received from the Coal Authority, Network Rail, the Scottish Environment Protection Agency (SEPA), Scottish Water, the Council's Archaeology Advisor, the Council's Ecological Advisor, the Council's Senior Manager Protective Services (Environmental Health) and the Council's Senior Manager Neighbourhood Services (Roads).**
- 1.3 The relevant development plan policies are policies 1, 2, 3, 5, 6, 7, 9, 12, 18, 22, and 24 of the National Planning Framework 4 and policies STRAT1, STRAT5, DEV2, DEV5, DEV7, TRAN1, IT1, ENV7, ENV9, ENV11, ENV16, ENV17, ENV18, ENV24, ENV25, NRG6 and IMP3 of the Midlothian Local Plan 2017.**
- 1.4 The recommendation is to grant planning permission subject to conditions.**

**2 LOCATION AND SITE DESCRIPTION**

- 2.1 The site is located to the northeast of Newton Village and forms part of the former site of the Monktonhall Colliery. The northern part of the site was in agricultural use prior to the construction of the Borders Railway. The site is located within the Shawfair new settlement area and approved Shawfair Masterplan, with the southwestern extremity of the site being within the Shawfair town centre zone. The site is currently not in use.**

- 2.2 The site is 15.01 hectares and is broadly triangular in shape. The Borders Railway line bounds the site to the west and the Recycling and Energy Recovery Centre (energy from waste facility) at Millerhill and the Millerhill Marshalling Yards bound the site to the east. The southern extent of the site is close to the settlement ponds connected to the former colliery use. The Cairnie Burn runs nearby to the south of the site and consists of an open channel and culverts. To the southwest of the site is Shawfair Rail Station and the bridge over the railway line which serves the station. The site is relatively level, falling gently towards the centre of the site (42mAOD) from around 49mAOD on the southern boundary to 44-46mAOD along the northern boundary.
- 2.3 The majority of the site comprises grassland with areas of remnant concrete hardstanding. Self-seeded trees and scrub are present and there is a raised bank in the southern part of the site which contains parallel lines of mature poplars and smaller lines of individual trees. Giant Hogweed is widespread across the site.
- 2.4 A small area in the centre of the site is excluded from the application boundary. This is an area associated with the former Monktonhall No.2 Shaft which is under Coal Authority ownership. This area is fenced off and does not form part of the site. The No.2 Shaft forms one of two very deep shafts associated with the former Monktonhall Colliery. Both deep shafts (Monktonhall Shafts No.1 and No.2) have previously been capped by The Coal Authority.

### **3 PROPOSAL**

- 3.1 The application is for detailed planning permission for the formation of a site access, remediation works and installation of utilities and drainage infrastructure at the site. The works are proposed to clean up the site and facilitate its future development as an education campus for the Shawfair new settlement area. The development of the education campus will be subject to a separate detailed planning application which will confirm the layout, form, and design of built development on the site. An indicative layout of the education campus has been provided to inform the extent of the proposed remediation works.
- 3.2 It is proposed to form a site access into the site from the unclassified road leading from the A6106 to the B6415 via Shawfair Railway Station known as RP11. The access is to be 6m in width and is to extend 10m into the site to allow vehicles required to carry out the remediation works to access the site. The proposed junction is located opposite to an existing junction at Harelaw and achieves visibility splays of 2.4m x 40m in both directions. A section of 3m footway and 3m verge is proposed between the junction and existing road. A tactile paving crossing point is to be located on either side of the proposed carriageway.

- 3.3 Swept path analysis has been carried out to demonstrate the proposed site access can be used safely by large vehicles (6x2 vehicles).
- 3.4 The proposed development will not result in the closure, or part closure of any local roads.
- 3.5 It is proposed to undertake a series of site remediation and mineral stabilisation works on the site. This will involve treating contaminated soil, and consolidating historic mine workings and shafts to ensure the stability of the site.
- 3.6 Contaminated soils have been identified through initial site investigations submitted with the application. These comprise soils contaminated by invasive non-native species in the form of giant hogweed. It is proposed that contaminated soils will be excavated and relocated to the northern part of the site. Here, they will be subject to ongoing spraying to control and remove residual contamination. All treated material is to be retained on site and encapsulated in future platforming works as part of the education campus development. This would all be subject to verification testing to ensure it's suitable for reuse.
- 3.7 Clean soils are to be provided to reinstate site levels where excavation works are being carried out. Levels are to be reinstated to existing site levels or formation levels, whichever are lower. These are to be stored on site in stockpiled locations. As well as the provision of clean soils for reinstating excavated areas, soils are also to be stored on site for soft landscape areas as part of a future education campus application. Three stockpile locations are proposed to be kept on the site at a height of 3m. One soil stockpile is to be located along the northwestern boundary and two are to be located adjacent to the southern boundary.
- 3.8 An area of combustible soil which contains colliery spoils has been identified in the southeastern corner of the site. This is located at a depth no greater than 1m. This material is not to be excavated as part of this application but instead will be retained and managed on site throughout the remediation works. It is to be capped at depth as part of the future education campus application for the site to ensure it is not exposed to any potential sources of ignition on the finished development. Remaining materials containing colliery spoil are already located at sufficient depth such that they have adequate cover above them.
- 3.9 Several areas of hardstanding and obstructions (tarmac and concrete) are present at varying depths as a result of the past use of the site. Those between 0-1m depth or located beneath indicative future building footprint locations are to be broken up and regraded in situ. Obstructions greater than 1m depth and not located beneath future building footprints are to be retained but perforated to aid drainage.

Within an eastern section of the site, which has been identified for sports pitches as part of a future education campus application, obstructions are to be retained in situ. This is because the structures are beneath fill areas for the platform levels associated with the future education campus.

- 3.10 It is proposed to stabilise an area of shallow mine workings within coal seams located on the western portion of the site by pressure grout injection.
- 3.11 Site investigations have been undertaken and have identified the position of seven of eleven mine entries identified within the site boundary on the Coal Authority mine abandonment plans. It is proposed that the identified mine entries will be secured by grout injection as part of the wider consolidation works to be undertaken within the western portion of the site. The consolidation works will involve probing to accurately prove the depth of each shaft and their plan areas at rockhead, which will determine the nature and size of the shaft cap to be designed.
- 3.12 With respect to the four former mine entries that have not been identified, it is considered that the extents of the investigative works undertaken are appropriate to prove that they are not located in the Coal Authority recorded positions with excavations extending beyond the departure distances advised by the Coal Authority.
- 3.13 The two very deep main mine shafts (Monktonhall No.1 and No.2) which served the former Monktonhall Colliery have been capped by the Coal Authority previously. The latter does not form part of the application site.
- 3.14 In order for the remediation works to be carried out, all trees, hedge and scrub cover is to be cleared from the site. A scheme of replanting does not form part of this application but instead will come forward as part of a detailed application for an education campus.
- 3.15 It is proposed to install utilities connections to the site. This includes high voltage power, water mains, foul sewer, broadband and district heating. The points of connection are located beneath or adjacent to the proposed access junction.
- 3.16 A surface water sewer is proposed along the western boundary of the site. This forms part of the Northern Conveyance Route which forms part of the wider Shawfair Drainage Strategy. The proposed pipe will be 750mm in diameter and will be positioned at an average depth of 3.5m.

## **4 BACKGROUND**

- 4.1 The site was included within the application area for the outline planning permission for Shawfair which was granted in 2014 (02/00660/OUT), however condition 35 of the permission established that the land at the former Monktonhall Colliery formed part of an exclusion area where no planning permission has been granted. This was because it was not included within the Section 75 legal agreement and development in this area would need to be subject to further assessment.
- 4.2 A Section 42 application (reference 17/00650/S42) was submitted in August 2017 and granted planning permission in September 2019. The application amended condition 4 of planning permission 02/00660/OUT and thereby changed the means by which the Master Plan and Design Guide (and related addenda) for Shawfair can be amended. This Section 42 application in effect became the new planning permission in principle for the Shawfair development. The condition excluding the area of land at the former Monktonhall Colliery from the original outline planning application was carried over into the S42 application (condition 26 of 17/00650/S42).
- 4.3 At its meetings of December 2015 and February 2017, the Council approved an education strategy for the Shawfair new settlement area which involved using the former Monktonhall Colliery site for education and community purposes.
- 4.4 In November 2016 permission (15/00089/MSC) for infrastructure including a sustainable urban drainage strategy incorporating culverts and amendments to the Cairnie Burn was granted.
- 4.5 The applicant carried out a pre application consultation (18/00558/PAC) for the erection of community facility incorporating secondary and primary school; early learning; provision and family learning; library; leisure facilities, healthcare facilities and class 4 business uses between October and December 2018. The pre application consultation was reported to the Committee at its meeting in October 2018.
- 4.6 In October 2018 the planning authority issued a screening opinion (18/00751/SCR) under the terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 confirming that an environmental impact assessment submission is not required for the erection of community facility incorporating secondary and primary school; early learning; provision and family learning; library; leisure facilities, healthcare facilities and class 4 business uses.
- 4.7 The site was granted planning permission in principle (19/00112/PPP) in September 2019 for the erection of a community facility incorporating a secondary and primary school, early learning provision and family

learning, leisure, healthcare and Class 4 business facilities. This consent lapsed in 2022.

- 4.8 The applicant carried out a pre application consultation (23/00657/PAC) for the remediation works to proposed education campus: including site remediation, formation of hardstanding, site platforming, provision of site access, utilities/ services and drainage between October and December 2023. The pre application consultation was reported to the Committee at its meeting in November 2023.
- 4.9 In December 2023 the planning authority issued a screening opinion (23/00762/SCR) under the terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 confirming that an environmental impact assessment submission is not required for remediation works to the proposed education campus, including site engineering, mineral stabilisation, site platforming with locally available clean recycled soils, the provision of site access, utilities/ services and drainage.
- 4.10 This application for detailed planning permission 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 the imposition of two conditions. A condition is required to secure that any remediation works and/or mitigation have been implemented in full to ensure it is safe and stable. A second condition is required which necessitates a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable being submitted to the local planning authority for approval in writing.

- 5.2 The Coal Authority also advise the following to the applicant:

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission to enter or disturb our property will result in the potential for court action.

- 5.3 **Network Rail** does not object to the application subject to a condition requiring detailed designs of earthworks adjacent to the Borders Railway and overbridge 010/002 have been submitted and approved by the planning authority in consultation with Network Rail. These

must demonstrate that the works would not affect structure of the earthworks or wingwalls, the under-track crossing (UTX), existing services or overbridge and that the subsoil storage stockpile would be situated a minimum of 3m from Network Rail's boundary. This is to ensure that the works would protect the stability of the adjacent railway embankment, railway lines and safety of the rail network.

5.4 Network Rail also advise the following to the applicant:

#### Mining

5.5 The proposed works include stabilisation of the ground and treating several mine shafts that are in proximity to the track. To ensure these construction operations are undertaken in a safe and controlled way, the developer must follow the NR Standard relating to design and construction of legacy mining (NR CIV 191 Mod 5) in areas adjacent to the railway. Moreover, there are several shafts not located that will require further investigation. If these shafts are in proximity to the railway, the investigation must be coordinated with Network Rail's Asset Protection Engineers (details below).

#### Access to the railway and under track crossing (UTX)

5.6 No means of access to the railway or Network Rail assets shall be obstructed at any time during and after the construction of the development. In particular, access to overbridge 010/002 must be maintained to allow access for operations and maintenance. With regard to UTX, a wayleave must be applied for from Network Rail.

#### Giant Hogweed

5.7 The applicant must take appropriate measures to ensure that giant hogweed does not spread onto Network Rail's land.

#### Construction Works

5.8 Construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway. Plant must be used in a fail-safe manner whereby no part of the plant should be able to land within 4m of Network Rail's boundary. The applicant must be aware of any embankments and supporting structures which are in close proximity to their development. Details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineers for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineers and are subject to a minimum prior notice period for booking of 20 weeks. It is advised that applicants get

in contact with Network Rail as early as possible to avoid delays to their anticipated timescales.

- 5.9 The **Scottish Environment Protection Agency (SEPA)** does not object to the application subject accordance with the approved Shawfair Drainage Strategy, Revision E.

#### Flood Risk

- 5.10 SEPA confirmed that they have no flood risk concerns with the site access works. The main risk to the site would be surface water and the location of the soil bunds would be within the surface water extent. SEPA advises that the proposals should accord with Shawfair Drainage Strategy, Revision E.

#### Former Mine Workings

- 5.11 The pouring of grout below the water table is a controlled activity under General Binding Rule (GBR) 16 of the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR). GBR 16 includes a requirement that no material coming into contact with groundwater shall cause pollution of the water environment. SEPA considers that an assessment should be undertaken to assess whether the use of PFA grout will meet the requirements of GBR 16. If the activity causes pollution, SEPA may take enforcement action in accordance with these regulations.
- 5.12 SEPA therefore recommends that the assessment be undertaken in line with the guidance document: *Stabilising mine workings with PFA grouts. Environmental code of practice. 2nd Edition, BRE Report 509*. A detailed review of the assessment by SEPA is not considered necessary and the document should primarily serve the developer, to ensure no pollution occurs as a result of the activity. If the *preliminary and simple risk assessments* identify that the site is higher risk and conceptually complex, then a *complex risk assessment* is required. At this stage it may be prudent for the developer to highlight this to SEPA through additional consultation.
- 5.13 SEPA note that the Ironside Farrar report acknowledges the industry standard grouting guidance and CAR GBR16. As such, there is no need for further SEPA consultation unless the applicant considers the works cannot be undertaken in line with the GBR.
- 5.14 SEPA note that there are proposals to stockpile and reuse material where possible. SEPA will not seek to control this under waste management licensing control provided that the material being reused is generally suitable for that purpose and unlikely to cause pollution or harm to human health and is in line with the agreed Remediation Strategy. The import of soils for reuse on site sourced from Shawfair development areas may require to be done under a suitable exemption



from waste management licensing. SEPA encourage the applicant to undertake early conversations with their regulatory team in relation to this prior to the import of material.

- 5.15 Any crushing activities on site must be carried out using suitable permitted plant and copies of deployment of said plant provided to the local SEPA team ahead of such activities taking place.
- 5.16 **Scottish Water** does not object to the application however stated that this does not confirm the proposed development can currently be serviced. They advise that records indicate that there are no Scottish Water drinking catchments or water abstraction sources, which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area that may be affected by the proposed activity.
- 5.17 The **Council's Archaeological Advisor** does not object to the application subject to a condition securing a programme of archaeological works (Desk-based Assessment and Evaluation).
- 5.18 The **Council's Ecological Advisor, The Wildlife Information Centre (TWIC)** does not object to the application. The Council's biodiversity screening process has identified the biodiversity protections that apply to the site and confirmed that the submitted surveys and proposed mitigation are acceptable.
- 5.19 The **Council's Senior Manager Protective Services (Environmental Health)** does not object to the application and confirmed that the Construction Environment Management Plan submitted with the application was satisfactory. The application was subject to the Council's process to peer review the information submitted in relation to land contamination. This process raised requests for further information/ assessment which the applicant has responded to. The peer review is currently awaiting sign off.
- 5.20 The **Council's Senior Manager Neighbourhood Services (Roads)** does not object to the application and confirmed that the layout of the proposed junction is satisfactory in terms of width and visibility splays achieved. It is noted that this application is for remediation works to facilitate the delivery of an education campus on the site. As such, a subsequent application for such use will be required to provide signalised crossing facilities prior to it becoming operational.
- 5.21 **Scottish Natural Heritage (NatureScot)** offered no comment on the proposal.
- 5.22 The **City of Edinburgh Council** offered no comment on the proposal.
- 5.23 The **Council's Education Executive Business Manager** offered no comment on the proposal.

- 5.24 The **Council's Land Resources Manager** offered no comment on the proposal.
- 5.25 The **Council's Senior Manager Neighbourhood Services (Flood)** offered no comment on the proposal.

## **6 REPRESENTATIONS**

- 6.1 No representations have been received.

## **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 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.
- 7.7 **Policy 6 Forestry, woodland and trees;** sets out to protect and expand forests, woodland and trees.
- 7.8 **Policy 7 Historic assets and places;** sets out to protect and enhance historic environment assets and places, and to enable positive change as a catalyst for the regeneration of places.
- 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 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.
- 7.12 **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.
- 7.13 **Policy 24 Digital Infrastructure;** sets out to encourage, promote and facilitate the rollout of digital infrastructure across Scotland to unlock the potential of all our places and the economy.

Midlothian Local Development Plan 2017 (MLDP)

- 7.14 **Policy STRAT1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, facilities and affordable housing, including sites in the established housing land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.
- 7.15 **Policy STRAT5: Strategic Employment Land Allocations** supports development for employment uses on sites identified as strategic employment land allocations.
- 7.16 **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.
- 7.17 **Policy DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.18 **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.
- 7.19 **Policy TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.20 **Policy IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes, business properties and redevelopment proposals.
- 7.21 **Policy ENV7: Landscape Character** states that development will not be permitted where it significantly and adversely affects local landscape character. Where development is acceptable, it should respect such character and be compatible in terms of scale, siting and design. New development will normally be required to incorporate

proposals to maintain the diversity and distinctiveness of the local landscapes and to enhance landscape characteristics where they have been weakened.

- 7.22 **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.
- 7.23 **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.
- 7.24 **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.
- 7.25 **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.
- 7.26 **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.
- 7.27 **Policy ENV24: Other Important Archaeological or Historic Sites** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting.
- 7.28 **Policy ENV25: Site Assessment, Evaluation and Recording** requires that where development could affect an identified site of archaeological importance, the applicant will be required to provide an assessment of the archaeological value of the site and of the likely impact of the proposal on the archaeological resource.

- 7.29 **Policy NRG6: Community Heating** requires that, wherever reasonable, community heating should be supported in connection with buildings and operations requiring heat.
- 7.30 **Policy IMP3: Water and Drainage** support improvements in the water and drainage network, to enable new development required by the Local Development Plan to be provided.

## **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 consultation responses received are material considerations.

### Principle of Development

- 8.2 The MLDP identifies Shawfair as a committed development site through Policy STRAT1. The MLDP Danderhall/Shawfair settlement strategy clarifies that development should proceed in line with the planning permission for the Shawfair community and the Shawfair Masterplan and Design Guide (and associated addendums) which set out the development framework for the Shawfair development. Within the Shawfair Masterplan and MLDP (Appendix 2) the former Monktonhall Colliery is identified as being suitable for a variety of uses that will be compatible and beneficial to the wider Shawfair development.
- 8.3 At its meetings of December 2015 and February 2017, the Council approved an education strategy for the Shawfair new settlement area which involved using the site for education and community purposes. Although this decision does not mean that planning permission should automatically be granted for the proposed development, the Council decision is a material consideration in supporting the proposed development which by remediating the site from contamination, would help facilitate the future provision of an education campus on this site.
- 8.4 The site was also granted planning permission in principle (19/00112/PPP) in September 2019 for the erection of a community facility incorporating a secondary and primary school, early learning provision and family learning, leisure, healthcare and Class 4 business facilities. This consent lapsed in 2022 but nonetheless supports the principle of the site being remediated to enable its future use as an education campus.
- 8.5 Both the MLDP and NPF4 seek where possible, to direct development to previously developed brownfield land. The proposed development seeks to remediate part of the site of the former Monktonhall Colliery so that it can be brought back into productive use. These works, which involve treating contaminated soil, consolidating historic mine workings and shafts and provision and storage of clean soils are essential to

allow built development to take place in the future. The proposal is therefore in accordance policy ENV16 of the MLDP and policy 9 of NPF4 to promote the reuse of brownfield land.

- 8.6 The provision of an education campus is an integral part of the Shawfair development. The proposed development would contribute to the reuse of brownfield land and would help facilitate the delivery of an education campus at the site in future. As such, the principle of development is established.

#### Ground Conditions

- 8.7 The application was subject to the Council's process to peer review the information submitted in relation to land contamination. This process raised requests for further information/ assessment which the applicant has responded to. The peer review is currently awaiting final sign off.
- 8.8 With regard to the mine shafts on the site, the Coal Authority concur with the recommendations of the submitted Mineral Stability Risk Assessment that the seven identified mine shafts and shallow mine workings are to be treated. While four former mine entries were not identified, the submitted Mineral Stability Risk Assessment concludes that the extent of the investigative works are appropriate to conclude that they are not located in the Coal Authority recorded positions with excavation distances extending beyond the departure distances advised by the Coal Authority. It is therefore concluded that it is possible that the locations identified by the Coal Authority are mis-plots or that they relate to blind shafts which connect two underground seams and as such do not break the surface and do not present a stability risk.
- 8.9 The conclusions of the Council's peer review process and Coal Authority's response confirms that the proposal is in line with NPF4 policy 9c) which states that where land is known or suspected to be unstable or contaminated, development proposals must demonstrate that the land is, or can be made, safe and suitable for future uses.
- 8.10 The soils which are to be treated as part of the remediation strategy are to be kept on site, in the northern section of the site. These will then be used for future platforming works on the site as part of the education campus. It is proposed that no soils are to be removed from the site which is in accordance with the aims of NPF4 policies 5 and 12 which seeks to protect soil resources and reduce waste.
- 8.11 A number of further mitigation measures are proposed within the submitted Remediation Strategy and Mineral Stability Risk Assessment for the future education campus development. This includes the positioning of any buildings and incorporation of standoff zones into the layout. These measures are not relevant to this application which does not propose the erection of any buildings on the site.

## Landscape, Trees and Biodiversity

- 8.12 The removal of existing habitat and trees from the site is required to facilitate the remediation works. This will result in a loss of biodiversity, including the loss of mature trees. This is not in accordance with the aims of NPF4, specifically policies 1-3 which place significant weight on the global nature and climate crises and policy 6 which strongly resists the loss of trees, hedgerow and woodland. Policy 3b of NPF4 is clear that major development will only be supported where it would conserve, restore and enhance biodiversity. Part 3b)i establishes that the proposal must be based on an understanding of the existing characteristics of the site and its ecological context prior to any development, and part 3b)iv states that significant biodiversity enhancements should be provided.
- 8.13 The loss of biodiversity on the site is recognised in the submitted Site Biodiversity Action Plan and Landscape Maintenance and Management Plan and it is acknowledged that mitigation and compensatory planting is required. While the Site Biodiversity Action Plan and Landscape Maintenance and Management Plan sets out recommendations for the required mitigation planting, this is not proposed as part of this application. Instead, all biodiversity mitigation is to come forward as part of a future application for an education campus on the site.
- 8.14 By not delivering mitigation measures for the biodiversity loss and loss of trees through this application, the proposal conflicts with policies 3 and 6 of NPF4 and policies DEV7 and ENV11 of the MLDP. Nonetheless, this must be viewed in the context of the application which is to enable the future development of an education campus on the site by making it safe and stable. There is not yet an approved layout for an education campus and the construction works will involve earthworks and platforming which would potentially conflict with the establishment of new landscaping and tree planting if it were to be planted now. As such, it is not possible or practical to provide the required mitigation at this stage. The submitted Site Biodiversity Action Plan and Landscape Maintenance and Management Plan confirms that the necessary mitigation will be delivered as part of a separate application for an education campus to meet the biodiversity requirements NPF4 and the MLDP.
- 8.15 The education campus is an integral part of the Shawfair development which is to be delivered by Midlothian Council once a remediated site has been provided. As such, there is a strong expectation that the development of an education campus, which is to be inclusive of the required replacement planting, will come forward in a timely manner following the remediation works.
- 8.16 It is accepted however, that the approval of this planning application alone does not provide any certainty that an education campus will be delivered, nor can it guarantee a set timescale for its delivery. This adds an element of risk into the delivery of a replacement planting

scheme that is required to compensate for the tree and habitat loss. Ensuring that the tree and habitat loss is mitigated and compensated for is essential as set out in policies 1-3 of NPF4 which are clear that the global nature and climate crises will be given significant weight for all development proposals.

- 8.17 Accordingly, in order to mitigate any risk with the delay of the delivery of an education campus on the site, and therefore the tree and biodiversity mitigation, planning conditions would be used to require a scheme of compensatory planting to be submitted and delivered on the site if no subsequent development comes forward within 5 years. The approved compensatory landscaping scheme would be required to deliver a biodiversity net gain above existing baseline conditions and a canopy cover greater than the existing site canopy cover calculation. This will ensure that the replacement tree planting and biodiversity can be delivered independently of the education campus if required and therefore that the application meets the objectives of policies 1, 3 and 6 of NPF4.
- 8.18 The proposed height of the soil stockpiles is to be 3 metres. The undulating land levels in the area will help mitigate views into the site from nearby uses such as Shawfair Rail Station and thus limit the visual impact of the proposal. However, the scale of development is such that the stored material will be visible from some locations including the adjacent road known as RP11. The storage of the soil on the site will be temporary until the education campus is constructed and will be seen in the wider context of a development site under construction within the Shawfair new development area. The proposal is therefore not contrary to policy ENV7 of the MLDP.
- 8.19 Two bat roosts were identified on site which are to be lost as a result of the proposed works. In line with policy ENV15, mitigation has been agreed with the Council's Ecological Advisor. This can be secured by condition.

#### Flood Risk and Drainage

- 8.20 The proposal sits within a larger development proposal that has had its flood risk assessed and has an agreed mitigation and drainage strategy (Shawfair Flooding and Drainage Strategy Rev E). A new culvert was proposed as mitigation as part of the approved drainage strategy in order to prevent flood waters from the Carnie Burn to the south reaching the application site. The proposed culvert has now been installed (under application 15/00089/MSC). SEPA do not object to the application and have no flood risk concerns with the proposed site access works.
- 8.21 The approved Shawfair Flooding and Drainage Strategy Rev E indicates a potential SUDS basin within the catchment of the site. The delivery of SUDS basin is not required as part of the proposed



remediation works but should be considered as part of any further built development on the site.

- 8.22 It is proposed to install a surface water pipe along the western boundary. This forms part of the Northern Conveyance Route which forms part of the approved Shawfair Flooding and Drainage Strategy Rev E.
- 8.23 The flood risk and drainage information submitted is acceptable and is in accordance with the approved Shawfair Flooding and Drainage Strategy Rev E. The proposals are therefore in accordance with policies ENV9 and IMP3 of the MLDP and policy 22 of NPF4.

#### Heritage and Archaeology

- 8.24 The application is not located in close proximity to and will not have an adverse impact on any designated heritage assets. Given the works proposed, it is considered that additional areas of the site should be subject to archaeological evaluation in accordance with policies ENV24 and ENV25 of the MLDP and policy 7 of NPF4. This can be secured by condition.

#### Transport and Road Safety

- 8.25 The existing road network is of a standard to cope with the construction traffic generated by the proposed development. The Council's Senior Manager Neighbourhood Services (Roads) has confirmed that the layout of the proposed junction is satisfactory in terms of width and visibility splays achieved. The proposed development is acceptable in road safety terms.

#### Utilities

- 8.26 The application includes the provision of a point of connection for several utilities including water, power, district heating and broadband. While connection will not be made as part of this application, like the remediation works themselves, the provision at this stage helps enable the future use of the site. This is in accordance with policy IT1 of the MLDP and policy 24 of NPF4 which supports the delivery of digital infrastructure and connectivity, and policy NRG6 of the MLDP and policy 19 of NPF4 which supports the connection of new development to a community heat network.

#### Amenity and Pollution

- 8.27 Given, the distance of the site from existing dwellinghouses, the proposed operations and the limited duration of the grouting and remedial works, it is considered that it would not give rise to significant noise nuisance and disturbance to any residential properties. This is in accordance with MLDP policies DEV2, ENV17 and ENV18. Construction hours and noise levels have been set out in a

Construction Environment Management Plan and can be secured by condition to ensure no adverse amenity impacts.

- 8.28 The material to be stockpiled is inert soil and as such there is not a concern with regard pollution arising from the storage of the material. The Council's Senior Manager Protective Services (Environmental Health) does not raise any concerns with the proposed development on grounds of environmental pollution.

## 9 RECOMMENDATION

- 9.1 That planning permission be granted for the following reason:

*The proposed development site is an integral part of a committed development site as allocated in the Midlothian Local Development Plan 2017. The proposed development would remediate a brownfield site ensuring that it is decontaminated and stabilised, which will thereby enable it to be brought in use in accordance with the Shawfair Masterplan and Midlothian Local Development Plan 2017. The distance of the site from existing dwellinghouses and the nature of the proposed operations would not give rise to an unacceptable impact on amenity. The presumption for development is not outweighed by any other material considerations. As such the proposed development complies with policies STRAT1 and ENV16 of the Midlothian Local Development Plan and Policy 9 of the National Planning Framework 4.*

Subject to the following conditions:

1. The development to which this permission relates shall commence no later than the expiration of three years beginning with the date of this permission.

**Reason:** *To accord with the provisions of Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning (Scotland) Act 2019).*

2. No development shall take place on site until such time as detailed designs of the earthworks adjacent to the Borders Railway and overbridge 010/002 have been submitted to and approved by the planning authority in consultation of Network Rail. These must demonstrate that the works would not affect structure of the earthworks or wing walls, the UTX, existing services or overbridge. Moreover, they must show that that the subsoil storage stockpile would be situated a minimum of 3m from Network Rail's boundary. The development shall be carried out only in full accordance with such approved details.

**Reason:** *To protect the stability of the adjacent railway embankment, the adjacent railway lines and the safety of the rail network.*

3. No development shall commence until;

a) any remediation works and/or mitigation measures to address the mine entries and the shallow mine workings, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

**Reason:** *To ensure the appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment.*

4. No stockpile of soil shall exceed 3 metres in height above the ground level.

**Reason:** *In the interests of safeguarding the landscape character and visual amenity of the area and for the stability of the stored material.*

5. No stockpile of soil shall be located within 3 metres of the boundary of the application site.

**Reason:** *In the interests of safety.*

6. During construction of the development hereby approved, the mitigation and compensation measures detailed in section B.3 and C.1 of the Tree Report: Shawfair Education Campus dated 2023 shall be adhered to.

**Reason:** *The submitted and approved Tree Report identified additional recommendations to ensure adequate tree protection measures are in place and adhered to.*

7. During construction of the development hereby approved, the mitigation and compensation measures detailed in section C.1 of the Bat Survey Report dated May 2024 shall be adhered to.

**Reason:** *The submitted and approved Bat Survey Report identified additional recommendations to ensure protected species are protected that must be adhered to.*

8. No development shall take place on the proposed site until the applicant has undertaken and reported upon a programme of archaeological (Desk-based Assessment and Evaluation) work in accordance with a written scheme of investigation which has been

submitted by the applicant (or their agent) and approved by the planning authority.

**Reason:** *To ensure this development does not result in the unnecessary loss of archaeological material in accordance with policies ENV24 and ENV25 of the Midlothian Local Development Plan and policy 7 of the National Planning Framework 4.*

9. A scheme of road washing/clearing shall be put into operation at times when material is being imported or exported to or from the site (when this planning permission is being implemented). The road washing operation shall ensure all sections of road within 100m of the boundary of the site are kept free from mud and debris.

**Reason:** *In the interests of road safety.*

10. Construction, engineering, site delivery and any other operations shall comply with the following noise level: 70 dB LAeq(12hr) (façade), with the best practicable means (BPM) at all times by BS5228 guidance. The noise from all fixed plant, machinery and equipment shall be such that the combined noise level shall not exceed NR 30 daytime (07:00 to 23:00 hrs) or NR 25 if the noise is tonal and NR25 nighttime (23:00 to 07:00 hrs) or NR20 if the noise is tonal, as measured from within any living apartment within the proposed premises. For the purposes of this condition, the assessment position shall be as identified by BS 7445 in relation to internal noise measurements.

**Reason:** *To minimise disturbance to nearby residential properties from noise and construction traffic in accordance with policies DEV2 and ENV17 of the Midlothian Local Plan 2017.*

11. No construction, engineering or other works or the operation of machinery shall take place outwith the hours of 08.00 to 19:00 on Mondays to Fridays and 08:00 to 13:00 on Saturdays unless otherwise agreed in writing with the planning authority.

**Reason:** *To minimise disturbance to nearby residential properties from noise, construction traffic and other pollution in accordance with policies DEV2, ENV17 and ENV18 of the Midlothian Local Plan.*

12. Within 3 months of the date of this planning permission, a phasing plan for a scheme of replacement landscape planting and biodiversity enhancements shall be submitted to the planning authority for approval in writing.

**Reason:** *The application results in a loss of biodiversity and trees which is to be compensated for through the development of a separate application for an education campus on the site. To avoid*

*any risk and delay in the delivery of an education campus and in accordance with policies 1, 2 and 3 of the National Planning Framework 4 and policy ENV11 of the Midlothian Local Development Plan.*

13. A scheme of landscaping to accord with an approved phasing plan agreed under the terms of condition 12 shall be submitted to the planning authority for approval in writing. Details shall include:
- i. existing and finished ground levels for all open space and roads in relation to a fixed datum;
  - ii. existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
  - iii. proposed new planting including trees, shrubs, hedging, wildflowers and grassed areas;
  - iv. location and design of any proposed walls, fences and gates;
  - v. schedule of plants to comprise species, plant sizes and proposed numbers/density;
  - vi. programme for completion and subsequent maintenance of all soft and hard landscaping. Any tree felling or vegetation removal proposed as part of the landscaping scheme shall take place out with the bird breeding season (March-August);
  - vii. drainage details, watercourse diversions, flood prevention measures and sustainable urban drainage systems to manage water runoff;
  - viii. proposed woodland management plan for any existing, to be retained, and proposed woodland;
  - ix. a scheme to achieve a biodiversity net gain over; and
  - x. tree and woodland planting to achieve a canopy cover of 21% of the site area or greater than the canopy to be removed.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority. The approved landscaping works shall achieve a biodiversity net gain and shall take place within the first planting season following approval. Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

***Reason:*** *The application results in a loss of biodiversity and trees which is to be compensated for through the development of a separate application for an education campus on the site. To avoid any risk and delay in the delivery of an education campus and in accordance with policies 1, 2 and 3 of the National Planning*

*Framework 4 and policy ENV11 of the Midlothian Local Development Plan.*

**Peter Arnsdorf**  
**Planning, Sustainable Growth and Investment Manager**

**Date:** 24 May 2024

**Application No:** 24/00148/DPP  
**Applicant:** Shawfair LLP, 27 Silvermills Court, Henderson Place Lane, Edinburgh

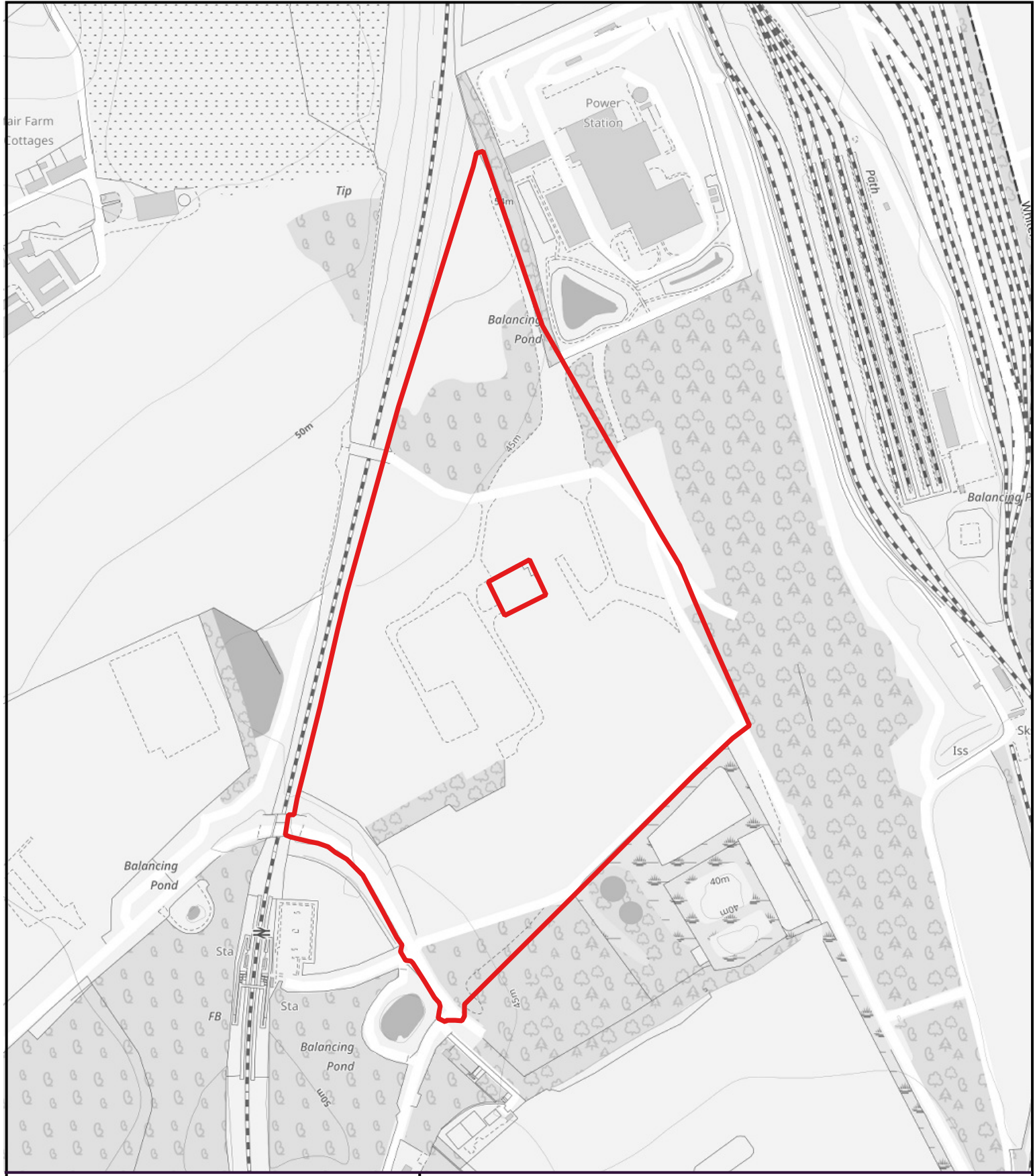
**Agent:** Colliers International, 1 Conference Square, Edinburgh

**Validation Date:** 7 March 2024

**Contact Person:** Eilidh Paul, Planning Officer  
**Email:** [eilidh.paul@midlothian.gov.uk](mailto:eilidh.paul@midlothian.gov.uk)

**Background Papers:** 23/00762/SCR, 23/00657/PAC

**Attached Plans:** Location Plan and Site Plan



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

Formation of access; site remediation, including grouting; installation of utilities and drainage infrastructure; and, creation of soil storage bunds.

Site of Former Monktonhall Colliery

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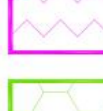


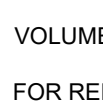
File No. 24/00148/DPP

Scale 1:4500



Midlothian Council Licence No. AC0000811376 (2024)

**LEGEND**

-  Area of Concrete to be Retained
-  Red Line Boundary (Whole Site)  
Area = 152,801m<sup>2</sup>
-  Northern Boundary  
Area = 21,420m<sup>2</sup>
-  Grouting Area
-  0.5m of Giant Hogweed Soil Area to be Excavated and Moved to Storage Area for Further Treatment
-  Giant Hogweed treatment and storage area
-  Spread Depth of Subsoil - 0.508m  
Spread Depth of Topsoil - 0.178m
-  Subsoil Storage for Replacement 13,808m<sup>3</sup>  
(Max Storage 14,570m<sup>3</sup>)
-  Topsoil Storage for 17,545m<sup>3</sup>  
(Max Storage 19,584m<sup>3</sup>)
-  Subsoil Storage for 22,066m<sup>3</sup>  
(Max Storage 22,764m<sup>3</sup>)

**VOLUMES OF SUBSOIL:**




- FOR REINSTATEMENT OF GIANT HOGWEED REMOVAL AREAS:**
- GHW AREA 1 = 5,725m<sup>3</sup>
  - HGW HIGH RISK AREA = 4,630m<sup>3</sup>
  - SCATTERED GHW AREA = 14,427m<sup>3</sup>
  - VOLUME WITHIN NORTHERN AREA = -10,973m<sup>3</sup>
  - TOTAL = 13,808m<sup>3</sup>**

- TOTAL FILL REQUIREMENTS:**
- GHW REPLACEMENT = 13,808m<sup>3</sup>
  - SUBSOIL FOR TOPSOIL STRIP AREAS = 10,962m<sup>3</sup>
  - FILL TO FORMATION (AS PER G3 ISOPACHYTES) = 22,066m<sup>3</sup>
  - TOTAL SUBSOIL = 46,836m<sup>3</sup>**






**VOLUMES OF TOPSOIL:**

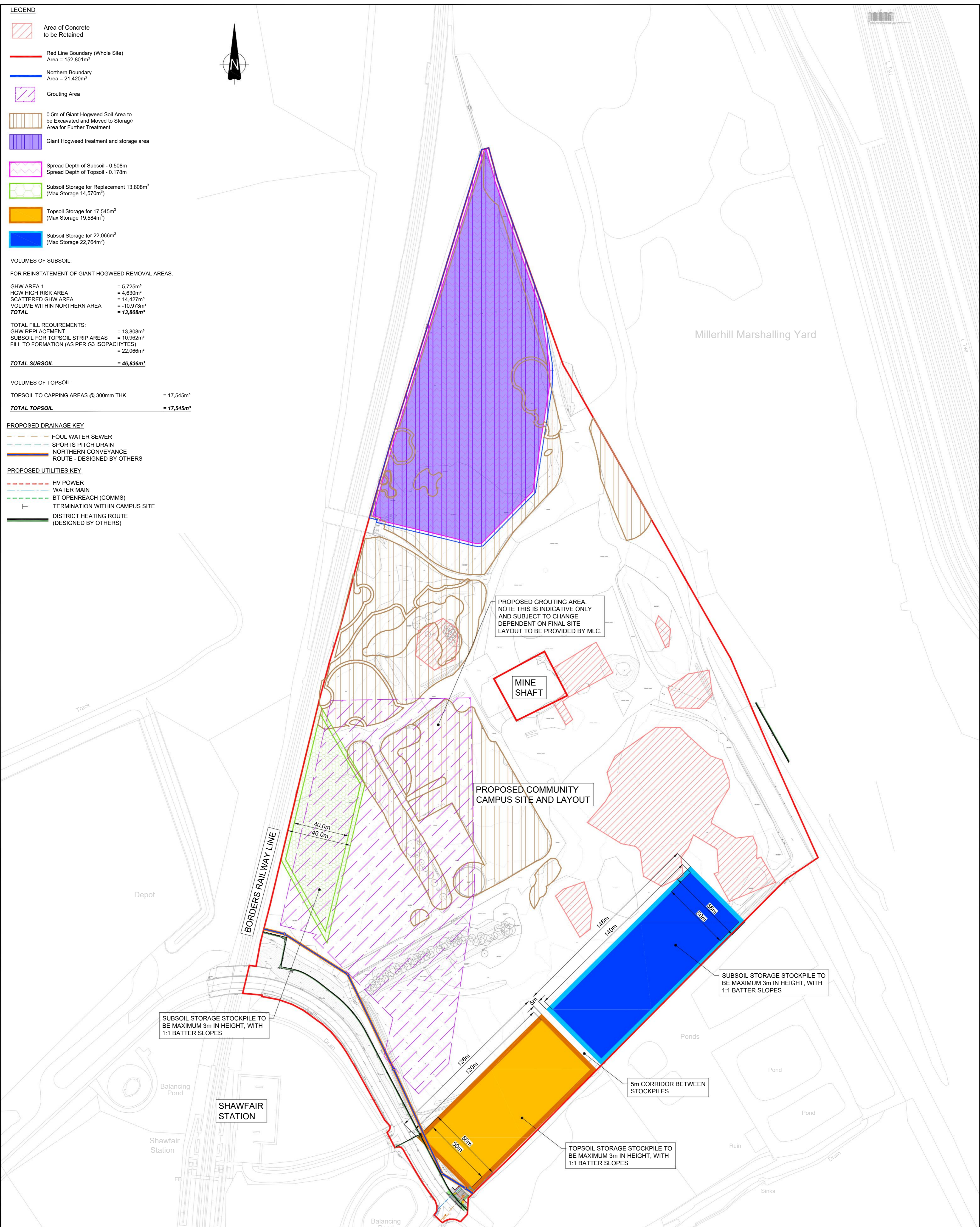
- TOPSOIL TO CAPPING AREAS @ 300mm THK = 17,545m<sup>3</sup>
- TOTAL TOPSOIL = 17,545m<sup>3</sup>**

**PROPOSED DRAINAGE KEY**

-  FOUL WATER SEWER
-  SPORTS PITCH DRAIN
-  NORTHERN CONVEYANCE ROUTE - DESIGNED BY OTHERS

**PROPOSED UTILITIES KEY**

-  HV POWER
-  WATER MAIN
-  BT OPENREACH (COMMS)
-  TERMINATION WITHIN CAMPUS SITE
-  DISTRICT HEATING ROUTE (DESIGNED BY OTHERS)




**NOTES**

1. DO NOT SCALE FROM THIS DRAWING.
2. ALL INFORMATION SUBJECT TO DETAILED DESIGN, CONSULTATIONS & APPROVALS FROM STATUTORY BODIES. **NOT FOR CONSTRUCTION.**
3. TOPOGRAPHICAL SURVEY INFORMATION SUPPLIED BY OTHERS AND MAY CONTAIN HISTORIC DATA.
4. DETAIL DESIGN AND FULL LAYOUT OF PROPOSED ROAD WORKS TO BE AGREED WITH MIDLOTHIAN COUNCIL (MLC) THROUGH RCC PROCESS.
5. DRAINAGE WORKS TO BE APPROVED THROUGH SCOTTISH WATER PROCESS & EXECUTED IN ACCORDANCE WITH SEWERS FOR SCOTLAND 4TH EDITION & MLC ROADS.
6. FINAL ROAD LEVELS SUBJECT TO DETAILED DESIGN/ VERIFICATION AS PART OF ROAD CONSTRUCTION CONSENT.
7. NO PROPOSED ELECTRIC VEHICLE CHARGING POINTS PROPOSED AS PART OF THIS APPLICATION.
8. SUBSOILS FOR TOPSOIL STRIP AREAS TO BE DELIVERED TO SITE WHEN REQUIRED.

P01	16.02.24	FIRST ISSUE	SW	PM	DM
Rev	Date	Amendment Details	Dr'n	Chk'	App'

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**SHAWFAIR**

Project Title

**SHAWFAIR COMMUNITY CAMPUS**

Drawing Title

**PROPOSED SITE PLAN**



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EH3 9QG  
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Web: www.sweco.co.uk

Purpose Of Issue			
<b>PRELIMINARY</b>			
Status	Status Description		
S5	<b>FOR REVIEW AND ACCEPTANCE</b>		
Drawn	Designed	Checked	Approved
SW	SW	PM	DM
Sheet Size	Scale	Sweco Ref	Revision
A1	1:1250	65206840	P01
Drawing Number			
<b>65206840-SWE-15-PL-DR-C-0007</b>			