

APPLICATION FOR PLANNING PERMISSION 21/00338/DPP FOR ERECTION OF FOODSTORE (CLASS 1); FORMATION OF ACCESS ROADS AND CAR PARKING AND ASSOCIATED WORKS AT LAND AT THE JUNCTION OF THE A701 AND PENTLAND ROAD, OLD PENTLAND, LOANHEAD

Report by Chief Officer Place

1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION

- 1.1 The application is for the erection of a retail foodstore (Class 1), formation of access roads, car parking, and associated works on land at the junction of the A701 and Pentland Road, Old Pentland, Loanhead.
- 1.2 There have been five representations objecting to the application and one neutral representation and consultation responses from Transport Scotland, Scottish Water, the Council's Biodiversity Advisor, the Council's Policy and Road Safety Manager, the Council's Flood Officer, the Council's Senior Manager Protective Services, the Roslin and Bilston Community Council, the Damhead Community Council and the Loanhead and District Community Council.
- 1.3 The relevant development plan policies are policy 3 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies DEV4, DEV5, DEV6, DEV7, TRAN1, TRAN2, TRAN5, TCR1, TCR2, RD 1, ENV2, ENV7, ENV9, ENV10, ENV11, ENV15, ENV18, ENV25, NRG3, NRG4, NRG6, 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 is located to the south of Pentland Road and to the west of the A701, with the junction of the two at the north east corner of the site. The application site comprises an undeveloped green field and is irregular in shape. The site is approximately 1.35ha in size.
- 2.2 The site is designated as being within the countryside. Land to the north of the site is undeveloped, but is allocated as a mixed use site,

- and may accommodate employment and retail floorspace as part of a wider Midlothian Gateway development.
- 2.3 The land to the west is undeveloped and was allocated in the MLDP for possible film and TV studio and associated uses (allocation MX1). However, this development is no longer proceeding.
- 2.4 To the south, along the A701 frontage, is residential development, to the west of which is undeveloped land which in turn is bound to the west by Pentland Park Residential Caravan Park.
- 2.5 To the east of the A701 is the built form within the Straiton Commercial Hub. Immediately opposite the site is an Asda supermarket, and Ikea is located to the north east of the site. Further retail development is located to the north (circa 500m) of the site at Straiton Retail Park, including Sainsbury and Lidl food stores.

3 PROPOSAL

- 3.1 The proposed development is for the erection of a new food retail store with associated access from Pentland Road to the north of the site. The access road would then facilitate a left hand turn into the site for customers, with a further left hand turn into the site, behind the proposed store where a service/loading and turning area would be facilitated.
- 3.2 The new retail store would deliver 1878sqm of floorspace, 1315sqm of which would be trading floorspace. The proposed store would be orientated perpendicular to the Pentland Road and is generally rectangular in shape. A deposit/returns unit would be delivered to the south east elevation and is circa square in shape and 60sqm.
- 3.3 An associated car park is proposed to the north east of the proposed store that would deliver 104 parking spaces.
- 3.4 The applicant's agent has submitted a planning statement providing details of the proposal as well as considerations of other sites in town centres.
- 3.5 Landscaping proposals are included as part of the development at the boundaries of the proposed food store and car park.
- 3.6 The main structure is a typical food store design on a single ground floor level. The highest part of the structure would be the ridge on the north east elevation at 8.4m. The roof then slopes away to the south west where eaves are 5.5m high. The elevations would primarily be formed of coated aluminium.

- 3.7 The application is accompanied by a:
 - Preliminary Ecology Appraisal;
 - Phase II Geo-environmental Assessment;
 - Planning and Retail Statement
 - Planning and Retail Statement/Impact Assessment (RIA);
 - Pre-application Consultation Report;
 - Noise Statement
 - Drainage Impact Assessment:
 - Transport Statement;
 - Transport Statement Addendum; and
 - Design and Access Statement.

4 BACKGROUND

Application site

4.1 No Planning History.

Land to the west

- 4.2 Pre application consultation (14/00729/PAC) for mixed-use development comprising: film and TV studio and backlot, hotel, non-food retail, commercial uses ,with the potential for a gas combined heat and power plant at Old Pentland, Loanhead was submitted in October 2014. The notice was reported to Committee at its meeting of January 2015.
- 4.3 An Environmental Impact Assessment (EIA) screening opinion (14/00704/SCR) for mixed-use development comprising; film and tv studio and blacklot, hotel, non-food retail, commercial and residential uses, with the potential for a gas combined heat and power plant at Old Pentland, Loanhead was submitted in September 2014. The planning authority's adopted screening opinion is that an EIA is required for the development.
- 4.4 An Environmental Impact Assessment (EIA) scoping opinion 15/00230/SCO for mixed-use development comprising; film and tv studio and blacklot, hotel, non-food retail, commercial and residential uses, with the potential for a gas combined heat and power plant at Old Pentland, Loanhead was withdrawn.
- 4.5 Application (15/00364/PPP) for planning permission in principle for a mixed use development comprising; film and tv studio including backlot complex; mixed employment uses (retail/office/commercial); hotel; gas and heat power plant/energy centre; film school and student accommodation; studio tour building; earth station antenna and associated infrastructure including car parking; SUDS features and landscaping (This application is accompanied by an environmental

statement submitted under the terms of the Town and Country Planning environmental impact assessment (Scotland) Regulations 2011). Prior to the determination of this application, the application was Appealed (15/00005/NONDET and PPA-290-2032) in December 2015. The Appeal was further recalled by Scottish Ministers and on 3 May 2017 Ministers issued their Intention to Determine the Appeal and grant planning permission in principle subject to the conclusion of a planning obligation to secure developer contributions – the planning obligation was not concluded as the applicants interest in the site was withdrawn.

Land to the south and west

- 4.6 An Environmental Impact Assessment (EIA) screening opinion (21/00237/SCR) for mixed use development including Class 2 (professional and other services), Class 3 (food and drink), Class 4 (business), Class 7 (hotel), Class 8 (residential institutions) Class 9 (residential), Sui Generis (flats), Class 10 (non-residential institution) and associated works at land at Junction of the A701 and Pentland Road, Old Pentland, Edinburgh was submitted in March 2021. The planning authority's adopted screening opinion is that an EIA is not required for the development.
- 4.7 Pre application consultation (21/00055/PAC) for mixed use development including Class 2 (professional and other services), Class 3 (food and drink), Class 4 (business), Class 7 (hotel), Class 8 (residential institutions) Class 9 (residential), Sui Generis (flats), Class 10 (non-residential institution) and associated works at land at junction of the A701 and Pentland Road, Old Pentland, Edinburgh was submitted in January 2021. The notice was reported to Committee at its meeting of May 2021.
- 4.8 Planning application 21/00958/PPP was submitted November 2021 for proposed mixed-use development comprising Class 2 (professional services), Class 8 (residential institutions), Class 9 (residential), Class 10 (non-residential institutions), Sui Generis (mixed use of retirement flats and Assisted Living/Extra Care flats), Affordable Housing and associated works. No determination has been made on this application to date.
- 4.9 The Town and Country Planning (Use Classes) (Scotland) Order 1997 categorises different land uses into different classes to enable planning practitioners and decision makes to determine if a change of use of land or buildings is proposed or has occurred Class 1: Shops has been referenced in this report. In defining if a material change of use between one class and another has occurred it enables planning authorities to assess the impact of different uses and enables decisions to be made with regard the right development in the right location. Different uses within the same class are seen to have similar impacts

- and characteristic and are therefore inter changeable in land use planning terms.
- 4.10 The application has been called to Committee for determination by Councillor Winchester.

5 CONSULTATIONS

- 5.1 **Transport Scotland** does not object to the application subject to the following condition:
 - No part of the development shall be occupied until a comprehensive travel plan that sets out proposals for reducing dependency on the private car has been submitted and approved in writing by the planning authority, after consultation with Transport Scotland, as the Trunk Roads Authority. In particular this travel plan shall identify measures to be implemented, the system of management, monitoring, review, reporting and the duration of the plan.
- 5.2 Scottish Water does not object to the application. Scottish Water carried out a capacity review and confirmed that there is currently sufficient capacity in the Glendevon Water Treatment Works to service the development. In relation to waste water capacity Scottish Water advise that there is currently sufficient capacity for a foul only connection, however it is not possible to reserve capacity for future developments this is secured by way of a separate procedure between the applicant and Scottish Water. They advise that surface water will not be accepted into the combined sewer but have suggested that a connection into a designated surface water sewer would be acceptable.
- 5.3 The Council's Biodiversity Advisor (The Wildlife Information Centre TWIC) does not object to the application, but the submitted ecology report needs updating, which can be secured by condition if planning permission is granted.
- 5.4 The **Council's Policy and Road Safety Manager** does not object to the application subject to conditions to achieve the following:
 - Details of the proposed new vehicle access into the site should be submitted for approval.
 - The existing 3 bay bus shelter on the A701 at the site frontage should be replaced with a larger 5 bay shelter to accommodate the additional number of bus users the new development would generate.
 - Secure, covered, lockable cycle parking facilities should be provided for staff. Details of the staff cycle parking should be submitted for approval.
 - As the development will require changes to the existing speed limit on roads surrounding this site the developer should enter into a S75

- agreement (or similar legal agreement) to provide a financial contribution to the costs involved in drafting and promoting these changes.
- Details of the GTP proposed in the Transport Statement should be submitted for approval.
- 5.5 The **Council's Flood Officer** does not object to the application, but notes: "The surface water run-off from the development is proposed to enter the existing Scottish Water drainage system and confirmation from Scottish Water would be required to show that this situation would be acceptable."
- 5.6 The **Council's Senior Manager Protective Services** does not object to the application subject to a noise limitation condition to safeguard the amenity of local residents.
- 5.7 **Roslin and Bilston Community Council** objects to the proposal for the following reasons:
 - The use of greenfield land is contrary to the MLDP;
 - The proposed development conflicts with policy RD 1 of the MLDP;
 - Retail should be located on the other side of the A701 to limit the need to cross the A701. The development would appear as isolated from the retail corridor;
 - A701 is at capacity, hence the requirement for the new relief road to be secured prior to the development of allocation EC3;
 - A new Lidl is being delivered in the Straiton Retail Park and would absorb demand for any new Aldi;
 - The EC3 development is still being prepared and as such it is not known to what extent the new Aldi would conflict with this allocation;
 - The site would provide open space between EC3 and existing development;
 - The proposed design is not very high quality that would be required as part of EC3 development to the north and does not respect the locality; and
 - There is potential that development would result in the loss of jobs elsewhere.
- 5.8 **Damhead Community Council** objects to the proposal for the following reasons:
 - The site is not included in the MLDP for development as it is a greenfield site. Therefore the development is contrary to the MLDP as it conflicts with policy RD1 Development in the Countryside;
 - The proposed access onto the Old Pentland Road is not suitable and traffic impact one the A701 is not acceptable;
 - As there are vacant units in Straiton Retail Park, these should be filled prior to any further retail development;

- The Masterplan for Straiton and Ec3 has not yet been prepared which is intended to be a master plan for the 'Gateway to Midlothian'. The utilitarian plans put forward do not meet 'a very high quality of design, layout and landscaping'; and,
- The building would be more suited to be within Pentland Industrial Estate.
- 5.9 **Loanhead and District Community Council** objects to the proposal for the following reasons:
 - The site is greenfield;
 - There are empty retail units within the Straiton Retail Park that should be filled;
 - Traffic levels on the A701 corridor are becoming unsafe;
 - Without the EC3 masterplan for the new Midlothian Gateway, the proposed development would be premature; and,
 - The proposed development does not represent very high quality design.

6 REPRESENTATIONS

- 6.1 There have been six representations received, which can be viewed in full on the online planning application case file. Five of these representations object to the planning application and one is neutral. The comments are summarised below:
 - The development would have an adverse impact on the visual amenity of Pentland Park;
 - The development would result in the loss of greenspace;
 - The site might be unstable:
 - The impact of traffic would be harmful to local roads that are unable to cater for the increase in traffic;
 - Development would have a harmful impact on the wildlife that uses the site and the area as a wildlife corridor;
 - The proposed development is against the aims of policy RD1;
 - The site is described as a brownfield site in the design and access statement which it is not:
 - Other local sites are more preferable with existing access and within policy designations;
 - The location of the proposed development would not comply with policy DEV2;
 - The proposed development could have detrimental impacts on the residential properties within close proximity to the site, particularly in regards to noise and light;
 - The proposed development would result in the loss of hedgerow and thus habitat for wildlife:
 - The submitted information does not include detailed SUDS designs;

- The proposed development is premature as the site is not allocated for development and there are other sites in proximity to the site that could accommodate the development;
- No sequential test has been submitted;
- No transport information has been submitted; and
- The development should be amended to provide greater ability for sustainable movement, including additional cycle parking, increased cycle path provision and the reduction in vehicular parking spaces.

7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan June 2013 (SESplan) and the Midlothian Local Development Plan 2017 (MLDP).
- 7.2 SESplan June 2013 is older than five years. A replacement SESplan was prepared but rejected by Scottish Ministers in May 2019. The Planning etc. (Scotland) Act 2019 removed the duty to prepare Strategic Development Plans, placing strategic planning matters within a National Planning Framework 4 (NPF4) to be prepared by Scottish Ministers. Once approved, NPF4 (which was subject to consultation until 31 March 2022 and is expected to be adopted in summer 2022) will form part of the development plan alongside local development plans. Until NPF4 is approved, SESplan remains part of the development plan albeit increasing out of date.
- 7.3 The following policies are relevant to the proposal:
 - Edinburgh and South East Scotland Strategic Development Plan 2013 (SESPlan)
- 7.4 **Policy 3 (TOWN CENTRE AND RETAIL)** aims to promote a sequential approach to the selection of locations for retail and commercial leisure proposals.
 - Midlothian Local Development Plan 2017 (MLDP)
- 7.5 Policy **DEV4: Residential Park Homes** states that development will not be permitted where it would prejudice the continued use of Nivensknowe Park and Pentland Park for the siting of residential park homes.
- 7.6 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.7 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.
- 7.8 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.
- 7.9 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.10 Policy **TRAN2: Transport Network Interventions** highlights the various transport interventions required across the Council area, including the A701 realignment.
- 7.11 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.
- 7.12 Policy **TCR1: Town Centres** supports proposals for retail, commercial leisure development or other uses which will attract significant numbers of people in Midlothian's town centres, provided their scale and function is consistent with the town centre's role. In support of this policy the Council has prepared supplementary guidance on food and drink and other non-retail uses in town centres; this guidance also includes guidance in respect of food and drink and hot food takeaways outwith town centres.
- 7.13 Policy **TCR2:** Location of New Retail and Commercial Leisure Facilities states that the Council will apply a sequential town centre first approach to the assessment of applications. This directs retail developments to the following areas in order:
 - Town Centre Bonnyrigg, Dalkeith, Gorebridge, Loanhead, Mayfield, Newtongrange, Penicuik, Shawfair
 - Commercial centre Straiton Commercial Centre
 - Potential out of centre location Main corridor from Gorebridge/Redheugh to Newtongrange
 - Local Centres Danderhall, Bonnyrigg/Hopefield, Bonnyrigg/Poltonhall, Dalkeith/Thornybank, Dalkeith/Wester Cowden, Dalkeith/Woodburn, Eskbank Toll, Gorebridge/Hunterfield Road, Bilston, Penicuik/Edinburgh Road, Roslin and Pathhead
- 7.14 Policy TCR2 also states that new shopping facilities, up to a scale of 1,000sqm gross floor area, will be permitted within local centres, provided they do not undermine the vitality and viability of any of Midlothian's town centres. It also states that elsewhere within the built-up area such facilities will be supported where new housing developments are not adequately served by existing centres. Any such

- development should not have a negative effect on the amenity of the adjoining residential area, including traffic and parking considerations.
- 7.15 Policy RD1: Development in the Countryside states that development in the countryside will only be permitted if it is required for the furtherance of agriculture, including farm related diversification, horticulture, forestry, countryside recreation or tourism; it accords with policies RD2, MIN1, NRG1 or NRG2; or it accords with the Council's Supplementary Guidance on Development in the Countryside and Green Belt.
- 7.16 Policy **ENV2: Midlothian Green Networks** supports development proposals brought forward in line with the provisions of the Plan that help to deliver the green network opportunities identified in the Supplementary Guidance on the Midlothian Green Network.
- 7.17 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.
- 7.18 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.
- 7.19 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.
- 7.20 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.

- 7.21 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.22 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.
- 7.23 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.
- 7.24 Policy NRG3: Energy Use and Low & Zero-Carbon Generating Technology requires that each new building shall incorporate low and/or zero-carbon generating technology projected to contribute an extra percentage reduction in greenhouse gas emissions beyond the emissions standard to which the building is subject under the Building Regulations. Policy NRG4: Interpretation of Policy NRG3 interprets Policy NRG3.
- 7.25 Policy **NRG6: Community Heating** requires that, wherever reasonable, community heating should be supported in connection with buildings and operations requiring heat.
- 7.26 Policies IMP1: New Development and IMP2: Essential Infrastructure Required to Enable New Development to Take Place require the developer to deliver, or contribute to, the required infrastructure to mitigate the impact of the development.
- 7.27 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SuDS) to be incorporated into new development.

National Policy

- 7.28 The SPP (Scottish Planning Policy) sets out Government policy in relation to creating a successful sustainable place, supporting economic growth, regeneration and the creating of well-designed places. SPP promotes town centres identifying the 'town centre first principle'. Development plans should adopt a sequential town centre first approach for uses such as retail with the order of preference being town centres, edge of town centres, other commercial centres identified in the development plan, and out of centre locations that are or can be made easily accessible by a choice of transport modes.
- 7.29 In relation to supporting business and employment the planning system should:

- promote business and industrial development that increases economic activity while safeguarding and enhancing the natural and built environments as national assets;
- allocate sites that meet the diverse needs of the different sectors and sizes of business which are important to the plan area in a way which is flexible enough to accommodate changing circumstances and allow the realisation of new opportunities; and.
- give due weight to net economic benefit of proposed development.
- 7.30 Plans should align with relevant local economic strategies to meet the needs and opportunities of indigenous firms and inward investors, recognising the potential of key sectors for Scotland with particular opportunities for growth, including:
 - energy;
 - life sciences, universities and the creative industries;
 - tourism and the food and drink sector; and
 - financial and business services.
- 7.31 SPP introduces a presumption in favour of development that contributes to sustainable development, but states:

The planning system should support economically, environmentally and socially sustainable places by enabling development that balances the costs and benefits of a proposal over the longer term. The aim is to achieve the right development in the right place; it is not to allow development at any cost.

- 7.32 The Scottish Government policy statement **Creating Places** emphasises the importance of quality design in delivering quality places. These are communities which are safe, socially stable and resilient.
- 7.33 **Designing Places, A Policy Statement for Scotland** sets out the six key qualities which are at the heart of good design namely identity, safe and pleasant environment, ease of movement, a sense of welcome, adaptability and good use of resources.
- 7.34 The Scottish Government's Policy on Architecture for Scotland sets out a commitment to raising the quality of architecture and design.

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 The site's only policy allocation is as Countryside (Policy RD1). Policy RD1 sets out what development within the countryside would be deemed to be acceptable. To assess development the policy sets out a number of criteria against which most development would be assessed. However, the policy is clear when it comes to primarily retail development. It states that "Proposals will not be permissible if they are of a primarily retail nature or harm the amenity of nearby residents through unacceptable levels of noise, light or traffic". In accordance with this policy, the site's policy allocation would seek to resist the proposed development, which is primarily retail in nature, and this would form sufficient basis for refusing the application in and of itself. There is no exception to this position in the local development plan.
- 8.3 Despite the above position it is appropriate to consider and address the arguments presented by the applicant as to why the proposed development should be supported. The proposed development is for a new food retail store. New retail development is subject to assessment against policy TCR2 of the MLDP 2017. The policy sets out a hierarchy of centres to which retail development would be appropriate. The application site is not within an allocated centre or adjacent the Straiton Commercial Hub. Policy TCR2 sets out the locations at which out of centre retail development would be supported. The site is not one of those. Whilst the policy sets out that major retail would be resisted out of centres, the policy does not state that retail of a local scale would be supported. As such, regardless of the site allocation as countryside and the application of policy RD1, the development does not receive support from policy TCR2.
- 8.4 In addition, even out of centre locations highlighted as potentially acceptable for retail development under policy TCR2 are still required to demonstrate that development would not undermine the vitality and viability of town centres. More is discussed on this matter within the below "Other Material Considerations" section of this report.
- 8.5 The development is therefore considered to be contrary to policies RD1 and TCR2 of the local development plan.

Other Material Considerations

Site Context

8.6 It is the applicant's position that the site's location in close proximity to other built form and main roads is a material consideration that would justify the assessment under the limb of policy TCR2 that refers directly to Straiton Commercial Hub. It is not in dispute that the site is within

proximity to a number of urban features. Indeed, land to the north is allocated for a mix of new uses including leisure and retail (allocation EC3). Land to the west is identified within the MLDP as a possible site for TV/Film studio (MX1). However, since an appeal at the MX1 site (Ministers were minded to grant permission) the development has not come forward, and the Council understands that the site is no longer pursued for this purpose. Land directly to the north is identified as part of the MX1 site, but also allocated under Ec3. The MLDP sets out that development at Ec3 should include the provision of open space, and the associated "landscaping should therefore include a 30m wide (mounded) woodland belt along the northern through western to southwestern boundaries." Such development should therefore provide a landscaped edge to the site.

8.7 The site is currently free from development and on the edge of an urban area, and is considered to serve a transitional role between urban and rural areas. Despite the proximity of urbanising features it does not stand that the site should be assessed as part of the built form or as being within the Straiton Commercial Hub.

Retail Impact

- 8.8 Even if the site were to be considered as being within the Straiton Commercial Hub, it would still be required to comply with that part of policy TCR2 and the criteria set within it.
- 8.9 In order to understand the below matters it is first important to understand the proposed catchment area for the proposed retail unit. The proposed catchment area for the new Aldi is a 7 minute drive time. This is based on the average number of people a store would serve (15,000-20,000 people). During pre-application discussions with the applicant the planning authority sought that the proposed catchment area be increased to include Penicuik. This request has not been undertaken by the applicant. The applicant considers that such an extension to the catchment would not be reflective of the number of people a store might serve. The applicant has extended their assessment to include Penicuik by virtue of a sensitivity test which effectively extends the catchment area. A sensitivity test is a means of examining a possible greater impact of the proposed development. In order to do so, the parameters of a retail impact assessment are extended or increased. For example, the catchment area could be widened to assume a larger sphere of influence, or turnover/ performance is increased to assess the impact of a higher performing retail unit on other centres/stores.
- 8.10 It is considered that the proposed catchment area is still conservative. One of the other stores that the applicant refers to in establishing its catchment area is the new Aldi at Thornybank, Dalkeith (application ref: 20/00220/DPP). However, this was noted to have a 10 minute drive time catchment area for that store. The recent Lidl application at

Straiton Retail Park and associated retail impact assessment (RIA) sets out a typical catchment population exactly matching that set out in the RIA (15,000-20,000 people). However, that RIA sets out a catchment journey time of 10-15 minutes. Whilst it is hard to make direct comparison between different retailers, both Aldi and Lidl provide a discounted food retail product. In light of this, the more limited catchment area used for assessing the proposed development raises some concern. A wider catchment area might yield further retail diversion from within Midlothian.

- 8.11 The A701 corridor is a recognised and extensively used transport/commuter corridor. The new store would sit directly to the west of the A701. Penicuik is assessed to be within a 9/10 minute drive and the Penicuik Town Centre a 13/14 minute drive to the south of the site. Whilst beyond the limits of the applicant's catchment area, similar developments in the area (notably the new Lidl at Straiton) have included Penicuik within the catchment. Given that the proposed site is outside any designated area of for new retail, a cautious approach is considered to be a prudent approach and that Penicuik should have been included within the catchment area for the development.
- 8.12 With the above in mind an assessment of the development against the criteria of policy TCR2 is undertaken below.
- 8.13 The first criteria of policy TCR2 sets out that sites on the edge of Dalkeith Town Centre should be considered prior to sites within the Straiton Commercial Hub. The submitted information suggests that no such edge of Dalkeith Town Centre's have been assessed as a new Aldi store is currently being delivered at Thornybank and thus the development on the edge of Dalkeith would duplicate this provision.
- 8.14 Criteria B sets out that the development must address a quantitative or qualitative deficiency within the catchment. The submitted information would indicate that there is a deficiency in the catchment area. Indeed, Midlothian's Retail Study 2012, whilst ageing, does set out that there is scope for new retail floorspace within Straiton. The submitted planning statement sets out that there is a deficiency in the catchment area, both quantitatively and qualitatively and claims that the new store would address both forms of deficiency in the area as it would introduce a form of retail that is materially different from the majority of existing provision (discount food-retail).
- 8.15 Whilst the above may be true, a wider understanding of the aims for this area as set out within the MLDP needs to be considered. Allocation Ec3 of the MLDP seeks to deliver 60ha of land for development to form a "Midlothian Gateway". The allocation would include a mix of uses including retail, hotel, office, commercial leisure, and housing. The proposed development is therefore one such use that would be appropriate within the Ec3 allocation. The delivery of the new Midlothian Gateway is identified within the MLDP as playing an

important part in promoting business growth. There is concern that were the uses identified for Ec3 to be delivered piecemeal outside the allocation the aims and benefits associated with the allocation would be undermined. These benefits include the opportunity to masterplan new development and deliver a high quality built form and architecture.

- 8.16 It is further identified that there are a number of vacant retail units within the Straiton Retail Park (27% vacancy rate as assessed by the applicant). One of these has recently achieved planning permission to form a Lidl food store. These vacant units have been discounted as viable options for the proposed development as none provide sufficient floorspace for the development. As such there are retail opportunities within a retail centre. Acceptance of new out of centre retail runs the risk of deterring uptake of already vacant units.
- 8.17 Criteria C of the policy sets out that development should not "either individually or cumulatively with other developments, undermine the vitality and viability of regional, strategic or other town centres, within the expected catchment of the proposed development." In considering the application an assessment of the development's potential impact on town centres is fundamental, with a view to protecting town centres in line with national and local policies and priorities. The planning authority must be satisfied that the trade diversion figures for affected town centres, and the process by which they have been arrived at, are reasonable and then assess to what extent the scale of diversion is significant.
- 8.18 The findings of the RIA indicate that little retail impact is likely to result from the proposed development on other local centres within the catchment area. However, the aforementioned Lidl application RIA found a 4.6% diversion of Penicuik town centre's existing trade and 3.5% at Bonnyrigg. This is compared to 2.54% at Penicuik and 1% at Bonnyrigg estimated in the RIA for the proposed development. The proposed Aldi seeks to deliver 1,879sq.m gross, with 1,315sq.m net sales area floorspace. The Lidl application sought to deliver 1,227sq.m of retail floorspace. The Aldi RIA does include sensitivity tests (expansion of assessed parameters to assess a greater impact of the development). Sensitivity test 3 extends the Aldi catchment to Penicuik and identifies that the diversion of trade would be 4.3%.
- 8.19 Given the above there is some concern that the application has underplayed the retail impact resulting from the proposed development. In addition, the cumulative aspect needs to be considered. Were the retail impact to be closer to that assessed as part of the Lidl application the cumulative impact could be closer to 9.2% at Penicuik and 7% at Bonnyrigg (assuming equivalent/similar impact).
- 8.20 In terms of assessing whether the impact of the development becomes "significant", there is no specific threshold. The applicant sets a case based on guidance produced in other local authority locations (outside

- the Edinburgh City Region) that 20% impact would be significant. Whilst the assessed level of impact does not appear to reach close to 20% impact, particular cognisance needs to be taken of the current challenges and health/performance of a centre.
- 8.21 In regards to Penicuik Centre, no health check has been carried out by the applicant as it does not fall within their identified catchment. As such, a review of other recent RIAs has been undertaken. This includes planning application 21/00310/DPP (Lidl Straiton) and 22/00273/DPP (Farmfoods Penicuik). The former identifies a 11% vacancy rate as of August 2021. The latter identifies a 16% vacancy rate in 2022. This represents a 5% increase within 7 months, which is a concern.
- 8.22 Whilst not adopted, the draft National Policy Framework 4 states "As a result of long term change, exacerbated by COVID-19, our city, town and local centres are facing significant and serious economic, environmental and societal challenges." Given this position and the apparent recent decline at Penicuik in occupied units, it would be prudent to take a cautious approach in assessing whether retail impact from the proposed Aldi is significant. A 9.2% impact on Penicuik would potentially have a significant impact.
- 8.23 Given the above, the submitted retail information does not adequately demonstrate that the new development would not undermine the vitality and viability of Penicuik. As such, the proposed development does not meet this criteria.
- 8.24 The submitted RIA sets out that the proposed store would reduce expenditure leakage beyond the catchment. While it has been Midlothian's experience that new retail floorspace has reduced leakage, Midlothian is strongly linked to neighbouring local authorities through commuter flows, and this lack of self-containment will be reflected in expenditure patterns. The A701 represents a strong link to Edinburgh to the north and to wider Midlothian to the south. The nature of this connection would likely mean that whilst leakage might be reduced, elimination of leakage would be unlikely.
- 8.25 Criteria D of this policy states "they are accompanied by measures to improve the environmental quality of the commercial hub and its accessibility by public transport, walking or cycling."
- 8.26 In regards to access, subject to improvements required by the Council's Policy and Road Safety Manager the site would provide an accessible development in and of its own needs. However, due to its location outside of the commercial hub, the proposed development does not serve to improve the access to the defined Straiton Commercial Hub located on the east side of the A701.

- 8.27 In regards to landscape the application was submitted with a landscaping layout. The landscaping proposed is limited to the peripheries of the site. Landscaping at these locations is formed of lower level planting/shrubs interspersed with proposed trees. This strip of landscaping varies in depth on the north boundary of the site from no separation from pavement and proposed car parking to a depth of circa 10m at other parts of the frontage. At the eastern (A701 frontage) the depths of landscaping range from 3.5m to 10m. At the west boundary a strip of landscaping of circa 8m depth is proposed to screen the service entrance and loading yard.
- 8.28 The proposed landscaping is modest for a development on a greenfield site and defined as countryside. Such a development would not be expected to deliver landscaping to a level that would screen development. Indeed, providing a degree of inter-visibility is beneficial from a legibility perspective.
- 8.29 Whilst the level of landscaping might not be untypical for a site within the heart of a commercial centre, the proposed development is not considered to improve the environmental quality of the commercial hub. Indeed, the site's open characteristics provide a welcome relief to the A701's urbanised eastern boundary and defines the western and future southern edge of the commercial hub and Ec3 allocation.
- 8.30 As is assessed above, even if the proposed development were to be considered to be within the Straiton Commercial Hub, there is sufficient concern regarding the retail impact of the development to conclude that the development would not comply with policy TCR2 and its criteria for development with the commercial hub.

Economic Benefit

- 8.31 On the surface of it the proposals would deliver retail based development that would have economic benefits in trade and employment. The submitted information with the application sets out that the development would create circa 35 jobs.
- 8.32 The economic benefit associated with the development is not however a straight forward assessment. New retail development can directly create new jobs, however as set out above, the development could lead to the loss of vitality and viability of other existing centres.

Design and Layout

8.33 The proposed layout pushes the proposed car parking towards the frontages of Pentland Road and the A701. The result is that the proposed unit is set back from either the north and west frontages. In so doing the car parking associated with the retail unit is the primary feature at both street frontages. If the site were to be developed it should provide a more attractive frontage to the A701 and seek to

- screen less attractive car parking to the rear of the unit, thus screening the car park.
- 8.34 The proposed service entrance is to the rear of the proposed unit which serves to screen that aspect of the development from the main roads which is a benefit.
- 8.35 The proposed unit itself is of a typical design for the proposed retailer and is of a similar architectural language to the existing Asda to the east of the site. It was highlighted at the pre-application stage that alternate materials for the elevations should be proposed including the potential use of timber cladding or other material to present more of a feature elevation. This has not been provided in the submitted drawings.
- 8.36 A proposed footpath connecting the site from the southern boundary is hemmed in between the food store service yard and the rear boundary of existing commercial and residential properties so does not allow for informal surveillance and is undesirable in terms of secure by design principles.
- 8.37 The proposed totem pole sign at the corner of Pentland Road and A701 would result in a cluttered street frontage. Alternate, lower level signage would be more appropriate were the development to be approved. A condition requiring revised signage could achieve this.
- 8.38 The proposed development is in close proximity to allocation Ec3 that is intended to become a new Midlothian Gateway that will require a very high quality of design. Furthermore, policy DEV 6 requires that new development to be of good design, deliver attractive street frontages and to include high quality materials. The proposed development is considered to conflict with these policy requirements.

Access and Transportation Issues

- 8.39 No objection has been raised by the Council Policy and Road Safety Manager or by Transport Scotland despite highways impact being a common source of concern in the Community Council and public comments.
- 8.40 Despite not objecting to the planning application the Council's Policy and Road Safety Manager has identified some matters which require further consideration. These include the provision of:
 - The existing 3 bay bus shelter on the A701 at the site frontage should be replaced with a larger 5 bay shelter to accommodate the additional number of bus users; and
 - Secure, covered, lockable cycle parking facilities should be provided for staff.

- 8.41 Were the application to be approved the above features should be secured by planning condition.
- 8.42 In addition to the above, were the application deemed to be acceptable, conditions requiring details of electric vehicle charging provision would be required to be submitted for approval and their implementation secured.

Flooding and Drainage

- 8.43 The proposed development is proposed to connect to the existing water system and Scottish Water have raised no objection in this regard.
- In regards to surface water drainage, the nature of the site subsurface and its position within the topography of the area (proximity to water courses) mean the infiltration of surface water into the ground on site is unfeasible. Likewise, watercourses are not readily accessible from the site to dispose of surface water. As such, the proposed sustainable urban drainage system (SUDS) at the site would seek to discharge surface water into the public water sewer. This will require the construction of a new off-site sewer to head north east from the site to connect into public system. Scottish Water set out that "For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not accept any surface water connections into our combined sewer system." However, the applicant states that the proposed surface water would discharge into a designated public surface water sewer system and not a combined sewer system. While Scottish Water would be agreeable to this arrangement, if this application were to be approved it would be necessary to ensure that this type of arrangement would be deliverable, as it is not clear how close the designated public surface water sewer is to the application site.

Visual Impact and Landscaping

- 8.45 The site is not located within any formal landscape designation and is influenced by existing built form. However, the adjoining rural landscape also has a notable influence on the character of its setting, amplified by the Pentland Hills which feature prominently as a backdrop in views towards the site. Whilst there is no formal landscape designation, the proposed development would significantly narrow any vista opportunity to the west.
- 8.46 The proposals would benefit from strong boundary planting along key interfaces with the A701 and Pentland Road this should include hedgerows along the periphery to minimise the visual impact of parked vehicles. The proposed landscaping previously discussed in this report does not adequately address the A701 and Pentland Road and

- amendments to the proposed landscaping would be required to secure compliance with policy ENV7.
- 8.47 Were the application to be approved conditions should be applied seeking:
 - A detailed landscaping scheme showing hard and soft landscaping;
 - Landscape specifications;
 - Hedgerow planting with trees at the interface with the A701 and Old Pentland Road to comprise single species hedgerows of beech/ hornbeam or mixed species such as hawthorn, blackthorn and beech; and
 - A hard-landscaped, pedestrian-friendly area between the existing bus stop at the A701, and proposed footpath link to the store.

Noise

- 8.48 A noise impact assessment has been undertaken by an acoustic consultant. The store orientation has been designed to minimise noise impact on the nearest noise receptors.
- 8.49 The conclusion of this assessment is that predicted noise levels of all the associated elements of the business, such as deliveries, customer car parking noise, fixed plant, and deposit return scheme, will be below those permitted as defined within all relevant noise legislation and codes of practice at the nearest noise receptors.
- 8.50 The Council's Senior Manager Protective Services has no objection to this application subject to conditions limiting noise levels from plant equipment, and noise levels experienced at noise receptors.

Ecological Matters

- 8.51 A preliminary ecology assessment (PEA) was submitted with the planning application. This was reviewed by the Council's Biodiversity Advisor, The Wildlife Information Centre (TWIC). TWIC reviewed the submission to determine that there were a couple of omissions within the report. Primarily was the omission of consideration of non-statutory local biodiversity sites in the report (section 3.2).
- 8.52 In addition to the above the consultee highlights that the site is favourable for small mammals and that a hedgehog has been recorded within 50m of the site. It is highlighted that the "consultant should recommend precautionary measures to protect small mammals and other wildlife during construction such as ensuring open holes, pits, pipes and trenches are covered or fitted with ramps, to allow for escape. Materials/rubbish/chemicals should also be stored safely, and any netting used raised above ground level and held taut to avoid Hedgehog entanglement."

- 8.53 Furthermore, it is noted that surveys of the site were undertaken outside the recommended survey window (April September) and as such may have missed the presence of plant and flower species that would be visible in spring/summer months. However, it is determined that given the site context the findings of the PEA are on balance representative of the site.
- 8.54 Were the application to be approved conditions should be applied that the PEA is updated to reflect non-statutory local biodiversity sites.

Developer Contributions

- 8.55 If the Council is minded to grant planning permission for the development it will be necessary for the applicant to enter into a planning obligation to secure financial contribution towards the planned A701 realignment.
- 8.56 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); and
 - Be reasonable in all other respects.
- 8.57 In relation to Midlothian Council, policies relevant to the use of Section 75 agreements are set out in the MLDP and Midlothian Council's Developer Contributions Guidelines (Supplementary Planning Guidance). The applicant has agreed to a contribution in the event that planning permission is granted and it is considered that such a planning obligation would meet the above tests.

9 RECOMMENDATION

- 9.1 It is recommended that planning permission be refused for the following reasons:
 - 1. The proposed development directly conflicts with policy RD1 of the Midlothian Local Development Plan 2017 which restricts the

development of primarily retail based development within the countryside.

- 2. The site of the proposed development is outwith any area allocated for retail based development and outside the settlement limits of Loanhead; the application does not demonstrate that the proposed development would not undermine the vitality and viability of other town and local centres; the proposed development does not deliver environmental improvements to the Straiton Commercial Hub, and therefore the proposed development conflicts with policy TCR2 of the Midlothian Local Development Plan 2017.
- 3. The proposed development would result in a building lacking in architectural interest and the creation of a car dominated frontage of both the A701 and Pentland Road with insufficient landscaping to reflect the sites greenfield character or screen the proposed development, and is considered to conflict with policy DEV6 of the Midlothian Local Development Plan 2017.

Peter Arnsdorf Planning, Sustainable Growth and Investment Manager

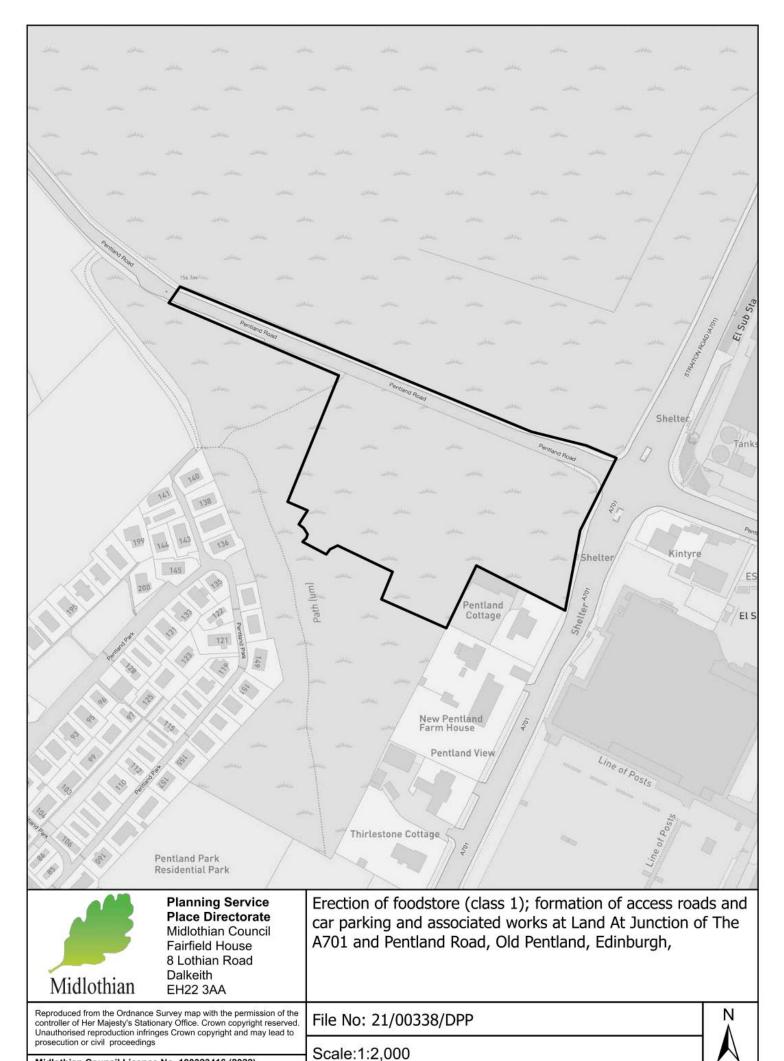
Date: 2 June 2022

Application No: 21/00338/DPP Applicant: Aldi Stores Limited

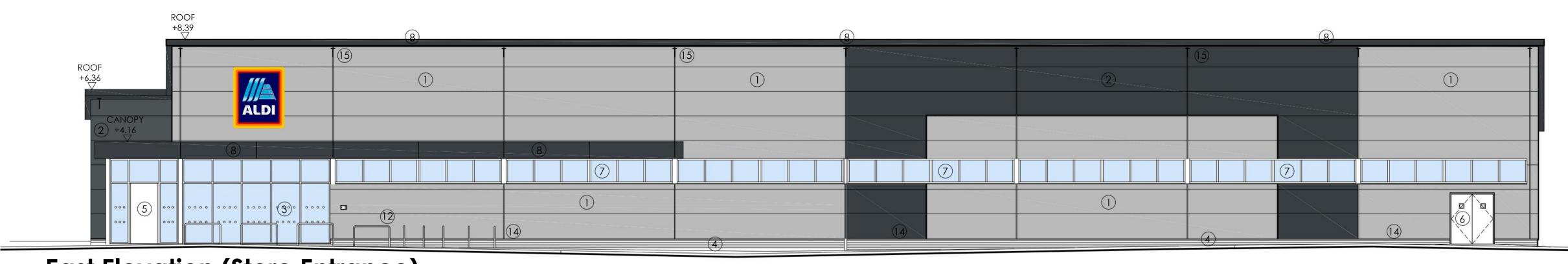
Agent: Avison Young (UK) Limited

Validation Date: 30 April 2021 Contact Person: Hugh Shepherd

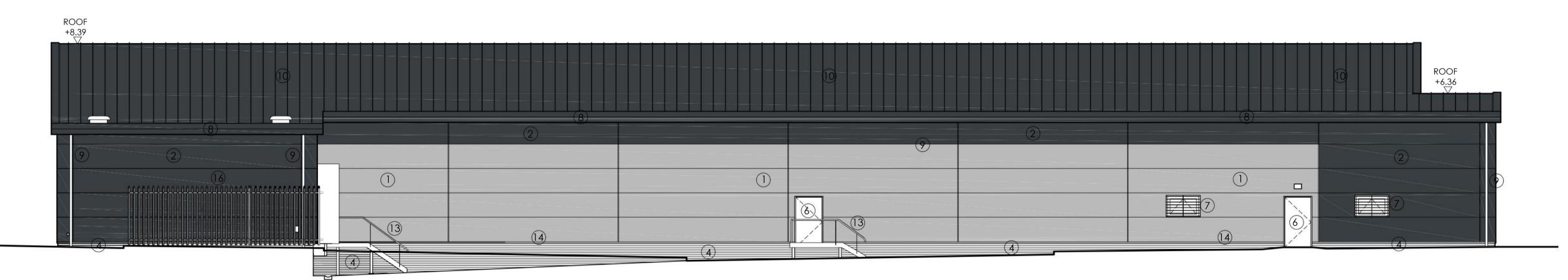
Email: hugh.shepherd@midlothian.gov.uk



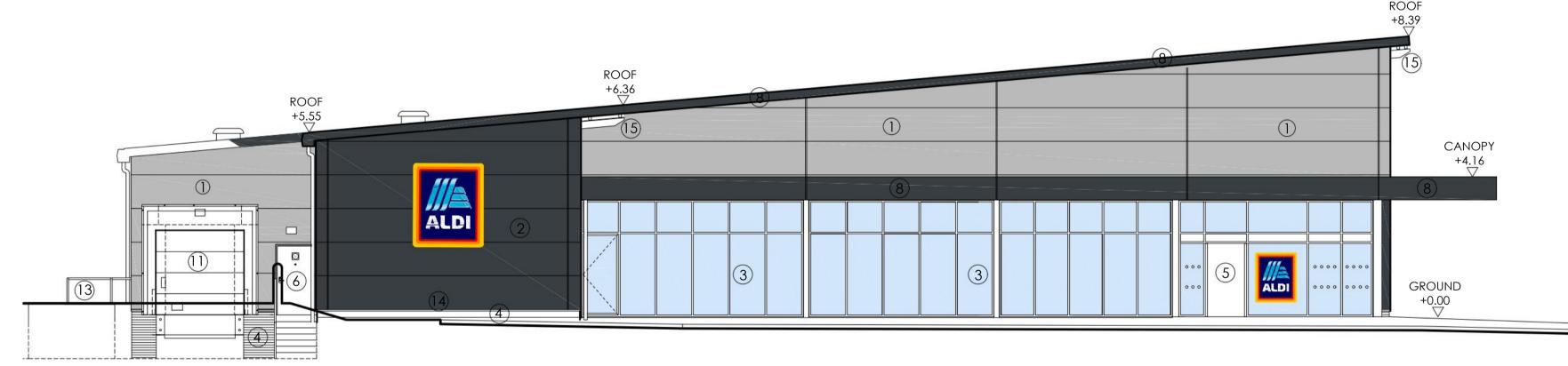
Midlothian Council Licence No. 100023416 (2022)



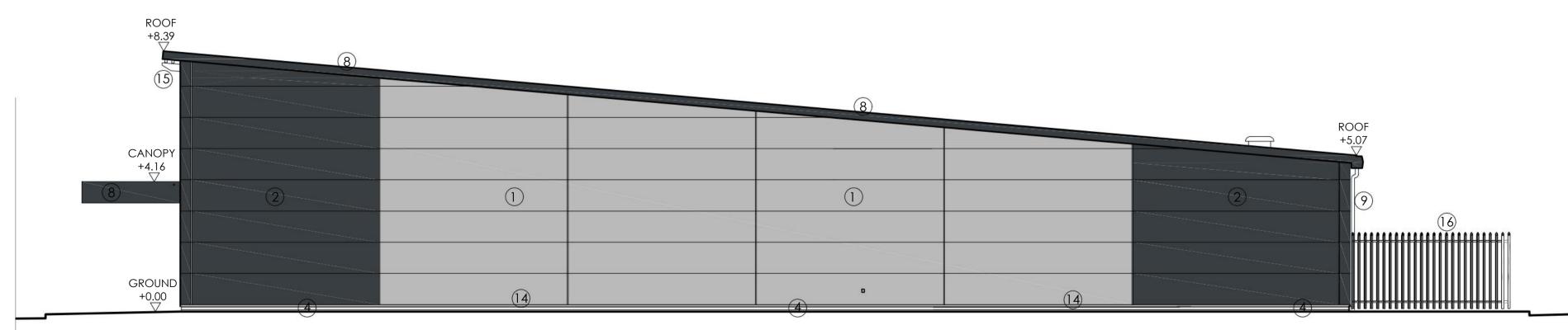
East Elevation (Store Entrance)



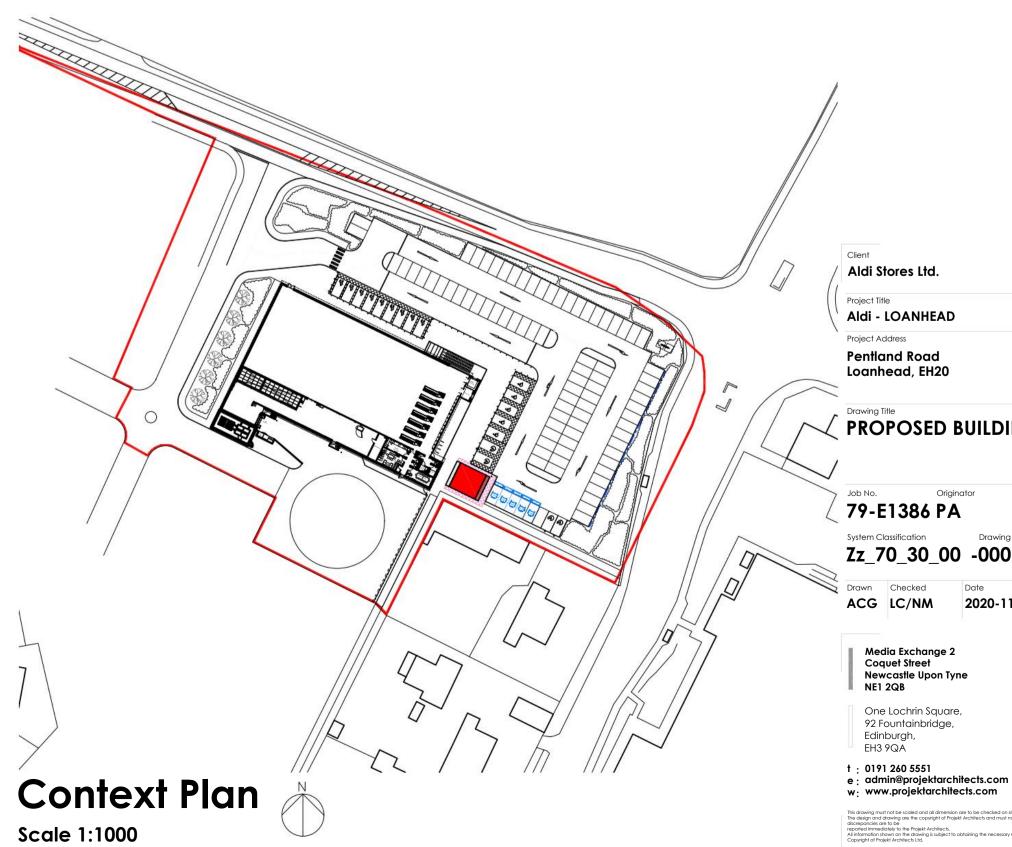
West Elevation (Loading Ramp)



South Elevation (Shopfront)



North Elevation (Loading Ramp)



EXTERNAL FINISHES

- KINGSPAN KS1000MR METALLIC SILVER COLOURED COMPOSITE CLADDING PANELS, COLOUR RAL 9006 (WHITE ALUMINIUM)
 - KINGSPAN KS1000MR DARK GREY COLOURED COMPOSITE CLADDING PANELS, COLOUR RAL 7016 (ANTHRACITE)
- SHOPFRONTS POLYESTER POWDER COATED ALUMINIUM FRAMES, COLOUR RAL 7016 (ANTHRACITE)
- BLOCKLEYS BRICK LTD "CHARCOAL" BRICKWORK WITH TARMAC Y14 (BLACK) COLOURED MORTAR
- ENTRANCE POLYESTER POWDER COATED ALUMINIUM FRAMES, COLOUR RAL 7016 (ANTHRACITE)

(ANTHRACITE)

- STEEL ESCAPE DOORS POLYESTER POWDER COATED STEEL, COLOUR RAL 7016
- WINDOWS POLYESTER POWDER COATED ALUMINIUM, COLOUR RAL 7016 (ANTHRACITE)
- 8 FASCIAS POLYESTER POWDER COATED ALUMINIUM, COLOUR RAL 7016 (ANTHRACITE)
- RAINWATER GOODS POLYESTER POWDER COATED ALUMINIUM, COLOUR RAL 7016
- (ANTHRACITE) 10 KINGSPAN KS1000RW 100MM THICK TRAPEZOIDAL COMPOSITE ROOF CLADDING PANELS ON PURLINS, ALL TO ACHIEVE MINIMUM U-VALUE OF 0.20W/m²K, COLOUR
- 11 SECTIONAL OVERHEAD DOOR PVF COATED STEEL COLOUR RAL 7016 (ANTHRACITE)

RAL 7016 (ANTHRACITE)

- 12 TROLLEY BAY RAILS SATIN FINISH STAINLESS
- 13 HANDRAILS GALVANISED TUBULAR STEEL
- 14 PVF2 COATED ALUMINIUM PRESSED DRIP FLASHING, COLOUR TO MATCH ADJACENT
- 15 ALL EXPOSED STEELWORK TO BE PAINTED STEELGUARD Z44, FINISH COAT TO BE GLOSS FINISH, COLOUR RAL 7016 (ANTHRACITE)
- 16 PALLISADE FENCE

