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**APPLICATION FOR PLANNING PERMISSION 17/00537/DPP FOR  
ERECTION OF PETROL FILLING STATION AND SHOP; RESTAURANT  
WITH DRIVE THRU, CAFE WITH DRIVE THRU AND ASSOCIATED  
WORKS AT LAND AT SHERIFFHALL SOUTH, MELVILLE GATE ROAD,  
DALKEITH**

Report by Head of Communities and Economy

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**1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1** The application is for the erection of a petrol filling station, shop and two cafe/restaurants each including a drive thru. There have been 6 letters of representation and consultation responses from Transport Scotland, the Coal Authority, Scottish Water, Scottish Natural Heritage, SEPA, the Council's Archaeological Advisor, the Council's Policy and Road Safety Manager, the Council's Environmental Health Manager and the Council's Economic Development Service.
- 1.2** The relevant development plan policies are policy 2 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT1, DEV 5, DEV6, DEV 7, ECON 1, ECON 3, TRAN 1, TRAN2, TRAN 5, TCR1, TCR2, ENV1, ENV4, ENV 7, ENV 9, ENV 10, ENV 11, ENV 15, ENV17, ENV 18, ENV25, NRG 6, IMP 1, IMP 2 and IMP3 of the Midlothian Local Development Plan 2017.
- 1.3** The recommendation is to refuse planning permission.

**2 LOCATION AND SITE DESCRIPTION**

- 2.1** The 1.06 hectare site comprises part of allocated economic site e32, Sheriffhall South located to the north of Dalkeith and south of Sheriffhall Roundabout. The application site is at the junction of Gilmerton Road (B6392) and the A7 and forms part of an open area of land currently in agricultural use. There is woodland planting to the north/north east and to the east of the site. The site is neighboured to the west, across the A7, and to the south, across the Gilmerton Road, by the wider economic site e32 (11.5 hectares) allocated for Class 4 business uses. The site is generally level rising a little to the north.

### **3 PROPOSAL**

- 3.1 The proposal comprises; a petrol filling station (PFS) (five car pump stations and two heavy goods vehicle pump stations) with an associated retail unit (490sqm), a cafe/restaurant/drive thru unit (270m<sup>2</sup>) and restaurant/hot food takeaway/drive-through unit (330m<sup>2</sup>).
- 3.2 The proposal includes 13 parking spaces at the petrol filling station retail unit and 56 parking spaces servicing the two eateries/drive thru units. A site refuse area is proposed at the petrol filling station site and some limited landscaping is proposed on some boundaries of the site.
- 3.3 The retail use on the site provides for convenience shopping, employing an estimated 8 fulltime members of staff and 36 part time employees. The shop will include a deli counter and a bakery counter with re-heating rather than cooking taking place on the site. The shop will be open 24 hours a day, 7 days a week, as will the deli counter with the bakery open daily from 6am until 10pm.
- 3.4 The cafe/restaurant/drive thru will be open 6am to 10pm seven days a week and is expected to employ 4 full time staff members and 15 part time staff members, The restaurant/hot food takeaway/drive thru will be open 10am until 11pm, 7 days a week and will employ approximately 20 full-time members of staff and 35 part-time staff.
- 3.5 The proposed external finish materials are different for each of the units proposed. The retail unit is finished with a variety of wall panels in neutral/grey colours and includes a wood grain composite wall cladding, aluminium framed glazing panels and a profiled roof panel. The restaurant/takeaway/drive thru is finished with white wall panels, some grey roof panels and some cedar planking with glazed panelling incorporating grey aluminium frames. The roof finish is not specified. It is proposed to finish the café/drive thru with dark grey panels on the walls with black aluminium framed glazing with some cedar cladding.
- 3.6 It is proposed to access the site from the Gilmerton Road to the south of the site. The access will serve the wider Sherifffhall South site and will have a dedicated right hand turn lane into the site. The proposed pedestrian access to the site is via the existing pedestrian footway, to the north of Gilmerton Road. Cyclists can access the site using the wider road network and 6 cycle parking racks are proposed within the site boundary.
- 3.7 The application is accompanied by a planning statement, transport assessment, a coal mining risk assessment/site investigation, a preliminary bat roost assessment, a badger survey and a socio economic assessment.
- 3.8 In support of the application and in response to consultation comments the applicant's agent makes the following points:

- The site has not proved attractive to typical Class 4 or 5 users despite being marketed for circa 10 years by the landowners and commercial agents;
- They have no employment land, economic land supply or industrial land supply evidence from the Council to demonstrate that there is a shortage of industrial sites;
- The assertion that “inward investment to Midlothian is low due to lack of suitable sites and premises of sufficient size” is questioned;
- A 2,000sqft office space would generate circa 20 jobs to the Midlothian area;
- It is not accepted that “the only economic activity planned is retail related to travel...” The development should be viewed as a whole – as a roadside service model across three individual units;
- It is not accepted that the nature and quality of the jobs created as a result of the entire development proposal, deemed by the Council to be “entry level with lower wages and skills levels” is a valid planning consideration;
- The approval of the Elginhaugh pub/restaurant on land to the west of the subject site is noted. The impetus for the approval was, it seems, to stimulate growth – the reason being that the allocation had attracted little interest in the period it had previously been marketed for;
- It is not accepted that the ancillary retail of the PFS will have a negative effect on the town centre of Dalkeith. A town centre location would not be suitable for the development as it is a road side development;
- It is stated that ‘we must stress that the Council are in danger to losing immediate jobs and investment should they be minded to refuse this planning application’ and that ‘ultimately the allocation of land for economic purposes is to generate jobs and investment’. Further, between 2015/2016 there was a decrease in the number of people employed across Midlothian. Midlothian benefits however from a growing population, due largely to the new residential development taking place. There is a concern that a proportion of those living in Midlothian commute to central Edinburgh to work. If Midlothian are to capitalise on its population growth and provide local jobs for local people, it must accept when it is demonstrated that a specific land allocation has not attracted market interest over several years and a complementary employment proposal comes forward to provide jobs; a degree of flexibility is required from a planning perspective and we request the Planning Authority adjust their thinking accordingly. This is set out in SPP’.

## **4 BACKGROUND**

- 4.1 Planning application 17/00508/DPP for infrastructure comprising roads and drainage across the wider Sherrifhall South economic development site (e32) is subject to assessment.

- 4.2 Planning application 17/00587/DPP for a residential care home with associated access, car parking and landscaping at north west of Melville Gate Road, Dalkeith (the site is within e32 to the east of the application site) has been referred to the Local Review Body by the applicant (to be considered at its meeting of 22 May 2018) on the basis of non-determination of the planning application within the statutory time period.
- 4.3 A planning application for the Elginhaugh Inn (built within site e32 in 2014) was granted permission in February 2014. The reason for supporting this proposal was that *the proposed commercial leisure facility will provide a valuable facility to the business land allocation which will enhance the attractiveness of the site to prospective businesses, whilst itself providing a comparatively high level of employment opportunities*. The Elginhaugh Inn has been open for three and a half years without 'acting as a development to open the site up for other economic uses' as promoted by the applicant and landowner.
- 4.4 The application has been called to Committee for consideration by Councillor Kenneth Baird.

## 5 CONSULTATIONS

- 5.1 **Transport Scotland** has confirmed that the proposed development does not impact on the proposed A720 Sheriffhall Roundabout Improvement Scheme.
- 5.2 The **Coal Authority** concurs with the recommendations of the applicant's coal mining risk assessment report; that coal mining legacy potentially poses a risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. The Coal Authority recommends that the Planning Authority impose a planning condition should planning permission be granted for the proposed development requiring site investigation works prior to commencement of development. The Coal Authority therefore has no objection to the proposed development subject to the imposition of an appropriate condition.
- 5.3 **Scottish Water** have no objection to the proposed development, however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced.
- 5.4 **Scottish Natural Heritage (SNH)** do not wish to make formal comment on the development.
- 5.5 The **Scottish Environment Protection Agency (SEPA)** has no objection to the application.

- 5.6 The Council's **Archaeological Advisor** advises that an initial desk based appraisal of the site has been undertaken in order to examine the possible historic environment implications of the proposed development and as a consequence there is a requirement for a programme of archaeological works (Trial Trench Evaluation). The area to be investigated shall be no less than 10% of the total site area. This requirement can be secured by conditions if the Council is minded to grant planning permission for the proposed development.
- 5.7 The Council's **Policy and Road Safety Manager** advises that there are no objections in principle to the proposal but recommends; that a condition be applied to secure an appropriate sustainable urban drainage system (SUDS) and that a financial contribution is secured towards the A7 Urbanisation Scheme. The scheme seeks to improve walking, cycling and public transport access on the A7 and to those settlements and developments along the corridor. In terms of the phasing of the overall development it is noted that all of the infrastructure works identified in planning application 17/00508/DPP (related to the construction of road access and the overall SUDS system) requires to be constructed and operational before any of the units are brought into use.
- 5.8 The Council's **Environmental Health Manager** states there are no objections in principle to the proposal subject to conditions being imposed on any grant of planning permission mitigating the impact of land contamination and noise and disturbance. The conditions should also include a requirement to submit details of ventilation and litter collection.
- 5.9 The Council's **Economic Development Service** recommends the application is refused based on the following considerations:
- Since the adoption of the MLDP the land is identified as employment land for business uses;
  - This site is highly important to the economic land supply in Midlothian. Its location is ideal for business uses, being situated on the A7 and in close proximity to the by-pass. The proposed future grade separation of Sheriffhall roundabout will further enhance the site as an economic and industrial location;
  - Midlothian is short of sites for business use. There has been a continual erosion of economic sites as developers/landowners seek to secure a higher value land use. This has been an ongoing concern to the detriment of employment opportunities in the district;
  - The Argentix survey of 2012 found that businesses cited "a lack of expansion space, lack of suitable development sites and a lack of suitable rented property as growth inhibitors". There is no reason to believe that these challenges have decreased;
  - The site is served by public transport that links it to Dalkeith/Woodburn, Mayfield/Easthouses, Newtongrange and

Gorebridge, which means that employment opportunities here could be accessed by residents of Midlothian's priority areas;

- Inward investment to Midlothian is low due to the lack of suitable sites and premises of sufficient size. The Borders Railway [BR] is starting to have an effect of increasing the number of enquiries for suitable industrial premises and given that marketing efforts with regards to the BR continues to improve it is expected that interest will continue to increase;
- Whilst we have requests for a variety of sizes of premises the largest number are for premises of up to 186sqm [2,000sqft] with "roller shutters" that are suitable for a range of businesses;
- There is currently a lack of high quality office/co-working spaces in Midlothian suitable for start-up/spin off companies. The Borders Rail Partnership Report produced an incubation network feasibility study that supports this contention. There is also a lack of serviced office spaces within Midlothian;
- The only economic activity proposed is retail related to car travel - the developer describes this as "a roadside service model" and it comprises a filling station and two drive through facilities;
- Whilst the number of jobs claimed to be created might be relatively high there is no evidence that these will actually be delivered. The developers own supporting information [sent 2/2/18] simply states values for "Generic Outlets". The Report from MKA Economics states [section numbers from the original]
  - 1.2 "This assessment is based on the proposed development as detailed in the Colliers Planning Support Statement.... "
  - 1.3 "This report does not constitute a market appraisal of the demand and likely take-up of the proposed development...."
  - 3.6 "*Discussions with Euro Garages indicate* that the entire development will directly employ 118 members of staff". {This phrase is repeated in 3.14}. Essentially the MKA document simply restates the assertions of the developer;
- The nature and quality of the jobs will tend towards entry level with lower wages and skill levels since these are the jobs that predominate in the retail sector and small food outlets. The developers own supporting information [sent 2/2/18] demonstrates that of the 118 jobs 91 are comprised of "Team Members Takeaway ", "Barista", "Sandwich Artist", "Bakery Assistant" or "Cashier". Of these 70% are part time;
- The projected number of jobs varies between documents which makes it slightly difficult to conduct comparisons. Taking the figures of floor space and jobs from p14 of "Planning Supporting Statement" prepared by Colliers [5/7/17 @ 13:40] and comparing those figures with the predictions deriving from the 3<sup>rd</sup> Edition Employment Density Guidance [Home & Communities Agency] suggest that the developer is over projecting jobs by anything from 4 – 26% on their own preferred uses;
- As section 2.23 of the report from MKA Economics states "Therefore the onus is on Euro Garages to provide the relevant information in support of the planning application". I do not

believe that in terms of economic impact or employment levels the applicant has discharged that obligation. The figures in the report simply repeat assertions made by the developer without any relevant real life data to support them;

- The Council has already allowed a non-economic development use directly across the A7 from this site. That was ostensibly to “open up” that site to economic development usage as the site was “difficult to market”. Since the pub/restaurant was opened we have not seen any further economic development use. To repeat this decision making rationale on the site will cause such further loss as to endanger the economic usage of the whole site; and
- Retail development of such a nature outside of, but so close to, Dalkeith Town Centre will not assist the efforts towards Town Centre renewal. This is an observation from an economic development perspective and refers to displacement of spend. Disposable expenditure made outside the town centre will not be made within it. That is not in our view desirable.

In addition, and in relation to a point made by the applicant in relation to having ‘no employment land supply or industrial land supply evidence from the Council to demonstrate that there is a shortage of industrial sites’. The following points are made:

- A report from the CoStar database (database commonly used by the Property Industry) which compares Midlothian Council Area with the ‘Edinburgh Market’ (which includes Edinburgh, West Lothian, East Lothian and Midlothian). This report shows that there has been no movement into Midlothian since 2010 of the 1 to 186sqm (1 to 2000sqft) ‘roller shutter’ type units, whereas the wider Edinburgh market shows far healthier growth. This needs to be addressed if Midlothian is to compete across the region as a place to do business. This is further reinforced when one looks at the construction starts over the same period. There has been zero business construction starts in Midlothian of this size of ‘roller shutter’ units over this period. This reinforces the anecdotal evidence received through property enquiries and through Business Gateway feedback; and
- In regards to serviced office space the data shows a higher asking rent per square foot in Midlothian over a ten year period. Over the same period there was a higher vacancy rate in Midlothian for serviced office accommodation. In addition, there have been zero deliveries of serviced office space in Midlothian over the ten year period.

## **6 REPRESENTATIONS**

- 6.1 There have been six objections received, which can be viewed in full on the online planning application case file. A summary of the points raised are as follows:

- The proposal will lead to increased traffic in the area, on roads already heavily congested with the increase in housing development;
- The expansion of Dobbies has led to congestion locally and this proposal will lead to further congestion;
- Concern is expressed about traffic fumes/air quality issues;
- The proposed development would lead to a significant increase in the levels of littering in the vicinity, something that is already at an intolerable level;
- This part of Midlothian is already (and unfortunately) well served by petrol stations and takeaway outlets, and the granting of another similar establishment would have a detrimental effect on its amenity;
- There will be overprovision of cafes, which are already available at Dobbies, Melville Inn and Elginhaugh Farm. There is already a KFC at Straiton and Fort Kinnaird;
- Local hotel and restaurant developments have taken over green space, recreation areas and wildlife habitats;
- Midlothian Council promotes healthy eating through its schools. Another fast food outlet is detrimental to its effort;
- Concern regarding the considerable impact on fauna and flora;
- Concern regarding noise pollution from vehicles, in particular in the early hours of the mornings at weekends.
- Objection to the loss of an agricultural field for such unsustainable development;
- If the Council insists on allowing development on this site, it should be affordable housing, not unsustainable and unwelcome chains of the type proposed; and
- The proposal is contrary to at least two of the policies contained within the Midlothian Local Development Plan, namely Policy ENV4 (Prime Agricultural Land) and Policy RD1 (Development in the Countryside).

6.2 In response to three of the objections the applicant's agent has made the following comments in support of the application:

- A robust Traffic Assessment (TA) has been carried out and lodged with the application. The TA considers there would be shared trips associated with the proposed uses on the site, therefore assumes a 50% reduction in calculated trips for the coffee shop and fast food elements;
- The TA also considers that 75% of the total trips accessing the site would already be on the local road network, diverting into the site;
- The TA shows that there are not expected to be any capacity issues with the site access junction;
- Expected queues on the right hand lane into the development can be accommodated within the space available;
- The modelling shows that the impact on A7/A772/B6392 Gilmerton Road Roundabout is not significant;
- It is noted that this site is allocated for development in the MLDP;



- The site is in 'constant agricultural use' therefore it is not designated open or green space and it is in private ownership; and
- There is no evidence that the development will result in litter or 'undesirable pollution' and the agent states *my client takes issue with this suggestion*. The application shows secure waste bins in the development area. The applicant operated a strict approach to litter, the agent states, and as they will manage the franchised uses on the site directly, this is not an issue.

## 7 PLANNING POLICY

- 7.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP). The following policies are relevant to the proposal:

### Edinburgh South East Scotland Strategic Development Plan 2013 (SESPlan)

- 7.2 **The Spatial Strategy** identifies the A7/A68/Borders Rail Corridor in Midlothian as a Strategic Development Area in terms of growth and development. The emphasis is on additional employment opportunities to reduce the need to commute and on the implementation of transport infrastructure to accommodate planned growth. This approach is continued in the proposed replacement Strategic Development Plan for Edinburgh and South East Scotland which is subject to examination.
- 7.3 **Policy 2** (Supply and Location of Employment Land) states that the strategic development plan supports the development of a range of marketable sites of the size and quality to meet the requirements of business and industry within the SESPlan area. Local development plans will support the delivery of the quantity of the established strategic employment land supply as identified. Local development plans should also ensure they provide a range and choice of marketable sites to meet anticipated requirements.

### Midlothian Local Development Plan 2017 (MLDP)

- 7.4 Policy **STRAT1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, including sites in the established economic land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.
- 7.5 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.6 Policy **DEV6: Layout and Design of New Development** sets out design guidance for new developments.

- 7.7 Policy **DEV7: Landscaping in New Development** sets out the requirements for landscaping in new developments.
- 7.8 Policy **ECON1: Existing Employment Locations** seeks to safeguard those sites allocated for economic land uses.
- 7.9 Policy **ECON3 Ancillary Development on Business Parks** supports the principle of ancillary uses (such as child day care services, banking, convenience, healthcare services) at Shawfair Park and Salter's Park where these are of a scale suitable to service the existing and expanding workforce and business community at these locations.
- 7.10 The provision of and support for, ancillary development will be considered subject to:
- an assessment of the proposed uses and scale of provision not having an adverse impact on the prospects for Shawfair (proposed) and Dalkeith (existing) town centres; and
  - the preparation of a masterplan indicating the scale, location and timing of provision.
- 7.11 Where substantive development is yet to commence, support for ancillary uses will only be considered if it is likely to act as an enabler to attract further investment to that business location. In each case, planning obligations will be used to regulate the scale, nature, extent and timing of such facilities, including any advanced provision.
- 7.12 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.13 Policy **TRAN5: Electric Vehicle Charging** seeks to promote a network of electric vehicle charging stations by requiring provision to be an integral part of any new development.
- 7.14 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 will prepare supplementary guidance on food and drink and other non-retail uses in town centres; this guidance will also include guidance in respect of food and drink and hot food takeaways outwith town centres. The guidance is currently being prepared by the Council.
- 7.15 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 such applications. The policy does not refer to or apply to food and drink uses or hot food takeaways.
- 7.16 Policy **ENV1: Protection of the Green Belt** advises that development will not be permitted in the Green Belt except for proposals that;
- A. are necessary to agriculture, horticulture or forestry; or

- B. provide opportunities for access to the open countryside, outdoor sport or outdoor recreation which reduce the need to travel further afield; or
- C. are related to other uses appropriate to the rural character of the area; or
- D. provide for essential infrastructure; or
- E. form development that meets a national requirement or established need of no other site is available.

Any development proposal will be required to show that it does not conflict with the overall objectives of the Green Belt which is to maintain the identity and landscape setting of Edinburgh and Midlothian towns by clearly identifying their physical boundaries and preventing coalescence.

- 7.17 Policy **ENV4: Prime Agricultural Land** does not permit development that would lead to the permanent loss of prime agricultural land unless there is appropriate justification to do so.
- 7.18 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.
- 7.19 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.
- 7.20 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 environmental.
- 7.21 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.

- 7.22 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.23 Policy **ENV 17 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.
- 7.24 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.
- 7.25 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.
- 7.22 Policy **NRG 6 Community Heating** seeks to ensure developments deliver, contribute towards or enable the provision of community heating schemes.
- 7.23 Policy **IMP1: New Development**. This policy ensures that appropriate provision is made for a need which arises from new development. Of relevance in this case are, transport infrastructure; landscaping; public transport connections, including bus stops and shelters; parking in accordance with approved standards; cycling access and facilities; pedestrian access; access for people with mobility issues; traffic and environmental management issues; protection/management/compensation for natural interests affected; archaeological provision and 'percent for art' provision.
- 7.24 Policy **IMP2: Essential Infrastructure Required to Enable New Development to Take Place** states that new development will not take place until provision has been made for essential infrastructure and environmental and community facility related to the scale and impact of the proposal. Planning conditions will be applied and; where appropriate, developer contributions and other legal agreements will be used to secure the appropriate developer funding and ensure the proper phasing of development.
- 7.25 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.

## National Policy

- 7.26 The **SPP (Scottish Planning Policy) 2014** sets out Government guidance 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.
- 7.27 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.
- 7.28 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.
- 7.29 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.*

## **8 PLANNING ISSUES**

- 8.1 The main issue to be determined is whether the proposal accords with the development plan, unless material planning considerations indicate otherwise. The representations and consultation responses received are material considerations.

## Principle of Development

- 8.2 The site is allocated in the MLDP for Class 4 business uses as defined by the Town and Country Planning (Use Classes) Scotland Order 1997 (as amended). The proposed development comprises a mixed use of Class 1 shop (retail) and Class 3 food and drink for consumption on the premises uses (cafe and restaurant). The hot food takeaway (including the drive thru) component of the cafe and restaurant and the petrol filling station (PFS) are sui generis uses (*sui generis is a term which refers to a use in a class of its own outwith those defined by the Use Classes Order*). The retail unit is of a scale as not to be considered ancillary to the petrol filling station and the hot food takeaway components are of a scale as not to be considered ancillary to their host cafe/restaurant. The proposed uses do not accord with the site's allocation and are therefore contrary to the MLDP.
- 8.3 The application site forms part of the Sheriffhall South economic development site identified for Class 4 business uses. Class 4 uses are defined as; a use as an office, other than a use within Class 2 (financial, professional and other services); for research and development of products and processes; or for any industrial process; being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. The proposed PFS, retail unit, cafe and restaurant with drive thru are materially different uses resulting in different economic outcomes, different environmental impacts and different traffic generation patterns.
- 8.4 SESplan policy 2 supports the development of a range of marketable sites of the size and quality to meet the requirements of business and industry within the SESplan area. Local development plans are required to deliver the quantity of strategic employment land as identified. The proposed development undermines the strategic objective of delivering business and industry development and the loss of Sheriffhall South to non-business uses could result in Midlothian not meeting its strategic land commitments.
- 8.5 The Scottish Government introduced a presumption in favour of development that contributes to sustainable development, however it is made clear in SPP (Paragraph 28) that:
- “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.”
- 8.6 The MLDP allows for the use of ancillary development in support of economic development sites at Shawfair Park and Salters Road, subject to any proposed uses not having an adverse impact on Dalkeith

Town Centre or the proposed Shawfair Town Centre. The retail use proposed of a sufficient size (490sqm) that it should be located in a town centre or other commercial centre rather than in this out of town location. The proposed development by means of its uses and the scale of those uses cannot be considered as ancillary to the economic site, but rather as a whole sale change in the use of the business allocation. If permission is granted for the proposed uses then it is the case that the overall use of Sheriffhall South will change by default.

- 8.7 The applicant views the site as a roadside service station use and as such appropriate to propose a composite of uses (petrol filling station, retail and cafe/restaurants with drive thru and takeaway elements). Often such uses are located adjacent to motorways or major trunk roads rather than as proposed at a junction of A Class roads within only a kilometre of a recognised town centre (Dalkeith). The site is not allocated in the development plan for use as a 'service station'.
- 8.8 This site has been identified as being in the green belt where protective policies seek to ensure development is in accordance with MLDP policy, specifically that the site is developed for business purposes. The MLDP identifies that the site should remain in the green belt until it is fully developed. This approach was supported during the local plan examination by the Reporter appointed by the Scottish Government. This gives the site additional protection against non-business use development with the fallback position being that if the site is not developed for business uses the Council can determine through the local plan process to de-allocate the site and return it to agriculture/green belt. In short, if acceptable Class 4 employment uses do not materialise the development plan essentially requires the land to return ultimately to undeveloped green belt. There is no provision in the development plan to consider other alternative non Class 4 business uses.

#### The Economic Case

- 8.9 The applicant states that the marketing of the 'Sheriffhall South' site has been ongoing since May 2009, with the original 2009 brochure updated in 2015. Marketing boards have existed on the site since May 2009. Brochures were circulated to all office agents in Edinburgh and surrounding areas on numerous occasions. Despite the widespread and constant marketing campaign, interest in the site for Class 4 business uses has been limited with occupiers tending to prefer to locate closer to the City of Edinburgh or at West Edinburgh. The marketing agents have confirmed that the majority of interest in this site has come from outwith the Class 4 uses sectors i.e. non office developers/occupiers.
- 8.10 In response to the slow take up of the wider site for economic uses the Council granted planning permission for a restaurant/pub on part of the Sherrifhall South site in an attempt to 'open up' the site for

development. Unfortunately, to date, the Elginhaugh Inn development has not lead to further development of Sheriffhall South for business uses. However this does not automatically mean the Council has to support other non business uses on the site, or with a different marketing strategy economic uses could not come forward in the future. The applicant could consider reducing the cost of the plots of land (to be more competitive with sites in the City of Edinburgh) to enable the development of the site for appropriate uses.

- 8.11 The applicant makes the argument that the Council should approve the development because if it does not it will lose up to 50 FTE jobs. These jobs have been described by the Council's Economic Development Service as being entry level and low skill jobs. The applicant has taken issue with this description. However, it is clear they are not the type of jobs anticipated when the Council allocated the site for business uses.
- 8.12 The applicant submitted a socio-economic assessment in support of the application. The report purports to assess the likely effects on the economy, both qualitative and quantitative, in particular on employment and economic output. The assessment considers both the construction and operational phase of the development. The report sets out relevant economic development policy at the national (Scottish Economic Strategy) and local level (Midlothian Economic Development Framework, 2007 – 2020 and Economic Recovery Programme). Reference is also made to SPP, SESplan and the MLDP. The document also makes reference to support for ancillary development on economic development sites.
- 8.13 The report notes some challenges for Midlothian including a decrease in the economically active population, earnings being lower than the Scottish average, lower levels of variation in the employment market (by occupation type) and the number of local businesses has declined, from 2225 to 2215 from 2014 to 2015. The report also notes that Midlothian benefits from a growing population, economic activity rates remain higher than the national average; unemployment is below the UK and Scottish averages – notably amongst younger people.
- 8.14 The report indicates socio economic benefits of the proposal as a *'high quality development promoting Midlothian as a place to invest and do business'*, approximately £2.3 million new capital investment, injection of £535,000 into the regional economy in relation to construction and creating 118 jobs (50 FTE jobs) generating £5.39 million per annum.
- 8.15 Notably, the applicant's submission does not take cognisance of the potential use of the site for Class 4 business uses as identified in the MLDP to set against the above findings. Nor does it compare the type or salary levels of those potentially employed at the site as part of the proposal as set against potential employment figures from business uses. If such a comparison was undertaken it would no doubt reinforce the identified challenge with regard earnings as set out in the



applicant's submission and show that business uses on the site would generate greater levels of employment and greater levels of investment in the local economy.

- 8.16 The applicant has supplied information regarding the marketing of the site. However no information has been submitted in relation to the cost of land for potential developers. The landowner may need to think more proactively regarding the promotion of the site or the servicing of the site and/or the construction of speculatively built units in order to enable the development of the site. In addition the price of the land may have to be reduced in order to achieve the appropriate development of the site and the provision of high quality; skilled jobs lifting the average salary level for Midlothian so that it is more in line with the national average.
- 8.17 The applicant states that 186sqm (2000 sqft) of office space would employ approximately 20 people (the Council's Economic Development Service estimates it would be more like 14 to 19 jobs). The overall floor area on the application site is 1090sqm. On the basis of the Council's estimates an office development would generate approximately 83 to 109 jobs; these numbers would potentially double with a two storey building. Research and development uses would generate approximately 18 to 27 jobs, again with these figures doubling for a two storey building on the site. In relation to light industry approximately 23 jobs would be created with a building of similar floor area. Employment numbers for the site are estimated at 50FTE, however if the site were utilised for office development it could generate up to approximately 200 jobs (based on a two storey building). In relation to research and development over a two storey building the number of jobs generated would be similar to the numbers proposed for the current proposal. The number of light industrial jobs would be lower than that proposed for this development.
- 8.18 The applicant takes the view that all jobs are equal in terms of development proposals. This does not accord with the established principles of land use planning and the Scottish Government's SPP. Sheriffhall South is allocated for specific business uses because they are known to stimulate economic growth. Accordingly, the position is not to support any type or form of development that provides employment. Some, such as those proposed in this application, would only be acceptable at certain other locations within Midlothian.

#### Form of Development

- 8.19 The site will be accessed off the Gilmerton Road, approximate 100 metres east of the A7/Gilmerton Road roundabout. The access is designed to service this site and other plots within allocation e32 Sheriffhall South. This is acceptable. However one of the consequences of this approach is that the proposed units face inwardly with their primary elevations fronting onto the customer car parking area. The proposed buildings are predominantly single storey with

flat/mono pitched roofs and are of contemporary design using contemporary materials. This style of building is a 'standard' approach for 'service station' type developments.

- 8.20 A consequence of the layout and orientation of the buildings is that the prominent elevations fronting onto the A7 and Gilmerton Road, in particular the cafe building (Starbucks Coffee) and the restaurant building (KFC), are secondary elevations in terms of their design and do not present an attractive or interesting street scene or gateway into Midlothian. This concern could be partially addressed by quality landscaping along the frontage of the site. Unfortunately the layout is very tight and there is limited scope for landscaping, especially tree planting. If the application is approved it should be subject to an amended layout which facilitates tree planting along the A7 and Gilmerton Road frontages. This may result in a reduction in the provision of car parking spaces and impact on any proposed signage (which would be subject to a separate application for advertisement consent) being considered by the applicant.

#### Other Issues

- 8.21 A preliminary bat roost assessment and badger survey were carried out for the infrastructure application (see paragraph 4.1) which extends to some extent into this application site. No badger shelter features were recorded and no bats were identified utilising the woodland for roosting. Some badger commuting and foraging has been noted on the site and therefore during the construction period, if permission is granted, the species would have to be safeguarded.
- 8.22 The matters raised in the representations have been addressed above or by consultees who, subject to appropriate conditions (if the application were to be approved), do not object to the application. Conditions could address issues relating to building materials, drainage, access, landscaping, ventilation, noise, litter collection, archaeology, the provision of electric car charging points and high speed broadband and the protection of species. The site is identified for development and therefore there would be a loss of this agricultural land, should an appropriate Class 4 development be proposed for the site.

#### Developer Contributions

- 8.23 In relation to developer contributions, if the application is granted, it is appropriate that, in accordance with Policy IMP2 of the MLDP, contributions are made towards the A7 urbanisation scheme.

## **9 RECOMMENDATION**

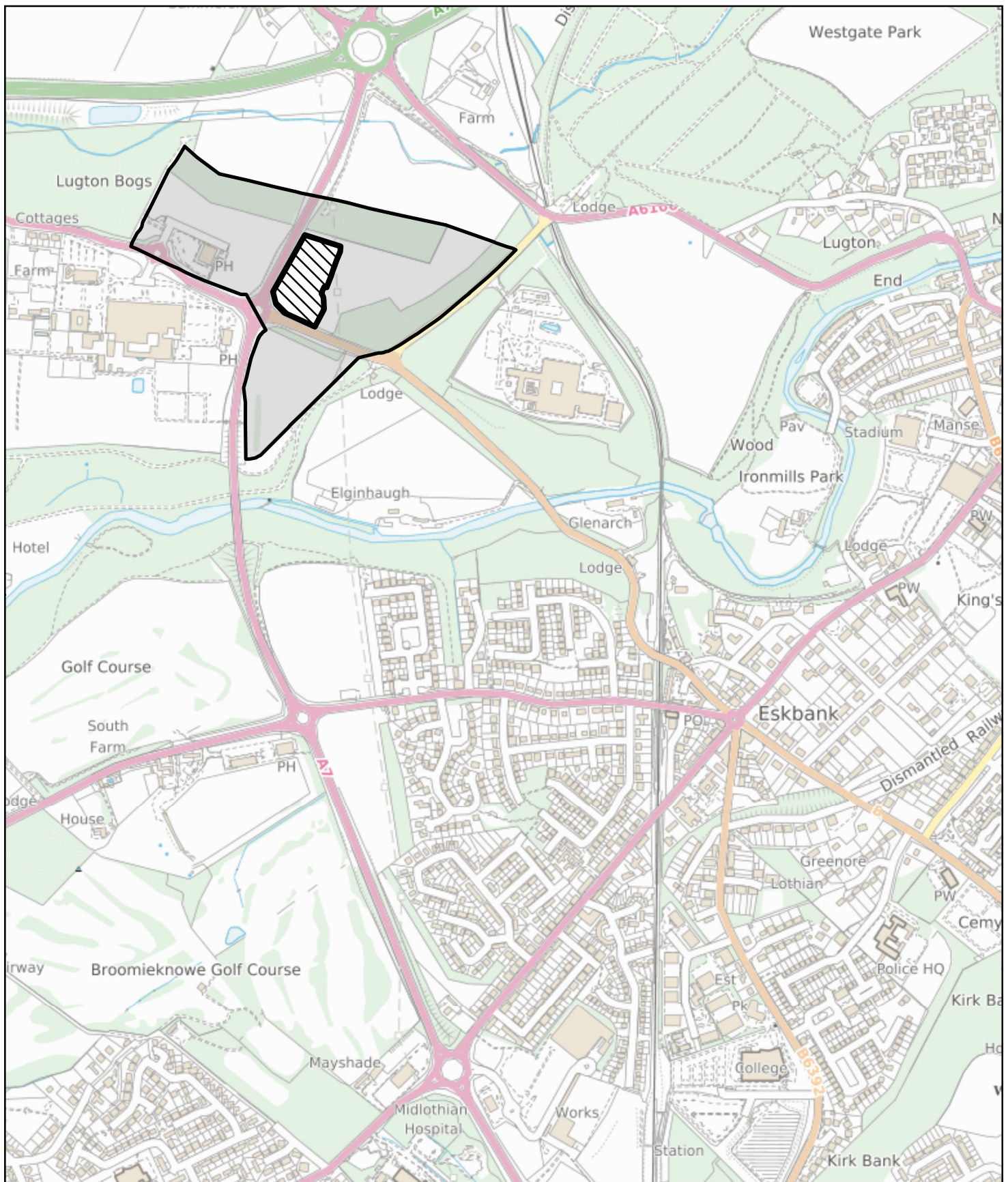
- 9.1 That planning permission be refused for the following reasons:

1. The proposed land uses are not in accordance with the site's allocation for Class 4 business uses in the development plan and as such the development is contrary to policy 2 of the Strategic Development Plan for Edinburgh and the South-East Scotland (approved in 2013), policies STRAT1, ECON1 and ENV1 of the Midlothian Local Development Plan 2017 and the Scottish Government's policy position set out in Scottish Planning Policy.
2. The proposed retail unit is of a significant size that it cannot be considered ancillary to the petrol filling station (they are composite uses) and as such when assessed against local and national planning policy with regard retail development it does not accord with the principle of 'town centres first' and is therefore contrary to policies TCR1, TCR2 and ENV1 of the Midlothian Local Development Plan 2017 and the Scottish Government's policy position set out in Scottish Planning Policy.
3. The proposed cafe and restaurant uses are outwith any identified settlement boundary, on a site allocated for Class 4 uses and within the green belt without a justification and as such are contrary to policy ENV1 of the Midlothian Local Development Plan 2017 and the Scottish Government's policy position set out in Scottish Planning Policy.

**Ian Johnson**  
**Head of Communities and Economy**

**Date:** 8 May 2018

**Application No:** 17/00537/DPP (Available online)  
**Applicant:** Euro Garages Ltd  
**Agent:** Colliers International  
**Validation Date:** 14 July 2017  
**Contact Person:** Joyce Learmonth  
**Tel No:** 0131 271 3311  
**Background Papers:** 17/00537/DPP, 17/00587/DPP, 17/00508/DPP, 16/00893/PPP



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## Sheriffhall South Site Context



Application Site

Sheriffhall South Site Area (e32)

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Scale: 1:10,000

