

# Notice of Meeting and Agenda



## Planning Committee

**Venue:** Council Chambers,  
Midlothian House, Dalkeith, EH22 1DN

**Date:** Tuesday, 27 August 2019

**Time:** 13:00

### Director, Resources

**Contact:**

Clerk Name: Mike Broadway

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### Further Information:

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## **1 Welcome, Introductions and Apologies**

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## **2 Order of Business**

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Including notice of new business submitted as urgent for consideration at the end of the meeting.

## **3 Declaration of Interest**

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Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

## **4 Minute of Previous Meeting**

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- 4.1** Minute of Meeting held on 18 June 2019 - For Approval 5 - 12

## **5 Public Reports**

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- 5.1** The Planning (Scotland) Act 2019 – Report by Director, Education, Communities and Economy. 13 - 22

- 5.2** Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage – Report by Director, Education, Communities and Economy. 23 - 28

- 5.3** Supplementary Guidance: Housing Development in the Countryside and Green Belt – Report by Director, Education, Communities and Economy. 29 - 30

- 5.4** Gorebridge Conservation Area Character Appraisal and Management Plan - Report by Director, Education, Communities and Economy. 31 - 54

Pre-Application Consultations - Reports by Director, Education, Communities and Economy

- 5.5** Proposed Amendment to the Proposed Uses at Site E26, Whitehill Mains, Whitehill Road, Millerhill (19/00489/PAC). 55 - 60

- 5.6** Proposed Erection of Primary School at the Former Site of the Newbattle Community High School, Easthouses Road, Easthouses (19/00445/PAC). 61 - 64

Applications considered for the First Time – Reports by Director, Education, Communities and Economy

- 5.7** Application for Planning Permission in Principle for the Erection of a Community Facility incorporating Secondary and Primary School, Early Learning Provision and Family Learning, Library, Leisure Facilities, Healthcare and Class 4 Business Facilities at 65 - 94

the Former Site of Monktonhall Colliery, Monktonhall Colliery Road, Newton, Danderhall (19/00112/PPP).

- 5.8** Section 42 Application to Amend Conditions 4 and 5 (to Clarify Phasing Submissions) Imposed on a Grant of Planning Permission 15/00113/PPP for the Demolition of Existing Dwellinghouse, Erection of Hotel and Residential Development, Formation of Access Roads, Car Parking and Associated Works at Land at Calderstones, Biggar Road, Hillend, Damhead (18/00628/S42). 95 - 110

## **6 Private Reports**

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No Private Reports to be discussed at this meeting

## **7 Date of Next Meeting**

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The next meeting will be held on Tuesday 8 October 2019 at 1.00pm

Plans and papers relating to the applications on this agenda can also be viewed online at <https://planning-applications.midlothian.gov.uk/OnlinePlanning/>



# Minute of Meeting



## Planning Committee

Date	Time	Venue
18 June 2019	1.00 pm	Council Chambers, Midlothian House, Buccleuch Street, Dalkeith

### Present:

Councillor Imrie (Chair)	Councillor Alexander
Councillor Cassidy	Councillor Curran
Councillor Hardie	Councillor Lay-Douglas
Councillor McCall	Councillor Milligan
Councillor Muirhead	Councillor Munro
Councillor Small	Councillor Wallace

### In Attendance:

Mary Smith, Director, Education, Communities and Economy	Peter Arnsdorf, Planning Manager
Alan Turpie, Legal Services Manager	Jim Gilfillan, Consultant Policy & Planning, Policy & Road Safety
Mike Broadway, Democratic Services Officer	

## **1. Apologies**

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Apologies for absence were intimated on behalf of Councillors Hackett, Johnstone, Russell and Winchester.

## **2. Order of Business**

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The Committee noted that with the exception of Agenda Item No 5.6 – Section 42 Application to Remove Condition 7, requiring enhanced Public Transport facilities, imposed on grant of Planning Permission 17/00951/PPP for a Retail Unit at Soutra Mains Farm, Blackshiels, Fala, Pathhead (19/00221/S42) – which had been withdrawn at the request of the Applicant, the order of business was as outlined in the agenda.

## **3. Declarations of interest**

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Councillor McCall (non-pecuniary) declared an interest in agenda item 5.9 - Application for Planning Permission for the Erection of Dwellinghouse/Café and Amenity Building; the Siting of five Yurts; the Formation of Pond and Associated Works on Land At Netherton, East of the A701, Penicuik (18/00741/DPP) – on the grounds that, she had attended Howgate Community Council when the matter had been discussed; had been approached by objectors at her surgery; and met with the applicants, however at no time had she offer an opinion on the current applications before Members.

Councillor Wallace (non-pecuniary) also declared an interest in same agenda item on the grounds that he had been approached by objectors at his surgery the previous evening and although he had not offer an opinion on the current applications before Members, as he had not had the opportunity to balance things out and meet with the applicants, he intended not to take part in consideration of the application and would withdraw from the meeting.

The Monitoring Officer in response confirmed the advice he had given at the May meeting that as long as Members felt confident that they could approach issues with an open mind and had not pre-judged matters then in terms of the Councillors Code of Conduct they could participate in proceedings.

Councillor Smail sought guidance regarding his participation in consideration of agenda item 5.4 - Appeals and Local Review Body Decisions – on the grounds that he had made an unaccompanied visit to the locality of the site in Pathhead, which was the subject of one of the appeals, to view if the required demolition works had taken place, which he was pleased to report they had. The Monitoring Officer indicated in response that he did not believe that a Member visiting a site in his/her ward could in itself be deemed as inappropriate.

The Chair, Councillor Imrie, remarked that in view of the recent Standards Commission decision to sanction two Councillors for breaches of the Councillors' Code of Conduct, he could understand Members nervousness, but the business of the Planning Committee had to go on. He then took the opportunity to remind Members that when it came to the Pre-Application Consultation - agenda item no 5.5 - care should be taken not to offer a view on the application itself, but to limit any contributions to particular issues or matters of concern.

#### 4. Minutes of Previous Meetings

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The Minute of Meeting of 14 May 2019 were submitted and approved as a correct record.

#### 5. Reports

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Agenda No	Report Title	Presented by:
5.1	Strategic Development Plan for Edinburgh and South East Scotland (SESplan)	Peter Arnsdorf
<b>Executive Summary of Report</b>		
<p>There was submitted report, dated 7 June 2019, by the Director of Education, Communities and Economy, informing the Committee of the Scottish Minister's unprecedented decision to reject the Strategic Development Plan (SDP2), and the reasons for it; and advising that SESplan were currently investigating options with a view to determining its response at a Joint Committee meeting scheduled for Monday 24 June 2019.</p>		
<b>Summary of Discussion</b>		
<p>The Committee, having heard from the Planning Manager, discussed the possible potential implications of the Minister's decision, it being noted that whilst there was likely to be little immediate impact, it could have implications in the future, albeit the progression of new Planning legislation would hopefully offer some clarity on such matters. Additionally the SESplan response would become clearer following Monday's Joint Committee meeting</p>		
<b>Decision</b>		
<p>After further discussion and questions to the Officers, the Committee agreed:-</p> <ul style="list-style-type: none"><li>a) to note the Scottish Minister's decision to reject the Strategic Development Plan (SDP2); and</li><li>b) to receive a further update once the SESplan Joint Committee had considered its options and determined a course of action.</li></ul>		
<b>Action</b>		
Planning Manager		

Agenda No	Report Title	Presented by:
5.2	Proposed Developer Contributions Committee	Mike Broadway
<b>Executive Summary of Report</b>		
<p>With reference to paragraph 7.4 of the Minutes of Midlothian Council of 7 May 2019, there was submitted report, dated 6 June 2019, by the Director, Resources, examining the possible establishment of a proposed Developer Contributions Committee following the motion agreed at the last Council meeting.</p> <p>The report which would also be going to the June Council meeting recommended that Council agree that the proposal to explore the possible establishment of a Developer Contribution Committee be included within the remit of a suggested Short Term Elected Members Working Group to review Standing Orders.</p>		

<b>Decision</b>
The Committee, having heard from the Clerk, noted the report.

Agenda No	Report Title	Presented by:
5.3	Major Applications: Applications Currently Being Assessed and Other Developments at Pre-Application Consultation Stage	Peter Arnsdorf

**Outline of report and summary of discussion**

There was submitted a report dated 7 June 2019 by the Director, Education, Communities and Economy updating the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.

The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants was outlined in Appendices A and B attached to this report.

**Decision**

The Committee noted the major planning application proposals which were likely to be considered by the Committee in 2019 and the updates for each of the applications.

**Action**

Planning Manager

Agenda No	Report Title	Presented by:
5.4	Appeals and Local Review Body Decisions	Peter Arnsdorf

**Outline of report and summary of discussion**

There was submitted a report dated 7 June 2019 by the Director, Education, Communities and Economy detailing the outcome of three appeal decisions determined by Scottish Ministers and advising that there were no outstanding Local Review Body (LRB) decisions to report to Committee.

Appended to the report were copies of the following appeal decision notices from the Scottish Government, Planning and Environmental Appeals Division:-

- Dated 13 May 2019, dismissing an appeal by Mr I Macintosh against refusal of planning permission for the erection of dwellinghouse and garage at Land to the rear of 180 Main Street, Pathhead (18/00567/DPP) and refusing planning permission;
- Dated 23 May 2019, upholding an appeal by Mrs C Walters against refusal of planning permission for the erection of dwellinghouse, formation of access and car parking and associated works at 3 Eskview Villas, Eskbank, Dalkeith (18/00760/DPP) and granting planning permission, subject to conditions; and

- Dated 3 June 2019, upholding an appeal by SC Dalkeith Limited against refusal of planning permission for the erection of two drive-through restaurants; formation of access and car parking and associated works at Land south west of Tesco Superstore, Hardengreen, Dalkeith (18/00181/DPP) and granting planning permission, subject to conditions, and a legal agreement.

Councillor Milligan express his grave disappointment regarding the decision to uphold the appeal for two drive-through restaurants at. Land south west of Tesco Superstore, Hardengreen, Dalkeith.

#### Decision

The Committee noted the outcome of the appeals determined by Scottish Ministers.

#### Action

Planning Manager

Agenda No	Report Title	Presented by:
5.5	Proposed Residential Development with Associated Access, Drainage Infrastructure and Open Space on Land at the Former Wellington School, Penicuik (19/00252/PAC).	Peter Arnsdorf

#### Outline of report and summary of discussion

There was submitted report, dated 7 June 2019, by the Director, Education Communities and Economy advising that a pre application consultation had been submitted regarding a proposed residential development and associated access, drainage infrastructure and open space at land at the former Wellington School, Penicuik (19/00252/PAC).

The report advised that in accordance with the pre-application consultation procedures noted by the Committee at its meeting on 6 June 2017 (paragraph 5.8 refers) the pre application consultation was being reported to Committee to enable Members to express a provisional 'without prejudice' view on the proposed major development. The report outlined the proposal, identified the key development plan policies and material considerations and stated a provisional without prejudice planning view regarding the principle of development for the Committee's consideration.

#### Decision

The Committee, having heard from the Planning Manager, noted:

- (a) The provisional planning position set out in the report; and
- (b) That the expression of a provisional view did not fetter the Committee in its consideration of any subsequent formal planning application.

#### Action

Planning Manager

Agenda No	Report Title	Presented by:
5.7	Application for Planning Permission in Principle for Class 4 (Business) Uses with Ancillary Class 1 (Shops), Class 2 (Financial, Professional and Other Services) and Class 3 (Food and Drink) Uses; Residential Development; and Associated Access, Parking, Landscaping and Drainage Infrastructure at Land to the North of Hardengreen House, Dalkeith (19/00099/PPP).	Peter Arnsdorf

#### Outline of report and summary of discussion

There was submitted report, dated 2 May 2019, by the Director, Education, Communities and Economy concerning the above application.

Having heard from the Planning Manager, the Committee in discussing the proposed development, noted the relevant development plan policies as set out in the Midlothian Local Development Plan 2017.

#### Decision

The Committee agreed to refuse planning permission for the following reason:-

- The proposed residential use is not in accordance with site e11's allocation in the development plan for Class 4 (Business) and Class 5 (General Industry) uses. The proposal is therefore contrary to policy 2 of the Edinburgh and South East Scotland Strategic Development Plan 2013; and to policies STRAT1 and ECON1 of the Midlothian Local Development Plan 2017.*
- The land not forming part of allocated site e11 is within the green belt. The proposed development does not comply with any of the justifications for development set out in policy ENV1 of the Midlothian Local Development Plan 2017. The proposal is therefore contrary to policy 12 of the Edinburgh and South East Scotland Strategic Development Plan 2013; and to policy ENV1 of the Midlothian Local Development Plan 2017.*
- It has not been demonstrated that the site can be drained of surface water in a manner that complies with Scottish Planning Policy, Scottish Water guidance and Network Rail requirements. The proposal is therefore contrary to policy ENV10 of the Midlothian Local Development Plan 2017.*

#### Action

Planning Manager

Agenda No	Report Title	Presented by:
5.8	Section 42 Application to Amend Condition 9 of Planning Permission 14/00203/DPP (to extend the time period for completion of the infilling of land by a further 36 months) at Land between Pentland Burn and the A720 City Bypass, Pentland Road, Damhead (19/00223/S42).	Peter Arnsdorf

#### Outline of report and summary of discussion

With reference to paragraph 2 of the Appendix to the Minutes of 26 August 2014, there was submitted report, dated 7 June 2019, by the Director, Education, Communities and Economy concerning the above application.

#### Decision

The Committee, having heard from the Planning Manager, agreed to grant planning permission for the following reason:

*The proposed re-engineering of the ground levels will improve the condition of the land for agricultural use, will introduce an area of improved wetland habitat, will have no long term adverse impacts upon landscape quality or ecological value of the site, and any adverse impacts upon traffic or residential amenity will be both of an acceptable level and of a temporary nature. The proposal therefore complies with the policies of the Midlothian Local Development Plan 2017.*

subject to the detailed conditions set out in the report.

#### Action

Planning Manager

#### Sederunt

With reference to item 3 above, Councillor Wallace, having declared a non-pecuniary interest in the following item of business, left the meeting at 1.30 pm, taking no part in the consideration thereof.

Agenda No	Report Title	Presented by:
5.9	Application for Planning Permission for the Erection of Dwellinghouse/Café and Amenity Building; the Siting of five Yurts; the Formation of Pond and Associated Works on Land At Netherton, East of the A701, Penicuik (18/00741/DPP).	Peter Arnsdorf

#### Outline of report and summary of discussion

There was submitted report, dated 7 June 2019, by the Director, Education, Communities and Economy concerning the above application.

The Committee, having heard from the Planning Manager, discussed the proposed development, giving particular consideration to both the relevant planning policies, and also the representations and consultation responses that had been received; details of which were contained in the report. It being acknowledged that the scale and siting of the proposed development, along with the location of the car parking were both in keeping with the scale of the Netherton low density rural housing site and provided as much privacy as possible for the occupants of the neighbouring properties. Issues to do with clear on-site signage would be taken up with the applicant separately by the Planning Manager.

On a separate but related issue raised by Members regarding Planning Committee Site Visits, the Clerk advised that a site visit could be requested by any Member in advance, either as part of the 'call-in' process or once the agenda papers had been issued, as in this particular instance neither of these events had occurred, no such visit had been arranged. The Clerk undertook to re-circulate the procedures so all Members were clear how to request a site visit in the future.

#### Decision

After further discussion, the Committee agreed to grant planning permission for the following reason:

*The character and appearance of the development are in keeping with the character of the surrounding area. Due to the scale and nature of the development it will not have a significant detrimental impact on the amenity of local residents. The proposal complies with the aims of policies RD2 and VIS2 of the Midlothian Local Development Plan 2017.*

subject to the detailed conditions set out in the report.

#### Action

Planning Manager/Clerk

## 6. Private Reports

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No private business was discussed.

## 7. Date of Next Meeting

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The next meeting will be held on Tuesday 27 August 2019.

The meeting terminated at 1.44 pm



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## THE PLANNING (SCOTLAND) ACT 2019

Report by Director Education, Communities and Economy

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### 1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to update the Committee with regard the reforms to the Planning System resulting from the Planning (Scotland) Act 2019.

### 2 BACKGROUND

- 2.1 In September 2015, an independent panel was appointed by Scottish Ministers to review the Scottish Planning System with the objective of bringing together ideas to achieve a quicker, more accessible and efficient planning system. The report of the panel “Empowering Planning to Deliver Great Places” was published 31 May 2016.
- 2.2 Scottish Ministers published their response to the report on 11 July 2016 which included a commitment to consult on a White Paper outlining proposed reforms to the Planning System with the ambition of enabling a Planning Bill to be brought forward late in 2017. At its meeting of 28 February 2017, the Committee approved a response to the White Paper on behalf of the Council.
- 2.3 The Planning (Scotland) Bill was introduced to the Scottish Parliament on 4 December 2017. The Planning Bill progressed through three stages of scrutiny and was approved by the Scottish Parliament on 20 June 2019. The Bill received Royal Assent on 25 July 2019 and thereafter becomes the Planning (Scotland) Act 2019, hereafter referred to as the 2019 Act. The 2019 Act amends the primary planning legislation, The Town and Country Planning (Scotland) Act 1997. The 2019 Act sets out the purpose of planning “to manage the development and use of land in the long term public interest”.
- 2.4 The 2019 Act sets out the principal changes to the Planning System and has taken effect immediately. However, the Scottish Government needs to draft secondary legislation/regulations to implement the changes and to set out transitional arrangements. The Scottish Government’s Chief Planner has advised that:
- the programme of secondary legislation/regulations is expected to take approximately 2 years;

- a work programme setting out the timing and priorities is expected to be published in September 2019; and
- interim guidance on transitional arrangements, particularly for development planning, is to be published “in the coming weeks”.

2.5 The Chief Planner has also confirmed that work is progressing on establishing the Scottish Government’s approach to National Planning Framework 4 - more information will be published by the Scottish Government “later in the summer”.

### **3 SUMMARY OF PROPOSED CHANGES**

3.1 A summary of the main changes proposed by the 2019 Act are attached as Appendix A. The main headline changes are as follows:

1. The introduction of a statutory link between development and community planning with communities having the opportunity to draft their own ‘local place plan’ which will form part of the development plan.
2. The removal of strategic development plans (and strategic development planning authorities such as SESplan) and the introduction of regional partnerships to prepare regional spatial strategies.
3. Regional priorities and housing numbers to be set by the Scottish Government at a national level through the National Planning Framework (NPF). The NPF will form part of the development plan.
4. Introduction of an Infrastructure Levy to supplement/amend the existing Planning Obligations developer contributions process.
5. Local Development Plan to be adopted every 10 years rather than 5, but with scope to amend sections of the plan as circumstances change.
6. The replacement of the Main Issues Report with an Evidence Report which will be subject to a ‘gatecheck’ by a Scottish Government Reporter.
7. The introduction of ‘Masterplan Consent Areas’ (MCAs), replacing previous Simplified Planning Zone provisions.
8. Increased financial penalties for breaches in planning control.
9. More decisions to be made locally – with an increased remit for the Local Review Body.
10. New requirements for Councils to produce annual performance reports and the appointment of national planning performance co-ordinator to monitor performance.
11. Requirement for Elected Members to undergo training before being able to vote on planning decisions.
12. A requirement for Councils to identify/appoint a ‘Chief Planning Officer’.

## **4 RECOMMENDATION**

- 4.1 It is recommended that the Committee:
- i) note the contents of the report; and
  - ii) receive further reports on changes to the Planning System when secondary legislation/regulations are published by the Scottish Government.

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 16 August 2019  
**Contact Person:** Colin Davidson, Planning Officer  
**Tel No:** 0131 271 3470

**Background Papers:** The Planning Act 2019

## THE PLANNING ACT 2019 MAIN ISSUES/CHANGES:

### Development Plans

#### National Planning Framework

- The National Planning Framework (NPF) will form part of the Development Plan and therefore decisions on planning applications will have to be made in accordance with it, and Local Development Plans (LDP) will have to be consistent with it. Previously, the NPF and Scottish Planning Policy (SPP) have been given significant weight as a material consideration in the determination of planning applications, the change elevates the status of the NPF.
- The NPF, prepared by Scottish Government, will set housing targets. These have previously been prepared regionally as part of the Strategic Development Plan. The NPF will have regard to any adopted Regional Spatial Strategies.
- It is the Scottish Government's intention that the NPF will incorporate Scottish Planning Policy (SPP).
- The Scottish Government will direct planning authorities to collate and provide information to help in the preparation of the NPF.
- The NPF is to be published on a ten year cycle.

#### Strategic Development Plan

- The 2019 Act removes the requirement to prepare Strategic Development Plans – in effect abolishing them. The section of the 1997 Act giving Scottish Ministers powers to designate Strategic Development Planning Authorities is repealed, although this does not prevent neighbouring planning authorities from co-operating in the interim, until the new pattern of Regional Spatial Strategies (see below) is determined.
- Provisions are introduced to prepare Regional Spatial Strategies. A Regional Spatial Strategy must identify the proposed locations for strategic development (defined as development which is likely to have a significant impact on future development within more than one planning authority). Scottish Ministers may direct an authority to prepare such a strategy on their own, or work jointly with other authorities.
- A Regional Spatial Strategy is not a development plan, and on the important issue of housing land the overall targets are to be set in the NPF. The NPF and LDPs have to take account of the Regional Spatial Strategy, however its role is presently not clear.

#### Local Development Plans (LDPs)

- Plans may be prepared at intervals not exceeding ten years, rather than every 5 years as at present. A planning authority may at any time amend an LDP for their district – although given the 10 year cycle of NPF and its new role as part of the development plan there may be limited reasons for a planning authority to review their plans more frequently. The reasoning

for this was set out in the previous White Paper: to give more time for implementation and to allow for greater consideration of the plans effectiveness before starting on a new one.

- The 2019 Act is more prescriptive about the form and content of LDPs. Matters to be taken into account include the health needs of population, their housing needs (including for older/disabled people and those in education, and land for development of renewable energy. LDPs are required to set out the authority's policies and proposals on the provision of public conveniences and water refill locations.
- In order to bring about a closer alignment between land use planning and community planning, LDPs are to take into account Local Outcomes Improvement Plans (within the meaning of Community Empowerment Act 2015), prepared by the Community Planning Partnership.
- The requirement to prepare a Main Issues Report (MIR) is replaced by the provision to prepare an Evidence Report (EvR). An EvR is to set out an authority's view on prescribed matters including specific reference to actions taken to meet the needs of older and disabled people and support the needs of gypsies and travellers. In preparing an EvR the planning authority must also assess the sufficiency of opportunities for play.
- An EvR is to contain information on steps taken to involve the public in the development plan process and to what extent views have been taken into account.
- An EvR is subject to a 'gatecheck' procedure - Scottish Ministers are to appoint a person to assess whether the report contains sufficient information to enable the planning authority to prepare a LDP. If the appointed person is not satisfied then an assessment report is to be prepared with recommendations for improving the evidence report. This does not replace the need for examination of the plan itself, but through early consideration of the evidence base for the plan the potential for failure at later stages is reduced.
- There is more scope to make modifications to the Proposed Plan in response to representations received. The procedure introduced in 2006 made it difficult to modify the plan; requiring either delay while a new proposed plan was written or for the authority to proceed with an unmodified plan, which could be unnecessarily adversarial approach.

#### Supplementary Guidance

- Provisions relating to supplementary guidance are repealed, so that it will no longer be possible to prepare SG that forms part of the development plan.
- Continuing scope to prepare non-statutory planning guidance which would be a material consideration in determining a planning application.

#### Local Place Plans

- A Local Place Plan (LPP) is a proposal as to the development or use of land. A community council or community controlled body (as defined in

Community Empowerment Scotland Act 2015) may prepare an LPP. In preparing a LPP a community body must have regard to the LDP for the area, the NPF and any other requirements to be prescribed by Scottish Ministers.

- Before preparing an LDP, the planning authority are to publish an invitation to local communities to prepare Local Place Plans, including information on the manner and date by which they are to be prepared and the assistance available to local communities to prepare them. When preparing an LDP planning authorities are to take into account any registered LPP for the area to which the LDP relates.

#### Delivery Programmes

- The 2006 Act introduced a requirement to prepare Action Programmes within 3 months of adopting a LDP, with reviews every 2 years: these programmes set out actions required to deliver the plan and identify the parties responsible for each action. They are to be renamed Delivery Programmes.
- To help ensure greater commitment and involvement across local authorities, it becomes the duty of the head of the Council's paid service (the Chief Executive) to prepare the Action Programme.

#### Engaging with the community

- The 2019 Act introduces new requirements to engage with children and young people (including schoolchildren, youth councillors and MSYPs), disabled people, and gypsies and travellers.

#### Examination and adoption.

- The appointed person examining the plan may issue notice to prepare another proposed LDP where that person considers that insufficient housing land is provided.
- The period where the proposed plan is on deposit and is subject to representations is extended from 6 to 12 weeks.

#### Other matters related to Development Plans

- There will be a duty on planning authorities to maintain and publish a list of persons who have registered an interest with the authority setting out their intention of acquiring land within an authority's area for self-build housing.
- Development Plan Schemes will be subject to consultation and have regard to views expressed about the participation statement.
- Planning authorities are required to prepare and publish an open space strategy setting out; development proposals, maintenance and use of green infrastructure within a district and an audit of existing provision and assessment of current/ future needs.
- There is a requirement to produce a forestry and woodland strategy identifying woodlands of high nature conservation value and setting out

policies with regard to their development, protection and enhancement, resilience to climate change, and expansion.

## **Masterplan Consent Areas**

- Provision made for making and altering Masterplan Consent Area (MCA) Schemes, replaces previous provisions in respect of Simplified Planning Zones.
- A MCA scheme acts as a grant of authorisation for development that is specified in the scheme. Any proposed development that falls within the definitions specified in the scheme does not require an application for planning permission. Authorisation (i.e. planning permission) is granted subject to any limitations or conditions specified in the scheme. An MCA scheme may also confirm authorisation in respect of Roads Construction Consent, Listed Building Consent and Conservation Area works.
- Scottish Ministers have the power to intervene and direct the implementation of a MCA.

## **Development Management/Planning Applications**

### Councillor Training

- The 2019 Act introduces new provisions so that an elected member of a planning authority who has not fulfilled training requirements (to be specified by Scottish Ministers under regulations) is prohibited from exercising functions on the authorities Planning Committee or other body (such as the Local Review Body).

### Short-term lets – new powers

- The 2019 Act introduces short-term let control areas, where a planning authority may designate an area where the use of a dwellinghouse for the purpose of providing short term lets will require a planning application. This change reflects concerns regarding 'Airbnb' type uses.

### Noisy and noise sensitive development

- New development near a noise generating source can give rise to problems for the established noisy use (this might lead to action being taken under Environmental Health legislation). The 2019 Act seeks to ensure that more up-front consideration is given to the consequences of approving noise sensitive development in such locations.
- When considering whether to grant noise sensitive development the planning authority must consider whether the development includes sufficient measures to mitigate noise from cultural venues, live music venues or businesses.

### Enforcement

- Planning authorities are required under existing legislation to have an Enforcement Charter setting out; its enforcement policies, guidance on reporting breaches of planning control and procedures for complaints. There is a new requirement for the Enforcement Charter to contain a statement regarding the monitoring of major applications ensuring compliance with planning conditions.
- Provision is made to increase the scale of fines for breaches of planning control.
- The courts are required to consider any benefit accrued from a breach of planning control when setting a fine.
- Provision is made for 'charging orders' to recoup costs incurred in respect of entering land and remedying breaches of planning control.

### Fees

- Changes in the fees regulations to enable local authorities to exempt certain types of development from the need to pay a planning application fee or to seek a reduced rate.

### Changes to scheme of delegation

- Changes to scheme of delegation to ensure that certain applications, such as Certificates of Lawful Use are delegated.
- Expansion in the remit of the Local Review Body.

### Other development management matters

- A requirement to notify Councillors, Members of the Scottish Parliament, and Members of Parliament of major applications.
- Requirement to ensure minimum provision of public toilets within certain specified large developments.
- Clarification to be provided regarding procedures on the duration of planning applications.
- A requirement to publicise planning agreements (Section 75 Agreements).
- New notification requirements for Listed Building Consent applications are introduced by the 2019 Act, with the effect of making amendments to the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997.

## **Infrastructure Levy**

- The 2019 Act allows Scottish Ministers to establish an infrastructure levy. This is a part of the legislation where much of the detail is still unclear, and will require to be set out in regulations, including guidance on how we are to discharge this function and how the levy income is to be spent.
- It is understood that it is hard to define and secure developer contributions for provision of infrastructure/services which benefit development across a

wide area. The infrastructure levy is intended to bridge this gap by capturing a proportion of land uplift value for the benefit of the community.

- The levy would sit alongside the present legal agreement process under Section 75 of the 1997 Act. Regulations may make provision to grant relief from liability to pay the levy where a planning obligation has been entered into, or the planning authority considers that the levy would represent duplication of contribution.
- Funds raised by the Levy would be payable to a local authority, in respect of development within the authority's area.
- Income used to fund infrastructure projects: defined as communications, transport, drainage, sewerage, flood defence, energy and water supply, green and blue infrastructure, educational and medical facilities and other places for recreation.

## Other Matters

- Councils must designate a Chief Planning Officer. The Scottish Government will issue regulations on the appropriate qualifications and experience for a Chief Planning Officer.
- The 2019 Act allows Ministers to introduce measures to promote the use of mediation in respect of preparation of LDPs, pre-application consultation, and planning applications.
- There is a requirement on Councils to produce an annual report at end of financial year on the performance of planning functions. The Council already produces an annual Planning Performance Framework report, which this change puts on a statutory footing.
- A National Planning Improvement Co-ordinator role is to be created, to monitor the performance of planning authorities and provide advice as appropriate.





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## **MAJOR DEVELOPMENTS: APPLICATIONS CURRENTLY BEING ASSESSED AND OTHER DEVELOPMENTS AT PRE-APPLICATION CONSULTATION STAGE**

Report by Director of Education, Communities and Economy

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### **1 PURPOSE OF REPORT**

- 1.1 This report updates the Committee with regard to 'major' planning applications, formal pre-application consultations by prospective applicants, and the expected programme of applications due for reporting to the Committee.

### **2 BACKGROUND**

- 2.1 A major application is defined by regulations and constitutes proposed developments over a specified size. For example; a development comprising 50 or more dwellings, a business/industry use with a gross floor space exceeding 10,000 square metres, a retail development with a gross floor space exceeding 5,000 square metres and sites exceeding 2 hectares. A major application (with the exception of a Section 42 application to amend a previous grant of planning permission) cannot be submitted to the planning authority for determination without undertaking a formal pre application consultation (PAC) with local communities.
- 2.2 At its meeting of 8 June 2010 the Planning Committee instructed that it be provided with updated information on the procedural progress of major applications on a regular basis.
- 2.3 The current position with regard to 'major' planning applications and formal pre-application consultations by prospective applicants is outlined in Appendices A and B attached to this report.

### **3 DEVELOPMENT PLAN UPDATE**

- 3.1 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan June 2013 (SDP1) and the Midlothian Local Development Plan 2017 (MLDP). The MLDP was adopted by the Council at its meeting of 7 November 2017.

## **4 RECOMMENDATION**

- 4.1 The Committee is recommended to note the major planning application proposals which are likely to be considered by the Committee in 2019 and the updates for each of the applications.

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 16 August 2019  
**Contact Person:** Peter Arnsdorf, Planning Manager  
peter.arnsdorf@midlothian.gov.uk  
**Tel No:** 0131 271 3310

**Background Papers:** Planning Committee Report entitled 'Major Developments: Applications currently being assessed and other developments at Pre-Application Consultation stage' 8 June 2010.

## APPENDIX A

### MAJOR APPLICATIONS CURRENTLY BEING ASSESSED

Ref	Location	Proposal	Expected date of reporting to Committee	Comment
17/00435/DPP	Land at Newbyres, River Gore Road, Gorebridge	Erection of 125 residential units; formation of access roads, SUDS features and associated works	Being held in abeyance	Pre-Application Consultation (13/00609/PAC) carried out by the applicants in August - November 2013. The application has been held in abeyance for a significant period of time whilst the applicant considers amending their layout.
18/00099/DPP	Land at Gore Avenue and Newbyres Crescent, Gorebridge	Erection of 46 flatted dwellings; 17 dwellinghouses and 12 extra care units associated works	Being held in abeyance pending additional information from the applicant	Pre-Application Consultation (17/00913/PAC) carried out by the applicants in November 2017 – February 2018. This application is being held in abeyance subject to the applicant submitting additional information regarding mine gas mitigation measures.
18/00403/DPP	Land between Rosewell Road and Carnethie Street, Rosewell	Erection of 100 dwellinghouses and associated works	October 2019	Pre-Application Consultation (15/00774/PAC) carried out by the applicants in September 2015 – December 2015.  The applicant has submitted an amended layout, drainage details and landscape plan which is subject to consultation.
18/00495/DPP	Land west of Burnbrae Terrace Bonnyrigg	Erection of resource facility including offices; training suites, stores, workshops, ambulance depot and enterprise units; formation of car parking, access roads and external storage areas; and associated works	October 2019	Pre-Application Consultation (17/00721/PAC) carried out by the applicants in September 2017 – December 2017.  Additional information from the applicant in relation to noise mitigation, the operation of the facility and other environmental matters has been submitted and is subject to consultation and assessment.  There is an outstanding objection from SEPA which needs addressing by the applicant.
18/00528/S42	Land at Calderstone, Biggar Road, Lothianburn	Section 42 Application to amend conditions 3, 4, 5, 6 and 10 of planning permission 15/00113/PPP, for the erection of hotel (to amend the phasing of the development).	Being held in abeyance	Section 42 applications do not require to go through the Pre-Application Consultation process. The conditions relate to the phasing of development, landscaping, building design and layout and transportation matters.  The applicant is considering withdrawing this application.

18/00628/S42	Land at Calderstone, Biggar Road, Lothianburn	Section 42 Application to amend conditions 4 and 5 of planning permission 15/00113/PPP, for the erection of hotel (to amend the phasing of the development)	August 2019	<p>Section 42 applications do not require to go through the Pre-Application Consultation process. The conditions relate to the landscaping and building design and layout.</p> <p>This application was held in abeyance for a significant period of time pending additional information being submitted by the applicant.</p> <p>This application is reported to this meeting of the Committee.</p>
19/00112/PPP	Land at the former Monktonhall Colliery Site, Monktonhall Colliery Road, Newton, Danderhall	Erection of a community facility incorporating secondary and primary school; early years provision; family learning provision; library, leisure and healthcare facilities, sports pitches and associated works.	August 2019	<p>Pre-Application Consultation (18/00558/PAC) carried out by the applicants in August 2018 – October 2018.</p> <p>This application is reported to this meeting of the Committee.</p>
19/00299/DPP	Land between Deanburn and Mauricewood Road, Penicuik	Erection of 91 dwellinghouses and associated works (amendment to house numbers, house types and layout approved in terms of planning permission 17/00068/DPP)	October 2019	This application seeks to amend the house numbers, house types and layout of part of the development approved by planning permission 17/00068/DPP which was considered by the Committee at its meeting in November 2017.
19/00432/S42	Land 470M West of Corby Craig Terrace, Bilston	Section 42 application to remove condition 15 of planning permission 17/00968/DPP (not to provide electric vehicle charging stations)	November 2019	Section 42 applications do not require to go through the Pre-Application Consultation process.
19/00579/DPP <i>New addition to the table</i>	Land south east of Tynewater Primary School, Crichton Road, Pathhead	Erection of 56 dwellinghouses and eight flatted dwellings; car parking and associated works	November 2019	Pre-Application Consultation (19/00076/PAC) carried out by the applicants in February 2019 – April 2019.

**APPENDIX B**

**NOTICE OF PRE-APPLICATION CONSULTATIONS RECEIVED AND NO APPLICATION HAS BEEN SUBMITTED**

<b>Ref</b>	<b>Location</b>	<b>Proposal</b>	<b>Date of PAC submission</b>	<b>Earliest date for receipt of planning application and current position</b>
17/00367/PAC	Site Hs12 Hopefield Farm 2 Bonnyrigg	Residential development  The site is identified for an indicative 375 residential units in the MLDP.	9 May 2017	02/08/17 - no application yet received. A pre-application report was reported to the August 2017 meeting of the Committee.
17/00606/PAC	Land south east of Auchendinny, The Brae, Auchendinny (Site Hs20)	Residential development  The site is identified for an indicative 350 residential units in the MLDP.	27 July 2017	20/10/17 - no application yet received. A pre-application report was reported to the November 2017 meeting of the Committee.
17/00663/PAC	Land bounded by A7, Stobhill Road and Pentland Avenue, Gorebridge	Mixed use development comprising residential and commercial land uses	16 August 2017	09/11/17 - no application yet received. A pre-application report was reported to the October 2017 meeting of the Committee.
18/00894/PAC	Land at Wull Muir, Gorebridge	Erection of up to 9 wind turbines (wind farm)	9 November 2018	02/02/19 - no application yet received. A pre-application report was reported to the January 2019 meeting of the Committee.
18/00962/PAC	Land east and west of Easthouses Road, Easthouses	Residential development and erection of school, with associated engineering works, open space and landscaping	14 December 2018	09/03/19 - no application yet received. A pre-application report was reported to the February 2019 meeting of the Committee.
18/00970/PAC	Midlothian Snow Sports Centre	Redevelopment of existing snowsports centre to include leisure facilities; tourist accommodation; hotel; function suite and ancillary retail and restaurant; formation of access and car parking	21 December 2018	16/03/19 - no application yet received. A pre-application report was reported to the February 2019 meeting of the Committee.

19/00012/PAC	Land east of Salters Road, Dalkeith	Mixed use development comprising film and TV studios including workshops/offices; reception/commissary; gatehouse; backlot; trailer park; film academy and associated student accommodation; and associated access, parking and infrastructure	9 January 2019	04/04/19 - no application yet received. A pre-application report was reported to the January 2019 meeting of the Committee.
19/00106/PAC	Land north of Oak Place, Mayfield, Dalkeith	Residential development  The site is identified for an indicative 63 residential units in the MLDP.	8 February 2019	04/05/19 - no application yet received. A pre-application report was reported to the May 2019 meeting of the Committee.
19/00126/PAC	Former Lothianburn, Golf Club, 106 Biggar Road, Edinburgh	Mixed use development comprising mountain bike trail centre, indoor and outdoor leisure uses, food and drink, professional services, retail, visitor accommodation and associated works	14 February 2019	10/05/19 - no application yet received. A pre-application report was reported to the May 2019 meeting of the Committee.
19/00252/PAC	Land at Wellington School, Penicuik	Residential development  The site is identified as an 'Additional Housing Development Opportunity' for an indicative 50 - 60 residential units in the MLDP.	20 March 2019	13/06/19 - no application yet received. A pre-application report was reported to the June 2019 meeting of the Committee.
19/00445/PAC	Former Site of Newbattle Community High School, Easthouses Road, Easthouses	Erection of primary school	27 March 2019	20/08/19 - this pre application consultation is reported to this meeting of the Committee.
19/00489/PAC	Whitehills, Whitehill Road, Millerhill	Change of use from Class 4 (Business) and 5 (General Industry) to Classes 1 (Shops), 4, 5, 6 (Storage and Distribution), 11 (Assembly and Leisure) and sui generis uses	30 May 2019	23/08/19 - this pre application consultation is reported to this meeting of the Committee.
19/00626/PAC <i>New addition to the table</i>	Land at Drummond Moor, Rosewell	Proposed holiday resort development	15 July 2019	08/09/19 - this pre application consultation will be reported to the October meeting of the Committee.
19/00641/PAC <i>New addition to the table</i>	Land north of Seafield Road, Bilston	Residential development  The site forms part of a site (Hs16) identified for an indicative 350 residential units in the MLDP.	22 July 2019	15/09/19 - this pre application consultation will be reported to the October meeting of the Committee.



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## **SUPPLEMENTARY GUIDANCE: HOUSING DEVELOPMENT IN THE COUNTRYSIDE AND GREEN BELT**

Report by Director of Education, Communities and Economy

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### **1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to update Committee on the adoption of the Housing Development in the Countryside and Green Belt Supplementary Guidance.

### **2 BACKGROUND**

- 2.1 At its meeting of 14 May 2019 the Committee agreed to adopt the Housing Development in the Countryside Supplementary Guidance following a formal consultation process which ran from 22 November 2018 to 18 January 2019 and agreed that the supplementary guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment. In addition the Committee:
- a. instructed the Planning Manager to undertake the required notification/advertisement advising that the Housing Development in the Countryside and Green Belt Supplementary Guidance will not have a significant environmental impact triggering the need for a formal Strategic Environmental Assessment;
  - b. instructed the Planning Manager to notify the Scottish Ministers of the Council's intention to adopt the Housing Development in the Countryside and Green Belt Supplementary Guidance; and
  - c. required notification of the outcome of the notification to the Scottish Ministers.
- 2.2 The notification/advertisement referred to in paragraph 2.1a was published in the Midlothian Advertiser newspaper on 20 June 2019. The advertisement was required to comply with Strategic Environmental Assessment legislation and regulations and was for information purposes only.
- 2.3 In line with paragraph 2.1b Scottish Ministers were informed of the Council's intention to adopt the supplementary guidance. Scottish Ministers informed the Council by letter dated 5 July 2019 that they did not propose to issue a direction in relation to the guidance and that the

Council is free to adopt the guidance. The adopted version of the Housing Development in the Countryside and Green Belt Supplementary Guidance document is on the Council's website.

### **3 RECOMMENDATION**

3.1 The Committee is recommended to note the contents of the report.

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 16 August 2019  
**Contact Person:** Fraser James, Planning Officer  
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**Tel No:** 0131 271 3514  
**Background Papers:** MLDP 2017 adopted 7 November 2017.



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## **GOREBRIDGE CONSERVATION AREA CHARACTER APPRAISAL AND MANAGEMENT PLAN**

Report by Director of Education, Communities and Economy

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### **1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to seek agreement to undertake a formal consultation on the draft 'Conservation Area Character Appraisal and Management Plan' for the Gorebridge Conservation Area, attached to this report as Appendix A.

### **2 BACKGROUND**

- 2.1 Conservation areas are areas of special architectural and/or historic interest. The character and/or appearance of which it is desirable to preserve and enhance. Conservation area appraisals are a non-statutory form of planning guidance recommended as part of the ongoing management of conservation areas.
- 2.2 The Gorebridge Conservation Area was designated in 1978 and is located in the town centre, focusing on Main Street. It has recently benefitted from investment through a Conservation Area Regeneration Scheme, part funded by Historic Environment Scotland, which ran from 2013-2018. The preparation and adoption by the Council of a Conservation Area Appraisal and Management Plan is a condition of the funding received from Historic Environment Scotland.

### **3 PURPOSE OF CONSERVATION AREA APPRAISAL AND MANAGEMENT PLANS**

- 3.1 Conservation area appraisals are a non-statutory form of planning guidance recommended by the Scottish Government as part of the ongoing management of conservation areas. The purpose of this Conservation Area Appraisal and Management Plan (CAAMP) is to:
- Confirm the importance of the designation of the area and to consider the ongoing relevance of the current conservation area boundaries;
  - Highlight the significance of the area in terms of townscape, architecture and history; and

- Provide a framework for conservation area management and for managing change within the conservation area.
- 3.2 The purpose of conservation area designation and of the appraisal is not to prevent change, but to identify the key characteristics of the historic environment and establish a context within which change can continue in a way which enhances the historic character of the area.
- 3.3 Midlothian Local Development Plan 2017 Policy ENV 19 Conservation Areas states that in assessing proposals for development (by way of a planning application) in or adjacent to a conservation area, consideration will be given to any relevant Conservation Area Character Appraisal.

#### **4 CONSULTATION**

- 4.1 This draft guidance will be made publically available on the Council's website for period of no less than 8 weeks, and the consultation will be advertised via press release and social media. Gorebridge Community Council, Historic Environment Scotland and other relevant local community groups will be notified of the draft CAAMP and invited to make comment. The comments received through the consultation will be reported back to the Committee for consideration.

#### **5 RECOMMENDATION**

- 5.1 The Committee is recommended to:
1. approve the draft Gorebridge Conservation Area Character Appraisal and Management Plan for consultation;
  2. consider a further report following the proposed consultation;
  3. authorise the Planning Manager to make any necessary minor editing and design changes to the CAAMP prior to publication.

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 16 August 2019  
**Contact Person:** Grant Ballantine, Lead Officer: Conservation and Environment  
peter.arnsdorf@midlothian.gov.uk  
**Tel No:** 0131 271 3429

**Background Papers:** Midlothian Local Development Plan 2017



# Gorebridge

Conservation Area Character  
Appraisal & Management Plan

MIDLOTHIAN COUNCIL

**Draft for Consultation**  
**August 2019**

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Draft for Consultation

## Introduction

1. Conservation areas are areas of special architectural and/or historic interest, the character or appearance of which it is desirable to preserve and enhance. Under Section 61 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Midlothian is required to determine which parts of their administrative area should be designated as conservation areas.
2. When a conservation area has been designated, it is the duty of Midlothian Council to pay special attention to the character or appearance of the conservation area when exercising powers under planning legislation. The character of a conservation area is not a simple matter of style, it is a combination of street layout, building density, building scale and building form.
3. Conservation area appraisals are a non-statutory form of planning guidance recommended as part of the ongoing management of conservation areas. The purpose of this Conservation Area Appraisal and Management Plan (CAAMP) is to:
  - Confirm the importance of the designation of the area and to consider the ongoing relevance of the current conservation area boundary;
  - Highlight the significance of the area in terms of townscape, architecture and history;
  - Provide a framework for conservation area management and for managing change within the conservation area.

This CAAMP will define how change is managed within the conservation area, identifying specific opportunities for enhancement and it will inform planning decisions in the conservation area. The purpose of conservation area designation and the CAAMP is not to prevent change. The aim is to identify the key characteristics of the historic environment and establish a context within which change can continue in a way which enhances historic character.

4. Gorebridge is located 4 miles south of Dalkeith, to the east of the A7 (the original Edinburgh – Carlisle trunk road). It has a population of approx. 8,100. The town has incorporated a number of small villages as it has grown, including Stobhill, Arniston and Harvieston. Gorebridge is situated on a south west facing slope at the southern end of the Mayfield to Tranent ridge. The ridge forms the watershed between the valleys of the River Esk and the Tyne Water. The Gore Water (a tributary of the River South Esk) runs to the west of Gorebridge, and gives the settlement its name.
5. Gorebridge Conservation Area was designated in 1978 and is located in the town centre, focusing on Main Street. The Conservation Area has a tightly drawn boundary to the rear of the properties fronting Main Street and the south eastern part of Hunterfield Road. Main Street slopes steadily from north east to south west. To the

south of the Conservation Area lies the Borders Rail Line and the wooded valley of the Gore Water.



6. The Conservation Area benefitted from investment through a Conservation Area Regeneration Scheme, funded by Historic Environment Scotland, which ran from 2013-18. This Conservation Area Appraisal and Management Plan has been prepared following the completion of the Conservation Area Regeneration Scheme. It utilises the appraisal work undertaken as part of the project, including work by University of Edinburgh Architecture students in 2015.

## Historical Development and Significance

### Origins of the Settlement

7. Gorebridge Conservation Area is focused on Main Street, which is the core of the original village. Gorebridge's development resulted from the opening of the first gunpowder works in Scotland, Stobs Mill, in the 1790s. The buildings on Main Street are first shown on a map from 1828, although the road can be seen on earlier maps dating back to the 1750s (Roy Lowlands 1752-55). The housing and enterprises on Main Street developed in the first half of the 19<sup>th</sup> Century to house and serve the employees of the gunpowder works.

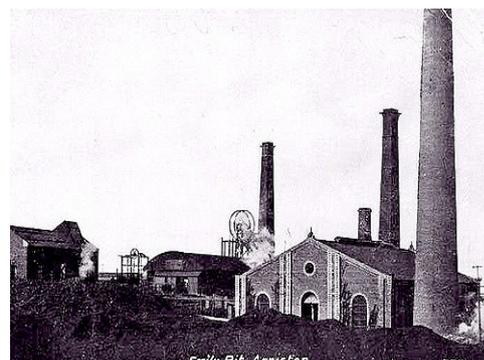


Sharp, Greenwood & Fowler Map of the County of Edinburgh (1828)



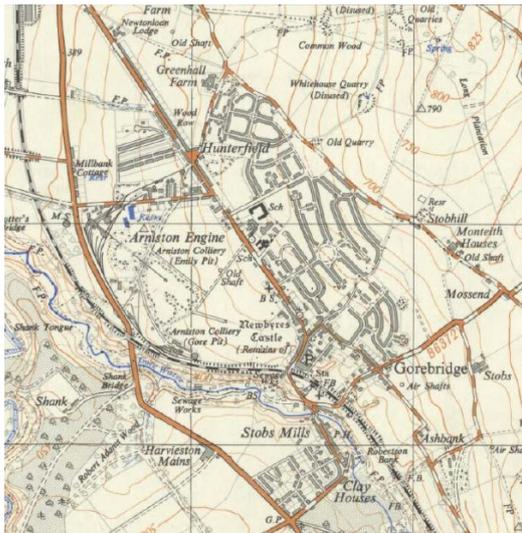
Roy Lowland Map (1752-55)

8. The railway station first opened in 1847 to help serve local industry. Robert Dundas of Arniston opened two large collieries, the Emily pit in 1854 and the Gore pit in 1878, which drove the expansion of the village and the continuing success of Main Street as the commercial centre of the village. Both sides of Main Street were redeveloped in the later 19<sup>th</sup> century to provide two storey buildings with continuous street frontages, giving a strong enclosure to the street, accentuated by the curve and slope of the street and ground. Shopkeepers and other business owners originally lived above the commercial premises, but the success of the businesses led to the development of the villas on Private Road, which backs on to Main Street to the east, as homes for the business owners. The village continued to grow in the 20<sup>th</sup> and early 21<sup>st</sup> centuries as large housing estates were developed.

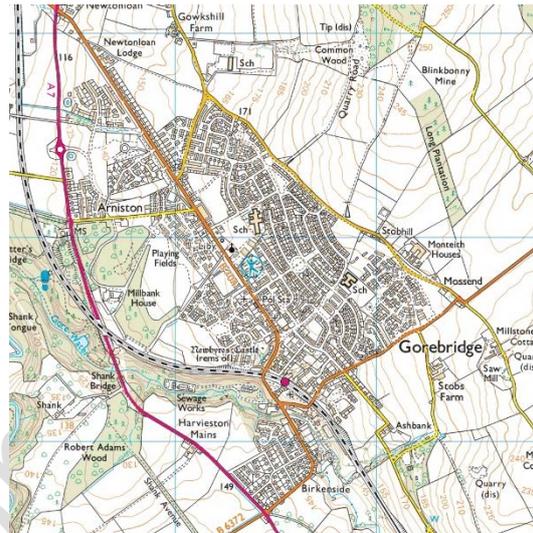


## Archaeological & Historical Significance

9. Gorebridge as a whole has considerable historical importance. The settlement's creation was closely linked to its geography and landscape setting. The mineral rich fields of the area not only provided a suitable location for Scotland's first gunpowder works, but also provided the coal that was to define and develop the character of the town in the 19<sup>th</sup> and 20<sup>th</sup> centuries. Commercialism grew on the back of the industrial growth. Main Street presents a fairly intact and relatively unaltered example of a 19<sup>th</sup> century commercial High Street.



Ordnance Survey 1955



Current Ordnance Survey

Draft for Consultation

## Townscape Analysis

### Architectural Quality & Built Form

10. The streetscape along Main Street is defined by its two opposing rows of buildings fronting directly on to the street. The road runs down the steep hill to the valley, and corresponding to this the roof ridges reflect the fall in the street. The result of the strict formation of buildings is that when approaching from the north and looking down towards the valley, attention is drawn through the narrow corridor formed by the buildings out to a glimpse of the horizon, which opens out into panoramic view of the hills beyond when travelling down the street. The skyline in this lower section of the Conservation Area is characterised by diminishing or rising building heights (depending on direction faced) and a regular pattern of chimney stacks.



11. At the northern end of Main Street, the streetscape opens out into Hunter Square and Hunterfield Road. The looser knit and wider street scene of Hunterfield Road, with its properties set back from the street, contrasts with the character of Main Street. The original street layout at the junction of Hunterfield Road and Main Street had a narrower carriageway, but buildings were demolished to widen the street. This area has been improved recently to create a functional civic space for the community. Beyond this, on Hunterfield Road, there are coal mining cottages with their distinct steeply pitched rooflines and regularly positioned chimney stacks. Rubble sandstone walls and well maintained hedges line the street and, in contrast with Main Street, the buildings are set back from the street to provide an element of privacy. From this point on the hill there are panoramic views to the south out above the roofline of Main Street.



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## Gorebridge Conservation Area Appraisal & Management Plan

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12. The Conservation Area has two distinct architectural styles, with the exception of the ecclesiastical and modern buildings.



The first style is along Main Street, where the buildings are predominantly rectangular plan, 2 storey terraced houses, built for commercial use and fronting directly onto the street. The buildings form a distinct linear street plan. Most of these buildings have plain facades featuring large windows or shop fronts on the ground floor and residential premises above. The main change to this pattern over the years has been the conversion of ground floor shops to residential premises. Rooflines on Main Street are generally aligned parallel to the carriageway with occasional gable ends at right angles to the road, for example the Old Post Office, which has a baronial style crow stepped gable.



The second style is found on Hunterfield Road, and is defined by cottages with steep pitched roofs, bargeboards, finiaed porches, and in some cases further detailing such as hood moulded windows and heraldry.



13. There are a few notable exceptions to the styles identified above. These include 13 Hunterfield Road, which is a Category C listed building built in 1886 as a public library (Newbyres Reading Room). It is a single storey, 3 bay, Tudor gothic style building of tooled squared and snecked sandstone with overhanging eaves. It has 2 pane and 4 pane timber sash and case windows, a grey slate roof with lead ridge, cast iron rainwater goods and wallhead stacks. The Category B listed former church at 20 Hunterfield Road, which is now a children's nursery, was built in 1886. It is a gothic revival church with truncated bellcote (originally a spire) with sandstone walls and a slate roof. Newbyres Hall (5 Hunterfield Road) was built as a Free Church in 1858, then turned into a village hall in 1882. It was restored as part of the Conservation Area Regeneration Scheme, and now accommodates a children's nursery.



### Materials

14. The buildings in the Conservation Area are primarily of sandstone masonry construction on the street facing façades and a mixture of rubble and brick to the sides and rear. The masonry finishes on the principal facades are mainly roughly pointed ashlar, often speckled and with a form of tooling to the face. The buildings with finely jointed ashlar also have other more decorative and detailed finishes such as carved window and door surrounds, and carved panels, usually indicating greater wealth of the original owners.



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## Gorebridge Conservation Area Appraisal & Management Plan

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15. The majority of roofs in to conservation areas are finished in slate, with most appearing to be Welsh slate. Over the years a high proportion of the original windows and doors in the conservation area have been replaced, leading to a variety of styles, shapes, colours and material. Progress on restoring these has been made through the recent Conservation Area Regeneration Scheme.



### Setting and Views

16. Gorebridge sits on the north bank of the valley formed by the Gore Water, which is a major tributary of the River South Esk. The land rises steeply from the river, with Main Street running up this gradient. This setting provides picturesque views of the countryside to the south and west, including the Moorfoot and Pentland Hills.



17. The Conservation Area covers Gorebridge's "town centre" although most of the residential areas which form the town lie to the north of the "centre". Although some community facilities exist in the town centre, including a dentist, health centre, veterinary surgery and children's nursery, other major facilities including the library, leisure centre and community hub building, along with convenience retailing, are located to the north of the town centre. The areas around the conservation area

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## Gorebridge Conservation Area Appraisal & Management Plan

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reflect the gradual outward growth of the settlement from its original focus on Main Street.

### Public Realm, Open Space and Trees

18. The public realm in the Conservation Area mainly consists of the footways between the road and building frontages. Along Main Street the footways are paved in light coloured stone slabs. The car parking bays along the eastern side of Main Street are defined by modern red and grey setts. The footways on Hunterfield Road are tarmac. The only area of civic open space in the conservation area is Hunters Square, which is paved in yorkstone with whinstone kerbing and granite block detailing.



19. There is no public greenspace within the Conservation Area. There is however a large greenspace immediately to the west of Main Street, which includes the remains of Newbyres Castle. This area is maintained by the Gorebridge and District Environmental Group and the Gorebridge Community Development Trust as a community garden. The only street trees in the Conservation Area are in Hunters Square. There are also two mature trees in the grounds of the former church at 20 Hunterfield Road that contribute to the street scene.



20. The street furniture in the Conservation Area is modern, but designed to be sympathetic to the setting. There are lamp posts, bollards, bins, bus stops, benches and a community noticeboard. There are also bespoke cycle racks in Hunter Square, designed to reflect the industrial heritage of the town. All are black painted metal.



Draft for Consultation

## Assessment

### Significance

21. Gorebridge has considerable historical importance. The Gore Water and the mineral rich fields of Arniston, Dalhousie, Newbattle and Vogrie not only provided a suitable location for Scotland's first gunpowder works but also provided the plentiful supply of coal that defined the settlement character of Gorebridge and many other settlements across Midlothian. Commercialism grew on the back of the industrial growth in Gorebridge, and is of considerable historical importance locally. The intact nature of Main Street and its distinctive Victorian architectural quality is particularly significant, and is worthy of protection.
22. Gorebridge Conservation Area covers a largely intact 19<sup>th</sup> century core of commercial and residential buildings enclosing the curved slope of Main Street. It has been designated not only for the value of the individual buildings, but also for its significance as a group of buildings. Although the area contains some unsympathetic modern buildings and extensions, they do not significantly detract from the cultural value of the conservation as a whole, particularly since the restoration and improvements carried out through the recent Conservation Area Regeneration Scheme.

### Condition

23. The condition of the Conservation Area has been significantly improved through the Conservation Area Regeneration Scheme, both in terms of the individual buildings and the public realm. This investment in the conservation area has, due to its focus on restoration, made a noticeable difference to the condition of historic buildings. It has also enabled the reintroduction of historic materials into the public realm, specifically in Hunters Square.
24. The restoration of Newbyres Hall has made a particularly important contribution to the overall condition of the Conservation Area, as have the shopfront improvements on Main Street. There is still work to be done, particularly on the modern buildings to ensure they make a positive contribution to the conservation area. On-going appropriate maintenance is key to ensuring the legacy of the CARS investment and the overall condition of the Conservation Area.

### Opportunities

25. While significant improvements in the condition of buildings resulted from the Conservation Area Regeneration Scheme, there are still opportunities for further enhancement of the Conservation Area. One significant improvement would be the replacement of the supermarket façade on 23-25 Main Street with one that relates to the shop frontages in the traditional buildings.

26. There may also be some value in reviewing the boundary of the Conservation Area at some point in the future. Specific areas to consider are:
- Private Road, due to its links to the evolution of Main Street as the commercial centre of the village,
  - the railway station building, due to its importance in the development of the town and the planned restoration of the Category C listed former station building, and
  - properties on the west side Hunterfield Road between the Police Station and the current Conservation Area boundary.

### Challenges

27. The recent investment in Gorebridge Conservation Area through the Conservation Area Regeneration Scheme has significantly reduced the challenges it is facing. However, there are on-going challenges with the potential loss of retail units to residential use resulting from the struggle to maintain viability faced by all town centres. This would significantly disrupt the historic character of Main Street. There are also buildings which still have issues with past, poor quality, inappropriate repairs.
28. An additional significant challenge is the potential for small incremental changes to buildings and poor quality repairs to have a cumulative negative impact on the Conservation Area. The effects of this happening in the past have been mostly rectified through the Conservation Area Regeneration Scheme, there is a definite risk that it could happen again, particularly as property ownership and tenancies change over time. This challenge also relates to shopfronts.
29. The existing public realm, particularly on Main Street and Hunter Square is of an appropriate standard for a Conservation Area as a result of recent investment. However, maintaining the public realm over the long term will be an important contribution to the character of the conservation area.

### Management Plan

30. The purpose of this Conservation Area Management Plan for Gorebridge Conservation Area is to set out the actions required to maintain and enhance the elements which contribute to the special architectural and historic interest of the conservation area, as described in the Conservation Area Appraisal. This Management Plan is intended to inform the actions of Midlothian Council and other stakeholders, including property owners and occupiers, in relation to the built environment within the Gorebridge Conservation Area. It explores the issues facing the conservation area, opportunities for enhancement and building repair and maintenance.

#### Issues Facing the Conservation Area

31. Overall the Conservation Area is in good condition as a result of the recent investment through the Conservation Area Regeneration Scheme. There are still some buildings which would benefit from appropriate repair or action to rectify past repairs of an inappropriate quality. It is also important that the improvements achieved through the regeneration scheme are not undermined by small incremental changes in individual buildings.
32. As with many town centres, Gorebridge faces challenges to remain competitive and relevant. The townscape quality of the area is a significant contributor to the success or otherwise of a town centre. Gorebridge is particularly vulnerable to loss of shop premises to residential use, which disrupts the historic character of Main Street. Poor shop front design, unsympathetic public realm works and under use or vacancy of buildings can all contribute to erosion of the character and quality of the townscape.

#### Opportunities for Enhancement

33. Most of the traditional buildings in Gorebridge are built of relatively thick, solid stone walls pointed in lime mortar. This traditional method of building enables the structure to 'breathe' as it is able to accommodate varying moisture levels by taking in and then evaporating moisture. These buildings usually have good ventilation under the floor and air movement is encouraged by open flues and through roof spaces. Breathing buildings are comfortable and healthy to live in. Repairing traditional buildings with modern materials such as cement mortars, gypsum plasters, modern formula paints and replacement windows will lead to problems with damp, stone decay and rot in timbers.
34. The following sections provide information on construction methods and materials used locally and expectations for the repair and restoration of traditional buildings in the conservation area.

### *Roofs and Chimneys*

Original roof pitches and coverings should be preserved. Roof coverings are usually natural slate (mainly Welsh slate in Gorebridge) which gives a distinctive character and texture to roofs that substitutes cannot easily replicate. When repairing or re-roofing, the preferred option is to use matching slate.

The detailing of roof lights, dormers, copings and flashing is equally important to the overall appearance of the roof and any change of materials should be avoided. Roof lights tend to be of metal fixed flush to the slope of the roof. Where replacement is necessary, conservation style rooflights should be specified. Repair and restoration of dormer windows should match the original design, materials and profiles closely. Original chimney stacks (stalks) and pots should be maintained where possible. Lead should usually be used to repair or replace dormer window flashings, roof valley gutters and skew gutters.

### *Masonry Walls*

Traditional masonry walls are built with two 'skins' of stone and lime mortar. The core between the skins is filled with broken stone, lime mortar waste and rubble. The outer layer or face is either random rubble (to take harl or smooth lime render) or ashlar (stone blocks with smoother or textured face built with fine joints). The inner skin is rubble with wider joints and lime mortar. Horizontal timber laths are fixed to the inner face to take two or three coats of lime plaster. The cavity between the lathes and the stone face allows air movement and the evaporation of any moisture in the wall. Original masonry surface coverings such as harling should be kept. Pointing should use a lime mortar and should be correctly carried out.

Moisture in the base of walls can be reduced by lowering ground levels, improving drainage around the building, replacement of cement mortar with lime mortar and ensuring underfloor ventilation is functioning effectively. Stone repairs should be carried out using matching stone and lime mortar. Reconstituted stone is not an appropriate finishing material in the conservation area. Patching with cement or other substitutes is not acceptable. Using a mortar analysis service, such as that offered by the Scottish Lime Centre, can help identify suitable mortar for repairs and maintenance.

### *Windows and Doors*

Original door and window openings possess the correct proportions for a building and should be retained to preserve the architectural integrity of the buildings. Original mullions should also be retained.

Additional window openings should be of an appropriate size and proportion, and should not spoil symmetry.

Most original windows in traditional buildings are either casements or sash. Repair or restoration of traditional windows is preferred over replacement, and replacement with windows in other materials such as aluminium or uPVC is not recommended. Any replacement windows on the front and all sides of a traditional building in the conservation area which is visible to the public should match the original in every detail, including materials, design, opening method and paint finish.

Any original glazing should be investigated for its historic importance, and retained if merit is established (for example, Crown glass). Where existing glazing has no special merit, it may be possible to insert modern “slim profile” double glazing into the existing frames and astragals with minimal effect on the original profile.

Traditional doors are normally timber and panelled. Rear doors are usually plainer in style. Original doors should be retained or restored wherever possible. Where replacement is unavoidable, new doors should be timber and traditional in style, with door hardware in keeping with the character of the building.

### *External Details*

A wide range of details contribute to the character of a conservation area, and is important that these are not lost. Important details include rainwater goods, external pipework, finials and stone details such as skews, cornices, balustrades, door and window surrounds and other ornamentation. Stone walls and metal railings should be retained.

Satellite dishes will not be permitted on principal or public elevations or above the ridge line of the roof. Equipment should be placed in unobtrusive locations to minimise their impact.

### *Shopfronts and Signage*

The following principles should be taken into account when replacing or improving shopfronts in conservation areas:

- Shopfront design should be based on research into the historic shopfront for the specific building, and should be related to the composition of the building as whole. Proportions should reflect the historic proportions of the building.
- The use of traditional materials, including timber, is preferred. Aluminium or other “standard” shopfront systems that do not respect the historic patterns will not normally be acceptable, particularly for listed and traditional buildings.
- Proportions of shopfronts and signs should reflect the historic proportions of the building. Fascia signs should sit neatly within the fascia, clear of any framing detail. Over large fascias that are out of scale with adjoining fascias or obscure the shop window, or projecting box-like fascia signs, are not normally acceptable.

- Where separate buildings have been amalgamated at ground level into one unit, the shopfronts should be kept separate with strong vertical divisions between the buildings. Where two or more shop units occupy the same shop frontage in the same building, the shopfront design should not fragment the frontage.

### *Streetscape and Street Furniture*

Recent improvements in the public realm will need careful maintenance to ensure that the quality of the streetscape is protected. Any future works in the conservation area should use traditional materials (for example yorkstone, granite setts and whinstone kerbing). Detailing should be in keeping with existing traditional styles. Street signage should be carefully located and kept to the minimum amount possible.

### *Trees*

Under Section 172 of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, trees in Conservation Areas are given some protection. Anyone proposing to cut down or carry out work on a tree in a conservation area is required to give the planning authority six weeks' notice. The purpose of this requirement is to give the planning authority an opportunity to consider whether a Tree Preservation Order should be made in respect of a tree. Further information and a link to the relevant application forms is available at [www.midlothian.gov.uk](http://www.midlothian.gov.uk).

Draft for Consultation

### **Midlothian Local Development Plan 2017**

#### **Policy ENV 19 Conservation Areas**

*Within or adjacent to a Conservation Area, development will not be permitted which would have any adverse effect on its character and appearance. In assessing proposals, regard will be had to any relevant Conservation Area Character Appraisal.*

#### **New buildings, extensions and alterations**

*In the selection of site, scale, choice of materials and design, new buildings, and extensions and alterations to existing buildings, must preserve or enhance the character and appearance of the Conservation Area. Materials appropriate to the locality or structure affected, will be used in new building, extensions or alterations. Care in the design of replacement windows and doors will be required on the public frontage of buildings.*

#### **Demolition**

*Demolition to facilitate new development of part or all of a building or structure that makes a positive contribution to a Conservation Area will only be permitted where it can be shown that:*

- A. The structural condition of the building is such that it cannot be adapted without material loss to its character to accommodate the proposal; and*
- B. The Conservation Area will be enhanced as a result of the redevelopment of the site; and*
- C. There is no alternative location physically capable of accommodating the proposed development.*

*Where demolition of any building or other structure within a Conservation Area is proposed, it must be demonstrated that there are acceptable proposals for the immediate future use of the site which enhance the character or appearance of the Conservation Area.*

*Detailed plans for an acceptable replacement building must be in receipt of planning permission before conservation area consent will be granted for demolition and redevelopment. Conditions will be applied to the planning permission to ensure that demolition does not take place in advance of the letting of a contract for the carrying out of a replacement building or alternative means of treating the cleared site having been agreed.*

*These requirements may not apply in circumstances where the building is of no architectural or historic value, makes no material contribution to the Conservation Area, and where its early removal would not detract from the character and appearance of the Conservation Area.*

Draft

## Appendix 1: Listed Buildings

Address	Description	Category	Ref No.
20-22 Hunterfield Road	<p><b>Church building including gate, gate piers and boundary wall.</b> 1886. Rectangular plan, Gothic Revival church with truncated bellcote (originally a spire). Squared and snecked bullfaced sandstone with polished dressings. Base course; dividing band courses; pointed arched openings; angle buttresses with pinnacles. Octagonal gate piers with square base and gabled caps; cast iron gate with barley sugar uprights; tooled squared and snecked coped wall surmounted by matching cast iron railings along SW front; snecked sandstone rubble walls with semicircular coping to SE and NW.</p>	B	<a href="#">LB45157</a>
13 Hunterfield Road	<p><b>Single storey, 3 bay, Tudor gothic former public library with 20th century additions to rear.</b> Robert Smith, 1886. Tooled squared and snecked sandstone with droved dressings; long and short quoins; chamfered reveals; hoodmoulds; overhanging eaves; plain bargeboards to gables. Known as the Newbyres Reading Room, the hall was built by Robert Dundas as a public library (for books originally donated by Dr Milne of the gunpowder mill). In addition it was used by Gorebridge Working Men's Club for "social intercourse, instruction and rational amusement" (Gorebridge Yesterdays p5).</p>	C	<a href="#">LB45158</a>
34 Hunterfield Road	<p><b>Single storey, 3 bay cottage, with later additions to rear.</b> 1888. Squared and snecked sandstone with droved dressings; chamfered reveals; overhanging eaves with plain bargeboards and carved timber finials to gables. Built by Robert Dundas as a cottage for the District Nurse.</p>	C	<a href="#">LB45159</a>
14 Main Street (Lonach)	<p><b>2 storey, 3 bay, rectangular plan traditional terraced house.</b> Later 19th century. Painted tooled snecked sandstone with droved dressings.</p>	C	<a href="#">LB45160</a>
19 & 21 Main Street	<p><b>2 storey, 3 bay, rectangular plan traditional terraced house altered to form shops at ground floor.</b> Later 19th century. tooled snecked sandstone rubble with droved dressings; long and short quoins.</p>	C	<a href="#">LB45161</a>

32 & 34 Main Street	<b>2 storey, 5 bay, rectangular plan pair of shops with tenements over.</b> Dated 1889. Coursed stugged sandstone with droved dressings, stop chamfered to first floor; long and short quoins; base course; dividing band course.	C	<a href="#">LB45162</a>
36, 38 & 40 Main Street	<b>2 storey; 3 bay; rectangular plan shop with tenement above.</b> Late 19th century. Irregular coursed tooled sandstone with stugged and polished dressings. Long and short quoins; chamfered reveals.	C	<a href="#">LB45163</a>
45a & 45b Main Street	<b>Symmetrical 2-storey, 3-bay rectangular-plan terraced house, including boundary wall and railings.</b> 19th century with later alterations. Slightly setback from street forming part of a former dairy complex. Snecked, tooled sandstone with droved dressings and stop-chamfered reveals. Distinctive single storey gabled porch centred to NW (principal) elevation with ball finial, small windows to returns with remnants of painted 'Dairy' lettering to lintels. BOUNDARY WALL AND RAILINGS: tooled low sandstone wall flanking porch to NW, semi-circular coping surmounted by modern plain iron railings.	C	<a href="#">LB49673</a>
53 Main Street	<b>2 storey, 3 bay, rectangular plan house, forming end of terrace.</b> Later 19th century. Tooled coursed sandstone with droved dressings; long and short quoins.	C	<a href="#">LB45164</a>
Gorebridge Post Office, Main Street	<b>2 storey and attic; 4 bay terraced house.</b> 1879. Coursed tooled sandstone with droved dressings; chamfered reveals.	C	<a href="#">LB45166</a>





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**PRE - APPLICATION REPORT REGARDING A PROPOSAL TO AMEND  
THE PROPOSED USES AT SITE E26, WHITEHILL MAINS, WHITEHILL  
ROAD, MILLERHILL (19/00489/PAC)**

Report by Director of Education, Communities and Economy

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## **1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to advise the Committee of a pre-application consultation submitted regarding a proposal to expand the range of uses at site e26, Whitehill Mains, Whitehill Road, Millerhill, Shawfair. The land comprises economic site e26 in the Midlothian Local Development Plan 2017 (MLDP), allocated for class 4 (office/business) and class 5 (general industry) uses. The site was originally allocated in the now superseded 2003 Shawfair Local Plan.
- 1.2 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

## **2 BACKGROUND**

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre-application consultation to expand the range of uses at site e26, Whitehill Mains, Whitehill Road, Millerhill, Shawfair was submitted on 17 June 2019.
- 2.3 As part of the pre-application consultation, a public event took place at the Jack Kane Community Centre, Niddrie, Edinburgh (closest community centre to the site) on 17 May 2019. On the conclusion of the requisite 12 week consultation process the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance

reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

- 2.4 A copy of the pre application notice has been sent by the prospective applicant to the local elected members and to the Danderhall and District Community Council.

### **3 PLANNING CONSIDERATIONS**

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP).
- 3.3 The site is approximately 13 hectares of agricultural land, allocated as economic site e26 in the MLDP for class 4 (office/business) and class 5 (general industry) uses. The site slopes gently from the southern boundary at Whitehill Mains down to the northern boundary adjoining Fort Kinnaird in the City of Edinburgh Council area.
- 3.4 The Town and Country Planning (Use Classes) (Scotland) Order 1997 categorises different land uses to enable planning practitioners and decision makers to determine if a change of use of land or buildings is proposed or has occurred. 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.
- 3.5 The applicant is proposing to expand the range of potential uses at site e26 to include:
- Class 1 – Shops/Retail;
  - Class 4 - Office/Business;
  - Class 5 - General Industry;
  - Class 6 - Storage and Distribution;
  - Class 11 - Assembly and Leisure, including cinemas, casinos and sports/recreation facilities; and
  - Sui Generis – uses which do not fall within the defined use classes. In this case the uses cited are home improvement showrooms/warehouses, builder merchants and car showrooms.
- 3.6 As a committed site within the established economic land supply, support for the early implementation of the site is supported (MLDP policy STRAT1 Committed Development). The majority of the sites in the economic land supply are identified as being suitable for business and

general industry (classes 4 and 5), which have traditionally been those which produce the highest density of employment. MLDP policy ECON1 sets the criteria by which potential uses are assessed and includes; the contribution towards appropriate employment densities, compatibility with neighbouring uses, avoiding detrimental impacts on the amenity of the area and meeting infrastructure deficiencies or requirements. This policy does not support the introduction of non-business or industrial uses.

- 3.7 The MLDP does not provide support for the provision of retail uses or commercial leisure facilities on economic sites. While such uses generate employment, there is the additional consideration of mitigating adverse effects on existing town centres and neighbourhood centres. This 'Town Centre First' principle is established in nation planning policy and in MLDP policies TRC1 and TCR2.
- 3.8 The specific policies any proposal is likely to be subject to include STRAT1 Committed Development; DEV2 Protecting Amenity within the Built-Up Area; DEV5 Sustainability in New Development; DEV6 Layout and Design of New Development; DEV7 Landscaping in New Development; TRAN1 Sustainable Travel; TRAN5 Electric Vehicle Charging; IT1 Digital Infrastructure; IMP1 New Development; IMP2 Essential Infrastructure Required to Enable New Development to Take Place; and IMP3 Water and Drainage.
- 3.9 In addition to the planning policy considerations the Council can give weight to other material considerations. In this case supporting economic growth and job creation are material considerations of significant weight and could enable the Council to consider economic based sui generis uses and class 6 uses favourably to facilitate and complement the allocated class 4 and 5 uses on the site. However, this more flexible pragmatic approach to job creation wouldn't be appropriate to support retail/leisure uses which should be located in a town or neighbourhood centre.
- 3.10 If an application is submitted and there is a presumption in favour of widening the range of uses as set out above, there may be a requirement for developer contributions towards infrastructure, including the Borders Railway and the A720 Sheriffhall Junction improvements.

## **4 PROCEDURES**

- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.

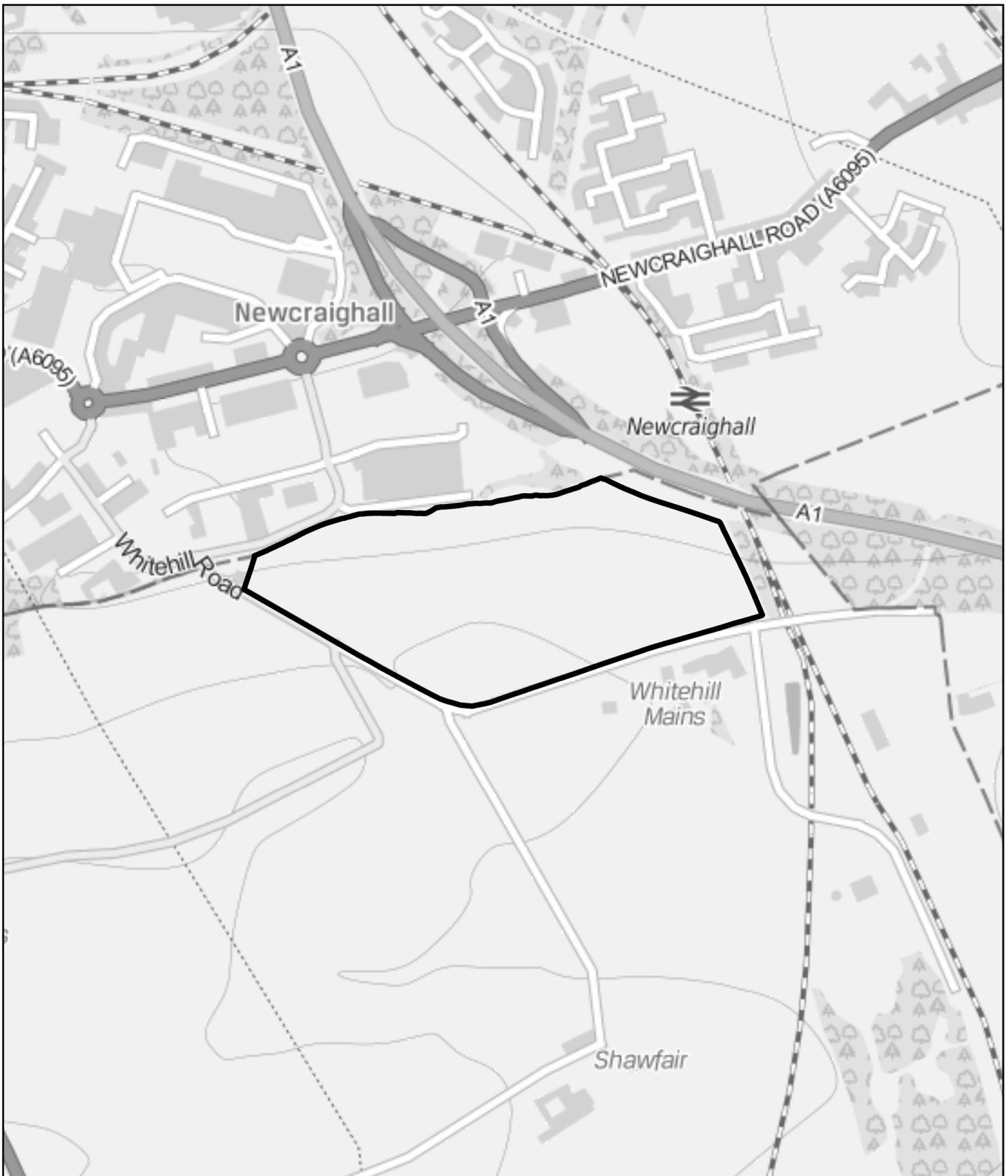
- 4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

## **5 RECOMMENDATION**

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

**Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 16 August 2019  
**Application No:** 19/00489/PAC (Available online)  
**Applicant:** Colliers International  
**Validation Date:** 30 May 2019  
**Contact Person:** Fraser James  
**Tel No:** 0131 271 3514



**Education, Economy  
& Communities**  
Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith  
EH22 3AA

Proposal of application notice for amendment of acceptable uses ofsite from class 4 and 5 to classes 1,4,5,6,11 and sui generis uses to include home improvement showrooms/ warehouses, builders merchants and car showrooms at Whitehills, Whitehill Road, Millerhill, Dalkeith

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## **PRE - APPLICATION REPORT REGARDING THE ERECTION OF PRIMARY SCHOOL AT THE FORMER SITE OF THE NEWBATTLE COMMUNITY HIGH SCHOOL, EASTHOUSES ROAD, EASTHOUSES (19/00445/PAC)**

Report by Director of Education, Communities and Economy

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### **1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to advise the Committee of a pre- application consultation submitted regarding the erection of a primary school at the site of the former Newbattle Community High School, Easthouses Road, Easthouses.
- 1.2 The pre-application consultation is reported to Committee to enable Councillors to express a provisional view on the proposed major development. The report outlines the proposal, identifies the key development plan policies and material considerations and states a provisional without prejudice planning view regarding the principle of development.

### **2 BACKGROUND**

- 2.1 Guidance on the role of Councillors in the pre-application process, published by the Commissioner for Ethical Standards in Public Life in Scotland, was reported to the Committee at its meeting of 6 June 2017. The guidance clarifies the position with regard to Councillors stating a provisional view on proposals at pre-application stage.
- 2.2 A pre-application consultation for the erection of a primary school at the site of the former Newbattle Community High School, Easthouses was submitted on 15 May 2019.
- 2.3 As part of the pre-application consultation, a public event took place at Newbattle High School on 4 June 2019. On the conclusion of the requisite 12 week consultation process the applicant could submit a planning application for the proposal. It is reasonable for an Elected Member to attend such a public event without a Council planning officer present, but the Member should (in accordance with the Commissioner's guidance reported to the Committee at its meeting in June 2017) not offer views, as the forum for doing so will be at meetings of the Planning Committee.

- 2.4 A copy of the pre application notice has been sent by the prospective applicant to the local elected members and to the Mayfield and Easthouses Community Council.

### **3 PLANNING CONSIDERATIONS**

- 3.1 In assessing any subsequent planning application the main planning issue to be considered in determining the application is whether the currently proposed development complies with development plan policies unless material planning considerations indicate otherwise.
- 3.2 The development plan is comprised of the Edinburgh and South East Scotland Strategic Development Plan (June 2013) and the Midlothian Local Development Plan 2017 (MLDP).
- 3.3 The site is approximately 2 hectares of land located at the western edge of Easthouses and currently retains the buildings of the former high school. The land gently slopes from Easthouses Road at the eastern boundary of the site down towards the agricultural land/Campbell Park to the west. There are open views from the site westwards towards the Pentland Hills.
- 3.4 The land is not allocated for a specific use in the MLDP (being a high school at the time of the adoption of the MLDP) but is located within the built-up area. Any proposal would therefore need to be compatible with the character and appearance of the area (MLDP policy DEV2).
- 3.5 Although the site is located within a predominantly residential area much of the land to the east and south consists of open space. The only residential properties in the immediate vicinity adjoin the site at the northern boundary (Roanshead Crescent) the amenity of which will need to be considered.
- 3.6 The land to the west has a number of protective designations including; the Newbattle Strategic Greenspace Safeguard (MLDP policy ENV3), Newbattle Conservation Area (MLDP policy ENV19) and a Nationally Important Garden & Designed Landscape (MLDP policy ENV20). The proposal will need to be sensitive to these designations and avoid any adverse effect on them.

### **4 PROCEDURES**

- 4.1 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures provides for Councillors to express a 'without prejudice' view and to identify material considerations with regard to a major application.
- 4.2 The Committee is invited to express a 'without prejudice' view and to raise any material considerations which they wish the applicant and/or officers to consider. Views and comments expressed by the Committee will be entered into the minutes of the meeting and relayed to the applicant for consideration.

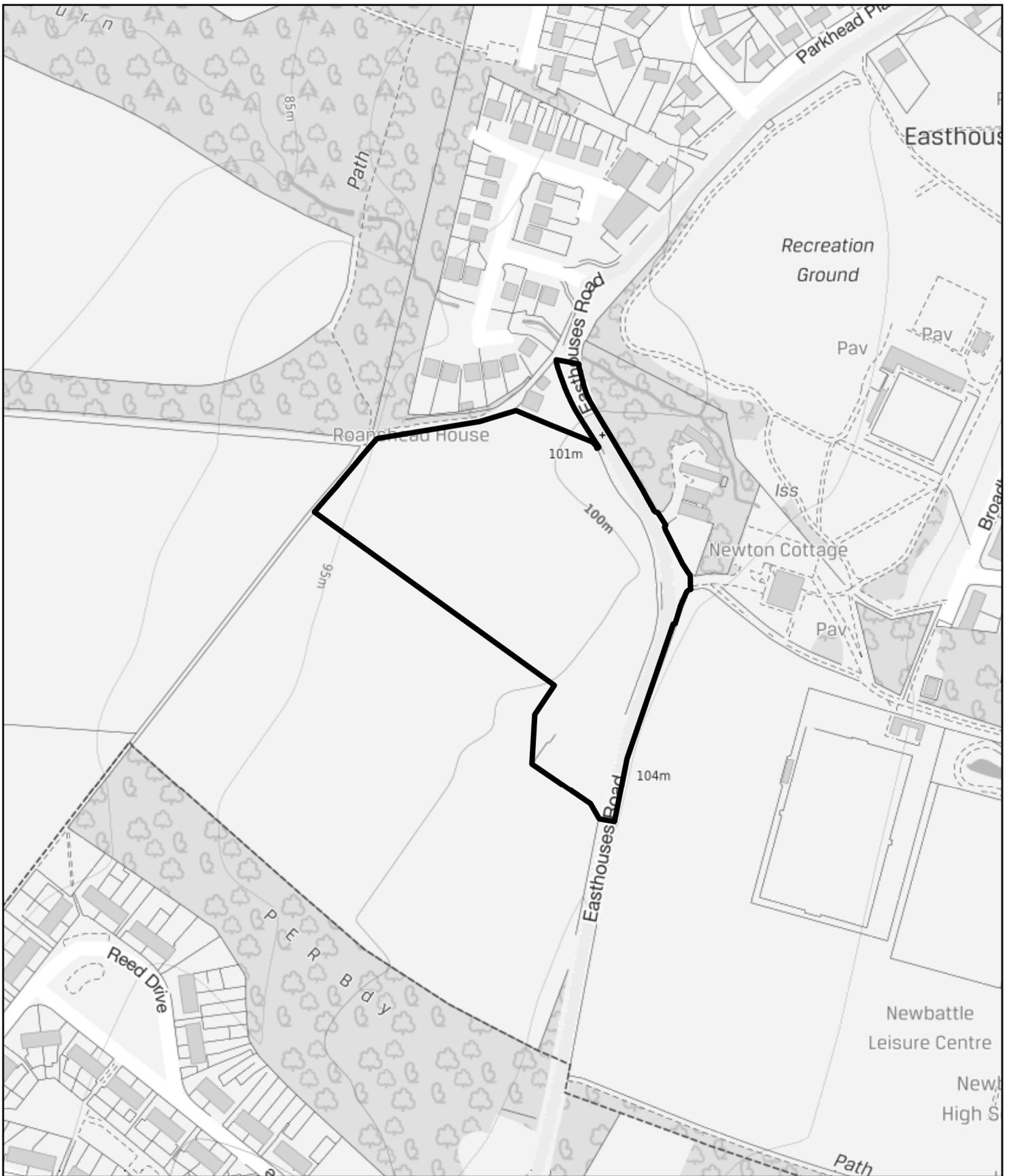
4.3 The Scottish Government's Guidance on the Role of Councillors in Pre-Application Procedures advises that Councillors are expected to approach their decision-making with an open mind in that they must have regard to all material considerations and be prepared to change their views which they are minded towards if persuaded that they should.

## **5 RECOMMENDATION**

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

**Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 16 August 2019  
**Application No:** 19/00445/PAC (Available online)  
**Applicant:** Midlothian Council  
**Validation Date:** 15 May 2019  
**Contact Person:** Fraser James  
**Tel No:** 0131 271 3514



**Education, Economy  
& Communities**  
Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith  
EH22 3AA

Proposal of application notice for erection of primary school at  
Former Site of Newbattle Community High School, Easthouses  
Road, Easthouses, Dalkeith

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**APPLICATION FOR PLANNING PERMISSION IN PRINCIPLE  
(19/00112/PPP) FOR THE ERECTION OF A COMMUNITY FACILITY  
INCORPORATING SECONDARY AND PRIMARY SCHOOL, EARLY  
LEARNING PROVISION AND FAMILY LEARNING, LIBRARY, LEISURE  
FACILITIES, HEALTHCARE AND CLASS 4 BUSINESS FACILITIES AT  
THE FORMER SITE OF MONKTONHALL COLLIERY, MONKTONHALL  
COLLIERY ROAD, NEWTON, DANDERHALL**

Report by Director of Education, Communities and Economy

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**1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1 The application is for planning permission in principle for the erection of a community facility incorporating secondary and primary school facilities, early learning provision and family learning, a library, leisure facilities, healthcare and class 4 business facilities at the site of the former Monktonhall Colliery, Newton, Danderhall. The site forms part of the Shawfair new settlement. There have been no representations and there have been consultation responses from the Scottish Environment Protection Agency (SEPA), Scottish Water, Network Rail, the Coal Authority, the Council's Archaeology Advisor and the Council's Environmental Health Manager.**
- 1.2 The relevant development plan policies are policies 2 and 3 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies STRAT1, STRAT5, DEV2, DEV5, DEV7, TRAN1, TRAN5, IT1, TCR1, ENV10, ENV24, ENV25, NRG6, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.**
- 1.3 The recommendation is to grant planning permission in principle subject to conditions.**

**2 LOCATION AND SITE DESCRIPTION**

- 2.1 The site is located to the north east of Newton Village and forms part of the former Monktonhall Colliery. It is located within the Shawfair new settlement area, with the south western extremity of the site being within the Shawfair town centre zone. The site is currently not in use.**

- 2.2 The site is 14.5 hectares and generally triangular in shape. The Borders rail line bounds the site to the north west and the Recycling and Energy Recovery Centre (energy from waste facility) at Millerhill and the Millerhill Marshalling Yards bound the site to the east. The southern extent of the site is close to the settlement ponds connected to the former colliery use. The Cairnie Burn runs nearby to the south of the site and consists of an open channel and culverts. To the south west of the site is Shawfair railway station and the bridge over the railway line which serves the station. The site is relatively level, sloping down slightly to the south.

### **3 PROPOSAL**

- 3.1 The application is for planning permission in principle for the erection of a community facility incorporating secondary and primary school facilities, early learning provision and family learning, a library, leisure facilities, healthcare and class 4 business facilities.
- 3.2 The application is accompanied by an Interim report on the ground conditions.

### **4 BACKGROUND**

- 4.1 The applicant carried out a pre application consultation (18/00558/PAC) for the erection of community facility incorporating secondary and primary school; early learning; provision and family learning; library; leisure facilities, healthcare facilities and class 4 business uses in October – December 2018. The pre application consultation was reported to the Committee at its meeting in October 2018.
- 4.2 In October 2018 the planning authority issued a screening opinion (18/00751/SCR) under the terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 confirming that an Environmental Impact Assessment submission is not required for the uses proposed.
- 4.3 At its meeting in April 2018 the Committee resolved to grant planning permission (17/00650/S42) subject to conditions and the prior signing of a legal agreement to amend condition 4 of outline planning permission 02/00660/OUT to change the means by which the Master Plan and Design Guide (and the associated addendums) for Shawfair could be amended. Application 02/00660/OUT was the original planning permission for the Shawfair new settlement and expansion of Danderhall.
- 4.4 In November 2016 permission (15/00089/MSC) for infrastructure including a sustainable urban drainage strategy incorporating culverts and amendments to the Cairnie Burn was granted.

- 4.5 The application for planning permission in principle constitutes a 'Major Development' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and thereby it requires to be determined by the Planning Committee.
- 4.6 At its meetings of December 2015 and February 2017 the Council approved an education strategy for the Shawfair new settlement which comprised using the 'town centre' site for education and community purposes (this was in part based on good placemaking principles) and on this basis instructed officers to secure the site.

## 5 CONSULTATIONS

- 5.1 The **Scottish Environment Protection Agency (SEPA)** does not object to the application, but advises that Midlothian Council undertake its responsibilities as the Flood Prevention Authority.

### Flood Risk

- 5.2 The SEPA flood map indicates that the site has a 0.5% probability of an annual flood event and therefore the site is at a medium to high risk of surface water flooding. The Cairnie Burn runs to the south of the site and consists of an open channel and culverts. Detailed flood risk assessments (FRA) and drainage strategies were carried out to inform the Shawfair development which this site forms part of. SEPA state that a report submitted by Ironside Farrar in 2016 (Shawfair Drainage Strategy Revision E) was accepted by SEPA and should be used to inform development in this area. Following recommendation by SEPA a number of flood scenarios were modelled for the Cairnie Burn including a 1 in 100 year flood event and full culvert blockage scenarios. The output of the modelling indicates there is significant flood risk in the southern part of the application site.
- 5.3 As mitigation, it is agreed that as part of the Shawfair development a new culvert is to be constructed and the existing culvert on the site is to act as a flood relief culvert in the event of a blockage of the new culvert. Detailed permission for the new culvert was granted in November 2016 (15/00089/MSC). In order to prevent any increased flood risk downstream of the site in events up to a 1 in 200 year flood event the capacity of the new culvert is to be throttled to the 1 in 200 year flow. The inlet to the flood relief culvert is set above the 1 in 200 year level so that only in exceedance events and blockage scenarios would flows be conveyed through this culvert. SEPA are satisfied that when the new culvert and relief culvert are formed the proposed development site is unlikely to be at significant flood risk from the Cairnie Burn. Notwithstanding, SEPA note that a residual risk remains due to collapse or blockage of either (or both) of the culverts and that parts of the site will remain at flood risk. Given that SEPA cannot assign a probability of failure for this scenario they recommend that the

site layout and design of the building/s mitigate any risk, i.e. finished floor levels are raised above predicted flood levels.

- 5.4 The new culvert and flood relief culvert system have not yet been constructed. SEPA confirm that on the proviso that a suspensive condition is imposed on any grant of planning permission preventing any construction of the proposed community facility until the new culvert and flood relief culvert system are in place and functioning. If the condition is not attached, SEPA object to the application.
- 5.5 SEPA state that they were aware that pumping from the Monktonhall Colliery was previously undertaken, mitigating flood risk at the Shawfair site. However it is understood that this is no longer carried out – may be because it is no longer required. SEPA advise that there may still be a flood risk from this source and that further information should be provided to confirm this risk has been removed.
- 5.6 The site investigation report indicates that groundwater has been encountered at depths of 0.7 – 2m across the site. These are relatively shallow depths and as such SEPA would recommend that further consideration is given to the site layout to avoid any areas which may be at risk of flooding from this source. Midlothian Council should be satisfied that any surface water management measures put in place are appropriate for the site and ensure there is no increase in runoff to the Cairnie Burn.
- 5.7 SEPA advise that the proposals for surface water drainage should complement the Shawfair Drainage Strategy (Revision E).

#### Former mine workings

- 5.8 In respect of the former mine workings SEPA advise that if grouting with pulverised fuel ash (PFA) is needed to stabilise former mine workings, there must be no impact on the water environment (ground, surface and fluvial). If stabilisation works are identified as being required to facilitate the development then an appropriate risk assessment for the proposed stabilisation of mine workings with PFA grout undertaken prior to work taking place on site.
- 5.9 SEPA inform that the pouring of grout below the water table is a controlled activity under General Binding Rule (GBR) 16 of the Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR). GBR 16 includes a requirement that no material coming into contact with groundwater shall cause pollution of the water environment. SEPA considers that an assessment should be undertaken to assess whether the use of PFA grout will meet the requirements of GBR 16. If the activity causes pollution, SEPA may take enforcement action.
- 5.10 SEPA recommends that an assessment by the developer is undertaken in line with the guidance document: 'Stabilising mine

workings with PFA grouts, Environmental code of practice, 2nd Edition, BRE Report 509'.

- 5.11 If the preliminary and 'simple' risk assessments identify that the site is higher risk and conceptually complex, then a 'complex' risk assessment is required. At this stage it would be prudent for the developer to highlight this to SEPA through additional consultation.
- 5.12 **Scottish Water** do not object to the application; however, state that the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

Water

- There is currently sufficient capacity in the Glencorse Water Treatment Works. However, it should be noted that further investigations may be required to be carried out once a formal application has been submitted to Scottish Water.

Foul

- There is currently sufficient capacity in the Edinburgh Waste Water Treatment Works. However, it should be noted that further investigations may be required to be carried out once a formal application has been submitted to Scottish Water.

- 5.13 Scottish Water is unable to reserve capacity at its water and/or waste water treatment works for the proposed development. Once a formal connection application is submitted to Scottish Water, after planning permission has been granted, they will review the availability of capacity and advise the applicant accordingly.
- 5.14 **Network Rail** do not object to the application subject to the following conditions being imposed on a grant of planning permission:
1. The applicant must provide a suitable trespass proof fence of at least 1.8 metres in height adjacent to Network Rail's boundary and provision for the fence's future maintenance and renewal should be made. Details of the proposed fencing shall be submitted to the planning authority for approval before development is commenced and the development shall be carried out only in full accordance with such approved details.  
  
***Reason:** In the interests of public safety and the protection of Network Rail infrastructure.*
  2. No development shall take place on site until such time as a surface and foul water drainage scheme has been submitted to and approved in writing by the planning authority. Any Sustainable Urban Drainage Scheme (SUDS) must not be sited within 10 metres of the railway boundary and should be designed with long term maintenance plans which meet the

needs of the development. The development shall be carried out only in full accordance with such approved details.

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

3. No development shall take place on site until such time as a scheme of landscaping has been submitted to and approved in writing by the planning authority. The scheme shall include hard and soft landscaping works, boundary treatment(s), details of trees and other features which are to be retained, and a programme for the implementation/phasing of the landscaping in relation to the construction of the development. Where trees/shrubs are to be planted adjacent to the railway boundary these should be positioned at a minimum distance from the boundary which is greater than their predicted mature height. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary. Network Rail can provide details of planting recommendations for adjacent developments. All landscaping, including planting, seeding and hard landscaping shall be carried out only in full accordance with such approved details.

**Reason:** *To control the impact of leaf fall on the operational railway.*

4. No development shall take place on site until such time as a noise impact assessment has been submitted to and approved in writing by the planning authority. The noise impact assessment shall include an assessment of the potential for occupants of the development to experience noise nuisance arising from the railway line. Where a potential for noise disturbance is identified, proposals for the attenuation of that noise shall be submitted to and approved in writing by the planning authority. Any such approved noise attenuation scheme shall be implemented prior to the development being brought into use and shall thereafter be retained in accordance with the approved scheme.

**Reason:** *To ensure that occupants/users of the development do not experience undue disturbance arising from nearby noise sources.*

- 5.15 Furthermore, **Network Rail** also recommend that the following matters are taken into account and are included as advisory notes on any grant of planning permission:

- Construction works must be undertaken in a safe manner which does not disturb the operation of the neighbouring railway.

Applicants must be aware of any embankments and supporting structures which are in close proximity to their development.

- Details of all changes in ground levels, laying of foundations, and operation of mechanical plant in proximity to the rail line must be submitted to Network Rail's Asset Protection Engineer for approval prior to works commencing on site. Where any works cannot be carried out in a "fail-safe" manner, it will be necessary to restrict those works to periods when the railway is closed to rail traffic i.e. by a "possession" which must be booked via Network Rail's Asset Protection Engineer and are subject to a minimum prior notice period for booking of 20 weeks.

5.16 The **Coal Authority** does not object to the application subject to condition/s securing the recommendations set out in the submitted Site Investigation Report (December 2017, prepared by Mason Evans Partnership Ltd), which include the remediation of identified shallow coal mine workings and intrusive site investigations to locate the recorded mine entries within the site, to identify any necessary remedial measures and to inform the subsequent future development layout.

5.17 The **Council's Archaeology Advisor** does not object to the application.

5.18 The **Council's Environmental Health Manager** does not object to the application. However, advise that a number of environmental considerations need to be addressed, including; noise and vibration from the nearby railway, plant machinery noise from proposed and existing uses and light emissions from the site potentially impacting on adjacent proposed sensitive uses. It is therefore recommend that the following controls be secured by conditions:

#### Railway Noise and Vibration

1. In terms of vibration from train movements, the vibration dose value in terms of BS 6472-1:2008 Guide to Evaluation of Human Exposure to Vibration in Buildings shall not exceed the low probability of adverse day and night-time values.

#### Secondary/Primary Schools and Early Learning Provision

2. The acoustic design of the schools in relation to internal and external noise levels and internal vibration levels shall be in accordance with Acoustics of Schools: a design guide, November 2015. In particular for each school there should be at least one area suitable for outdoor teaching activities where noise levels are below 50 dB LAeq, 30 min.

2. While the location of any sports pitches associated with the schools are not known at this stage, where the location of sports pitches will impact on proposed/committed housing, any floodlighting system and any security lights shall be designed and installed such that there is no direct illumination of any proposed neighbouring light sensitive properties and the lamp design shall be such that the actual lamps and inner surface of the reflectors will not be visible from the neighbouring sensitive receptors' properties. Additionally any floodlighting system forming part of the associated works shall be fitted with an automatic cut out to ensure that the system cannot operate after 9pm.
3. The design of external lighting should accord with the guidance contained within the Scottish Government Guidance to Accompany the Statutory Nuisance Provisions of the Public Health etc. (Scotland) Act 2008.

#### Plant Machinery Noise/Class 4 Use

4. The design and installation of all plant and machinery associated with the application premises shall be such that the combined noise level shall not exceed:

NR 30 daytime (07:00 to 23:00 hrs) and NR 25 night-time (23:00 to 07:00 hrs) as measured from within any proposed/committed residential use or NR 25 as measured from within any classroom /other sensitive use.

For the purposes of this recommended condition the assessment position shall be as identified by BS7445 in relation to internal noise measurements.

The proposed class 4 use should be compatible with both committed residential uses and the adjacent educational and other sensitive uses and appropriately conditioned in terms of delivery hours and operational noise.

#### Contaminated land

5. (a) The development shall not begin until a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
  - i. the nature, extent and types of contamination and/or previous mineral workings on the site;
  - ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider

- environment from contamination and/or previous mineral workings originating within the site;
- iii measures to deal with contamination and/or previous mineral workings encountered during construction work; and
  - iv the condition of the site on completion of the specified decontamination measures.
- (b) On completion of the decontamination/remediation works referred to in Condition 5 (a), a validation report shall be submitted to the Planning Authority confirming that the works have been carried out in accordance with the approved scheme.

**Note:** The Site Investigation information provided by Mason Evans and submitted with the application, is currently going through the review process. All aspects of Condition 5(a) parts i-iv relating to the scheme require to be satisfactorily addressed before approval of the scheme is granted in accordance with condition 5.

#### Construction Site Works

6. Construction noise shall be considered as part of a Construction Noise Management Plan which depending on the phasing of the development may be necessary to protect sensitive uses, such as schools, health care and library.

#### Air Quality

7. Where the development exceeds the trigger threshold in 'Delivering Cleaner Air for Scotland – Development Planning and Development Management' guidance document (EPS and Royal Town planning Institute of Scotland) an air quality impact assessment should be undertaken. This should take into account both the proposed development and committed development in the wider Shawfair area.

This includes for example where there will be a change in the annual average daily traffic of more than 500 light vehicles or 100 heavy duty vehicles on local roads the introduction of a new junction which causes traffic to significantly change. If any of the criteria will be exceeded then the assessment should:

1. Assess the existing air quality in the area (against the existing baseline);
2. Predict the future air quality without the development in place (future baseline which may or may not include the contribution of other nearby committed developments);
3. Predict the future air quality with the development in place i.e. future baseline + other committed/consented developments + proposed

development and should include the impact of the development on air quality from increased traffic flows/vehicle emissions;

Pollutants to be considered include PM<sub>10</sub>, PM<sub>2.5</sub> and NO<sub>2</sub>. It is recommended that the report contains the information detailed in paragraph 6.18 of 'Delivering Cleaner Air for Scotland' Development Planning and Development Management guidance.

### Odour emissions

- 5.19 There is some concern about the potential for odour emissions from the adjacent anaerobic digestion plant. Whilst the plant has been designed to contain odours, there have been occasions when odours have existed in the area surrounding the plant. It is appreciated that this may have been due to maintenance or initial start-up 'teething' issues; however it is recommended that SEPA, as the licensing authority, is consulted in this regard.
- 5.20 The level of emissions from the nearby Recycling and Energy Recovery Centre is controlled by a SEPA licence and it is therefore recommend that SEPA are consulted.
- 5.21 The Council's Education Manager, the Council's Policy and Road Safety Manager, the Council's Landscape and Countryside Manager, Scottish Natural Heritage and NHS Lothian were all consulted on the application and have no comment at this planning permission in principle stage.

## **6 REPRESENTATIONS**

- 6.1 No representations have been received.

## **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 Plan, adopted in December 2008. The following policies are relevant to the proposal:

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

- 7.2 **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.

- 7.3 **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)

- 7.4 Policy **STRAT1: Committed Development** seeks the early implementation of all committed development sites and related infrastructure, facilities and affordable housing, including sites in the established housing land supply. Committed development includes those sites allocated in previous development plans which are continued in the MLDP.
- 7.5 Policy **STRAT5: Strategic Employment Land Allocations** supports development for employment uses on sites identified as strategic employment land allocations.
- 7.6 Policy **DEV2: Protecting Amenity within the Built-Up Area** states that development will not be permitted where it would have an adverse impact on the character or amenity of a built-up area.
- 7.7 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.8 Policy **DEV6: Layout and Design of New Development** requires good design and a high quality of architecture, in both the overall layout of developments and their constituent parts. The layout and design of developments are to meet listed criteria.
- 7.9 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.
- 7.10 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.
- 7.11 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.
- 7.12 Policy **IT1: Digital Infrastructure** supports the incorporation of high speed broadband connections and other digital technologies into new homes.
- 7.13 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 out with town centres. The guidance is currently being prepared by the Council.

- 7.14 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.
- 7.15 Policy **ENV24: Other Important Archaeological or Historic Sites** seeks to prevent development that would adversely affect regionally or locally important archaeological or historic sites, or their setting.
- 7.16 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.
- 7.17 Policy **NRG6: Community Heating** requires that, wherever reasonable, community heating should be supported in connection with buildings and operations requiring heat.
- 7.18 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.
- 7.19 Policy **IMP3: Water and Drainage** require sustainable urban drainage systems (SUDS) to be incorporated into new development.
- 7.20 The MLDP Danderhall/Shawfair settlement strategy clarifies that development should proceed in line with the existing planning permission for the Shawfair community and the Shawfair Masterplan and Design Guide (and the associated addendums) which set out the development framework for the Shawfair development and both of which are approved supplementary planning guidance and are significant material considerations.

## **8 PLANNING ISSUES**

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. The consultation responses received are material considerations. The proposed development is an integral component of the Shawfair development and as such if an application is submitted there will be a presumption in favour of the proposed development subject to it complying with the planning permission for the Shawfair community

and the Shawfair Masterplan and Design Guide (and the associated addendums), which are material considerations.

### The Principle of Development

- 8.2 The application site comprises the Carnie character zone in the approved Shawfair Masterplan, the south east corner of which lies within the Shawfair town centre (forming part of the north eastern part of the town centre). The approved Shawfair Masterplan identifies the town centre as a mixed use high density zone with housing and offices over shops and community facilities. The Masterplan identifies Cairnie as having two distinct elements: (1) the residential zone which is focussed around a pocket park in the north east quadrant and a water feature onto the edge of the town centre; and, (2) the Cairnie “Business Village” which is a cluster of offices centred around a sustainable urban drainage pond. In the approved Masterplan a site for two schools is identified; one on part of the Newton character zone, which lies nearby to the north west of the town centre and the other on part of the Harelaw character zone, which lies nearby to the south east of the town centre.
- 8.3 Within the current economic climate there is uncertainty over whether the town centre will be able to sustain the quantity of office uses initially anticipated (in 2003) that would exist within it. Therefore, it is prudent and reasonable for the Council to consider whether some alternative uses in the town centre may be appropriate. The locations of the two schools at Shawfair identified in the approved Masterplan are out with the town centre. The currently proposed community uses; including primary and secondary school, would be located within/adjacent to the town centre and thus would generate footfall within the town centre and a customer base for the future commercial uses including retail, thus contributing towards the vitality and viability of the town centre as a whole. Given the nature of the currently proposed uses they could co-exist with commercial and residential uses elsewhere in the town centre without significant mutual harm to the amenity of their users/occupiers. The proposed community uses would not jeopardise future office uses coming forward elsewhere in the town centre. In these particular circumstances the proposed community uses are acceptable alternative uses on the application site; including on that part of the site that falls within the town centre, to the uses identified for the site in the approved Shawfair Masterplan. The proposed development would not undermine/jeopardise the overall development concept for the town centre as is expounded in the approved masterplan.
- 8.4 The Town and Country Planning (Use Classes) (Scotland) Order 1997 clarifies that Class 4 (business) uses are uses that can be carried out in an residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust and grit. Therefore, the proposed class 4 uses on the site can coexist with

the proposed community uses and nearby residential areas without significant harm to the amenity of the future users/occupiers. Owing to the juxtaposition of the proposed class 4 units with the proposed secondary school on the site there is the potential for them to be operated in conjunction with the school i.e. the business occupying the units could potentially provide a source of work experience for senior pupils of the secondary school and/or business start-up units for school leavers. Such an association between the secondary school and the class 4 units would accord with the Council's commitment to creating a centre of excellence at Shawfair as part of its wider ambition to create a world-class education system in Midlothian.

- 8.5 At its meetings of December 2015 and February 2017 the Council approved an education strategy for the Shawfair new settlement which comprised using the 'town centre' site for education and community purposes. Although this decision does not automatically mean that planning permission should be granted for the proposed development (which must be subject to a robust planning assessment) the Council decision is a material consideration in supporting the principle of the proposal on this site.

#### Layout and Form of Development

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

- layout, form and design of any proposed buildings;
- proposed materials to be used in the construction of the buildings, ground surfaces and ancillary structures;
- provision of open spaces;
- percent for art;
- sustainable urban drainage systems and flood mitigation measures;
- details of road, access and transportation infrastructure including 3 metre wide cycleway/footway connections up to the boundaries of the site;
- hard and soft landscaping;
- sustainability and biodiversity details;
- the provision of broadband infrastructure; and
- ground conditions/mitigation of coal mining legacy.

- 8.7 The buildings on the south west edge of the site, which is within the town centre of Shawfair, should be positioned, orientated and designed to provide an active street frontage in the interests of good place

making principles. This can be secured by a condition imposed on a grant of planning permission.

- 8.8 The approved Shawfair Masterplan delineates two major cycle/footpath connections within Shawfair that bisect the application site. The future detailed scheme of development of the site should incorporate these connections. There is a need to ensure maximum use is made of the connection point at the bridge over the railway at Shawfair Station and the connection points at the nearby recently constructed Energy Recovery Centre at Millerhill Facility.

#### Access and Transportation Issues

- 8.9 The Council's Policy and Roads Safety Manager does not raise any concerns with the application.

#### Landscaping

- 8.10 Owing to the location and proximity of shelter belts of mature trees on and adjacent to the site, a tree and arboricultural survey should be commissioned to assess the condition of these trees and the likely impact on them from the proposed development. This should then be used to inform the layout and design of the buildings and to identify where trees can be retained and incorporated into the development if they are in good condition. Mitigation planting may also be required. This can be secured by a condition imposed on a grant of planning permission.

- 8.11 In their consultation response Network Rail inform that certain broad leaf deciduous species should not be planted adjacent to the railway boundary in order to control the impact of leaf fall on the operational railway. Network Rail can provide details of recommended planting. All landscaping, including planting, seeding and hard landscaping should be carried out only in full accordance with such approved details. It can be made a condition of a grant of planning permission that the landscaping for the development should be for consideration in a further application in consultation with Network Rail.

#### Ecology/Biodiversity

- 8.12 The planning authority has not been presented with any evidence that there are protected species on the site. However, to promote and enhance the site's value for biodiversity, as well as its contribution to local amenity, it should be made a condition on a grant of planning permission that an ecology and landscape management plan, based on the findings of an ecology survey(s) of the site, be prepared.

#### Communal Heating System

- 8.13 In order for the Government's renewable energy and heat demand

targets to be met, it is important that all types of new development consider the role they play in using heat from renewable sources. Paragraph 154 of SPP states that the planning system should support the transitional change to a low carbon economy including deriving *“11% of heat demand from renewable sources by 2020”* and supporting *“the development of a diverse range of electricity generation from renewable energy technologies - including the expansion of renewable energy generation capacity - and the development of heat networks”*.

- 8.14 MLDP policy NRG6 states that community heating within new developments should be supported where technically and financially feasible. A community heating network is planned at Shawfair that harnesses heat generated from the nearby Recycling and Energy Recovery Centre at Millerhill. Given the close juxtaposition of the site to that Energy Recovery Centre it is feasible that the site be included in the community heating network at Shawfair. It should be made a condition of a grant of planning permission that development does not begin until details for a community heating scheme is submitted to and approved by the planning authority. Furthermore, a condition should be imposed ensuring that the approved community heating scheme is implemented in accordance with a phasing plan also to be agreed.

#### Flooding

- 8.15 To mitigate the risk of flooding on the site from the Carnie Burn, a suspensive condition shall be imposed on any grant of planning permission requiring the construction of and operation of the approved new culvert and flood relief culverts, the subject of approval 15/00089/MSC, prior to the construction of the proposed development. On the proviso that this condition is imposed SEPA raise no objection to the application on flood risk grounds. The developer for the wider Shawfair project has committed to implementing the culvert works as not to delay the development of this site.

#### Environmental Health Matters

- 8.16 The controls alluded to by the Council's Environmental Health Manager relating to mitigating noise nuisance and vibrations, light nuisance and coal mining legacy and ground contamination can all be secured by conditions on a grant of planning permission.

#### Other matters

- 8.17 SEPA make no comment in their consultation response regarding the juxtaposition of the proposed development to the neighbouring Energy Recovery Centre and anaerobic digestion plant at Millerhill. If in the future odour nuisance/ potentially harmful emissions from these neighbouring uses were to arise then SEPA, who license these operations, would have the regulatory responsibility to address the concerns.

- 8.18 Developer contributions for the Shawfair development have been secured by planning obligation associated with the wider development.

## 9 RECOMMENDATION

- 9.1 It is recommended that planning permission in principle be granted for the following reason:

*The site is located within the settlement boundary of Shawfair and as such there is a presumption in favour of an appropriate education, community and business uses in support of the town centre and the wider objectives of the new settlement. The proposed development is compatible with the policies of the Edinburgh and South East Scotland Strategic Development Plan 2013 and the Midlothian Local Development Plan 2017 and does not undermine the overall objectives of the approved Shawfair Masterplan and the approved Shawfair Design Guide (and the associated addendums). The presumption for the development is not outweighed by any other material considerations.*

Subject to the following conditions:

1. Development shall not begin until an application for approval of matters specified in conditions regarding the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of each phase of the development, the provision of structural landscaping, SUDS provision, transportation infrastructure and the provision of electric vehicle charging stations.

**Reasons:** *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development.*

2. Development shall not begin on an individual phase of development (identified in compliance with condition 1. until an application for approval of matters specified in conditions for the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i existing and finished ground levels for all roads, footways, vehicle turning facilities, parking areas, cycle ways, bus stops and shelters in relation to a fixed datum;
  - ii the proposed vehicular, cycle and pedestrian accesses (including safe routes to/from the schools) into/out of the site including provision of visibility splay areas;

- iii the proposed roads, footpaths and cycle ways including suitable walking and cycling routes linking the new uses and the rest of Shawfair;
- iv proposed visibility splays, traffic calming measures, push button crossings, Zebra crossings, lighting and signage;
- v proposed car parking arrangements including bus and coach parking;
- vi proposed cycle and scooter parking/storage facilities;
- vii proposed connections to Core Paths;
- viii a programme for completion for the construction of access, roads, footpaths, cycle paths and associated works;
- ix the position and design of all street lights
- x details of the proposed site works compound, parking for construction works cars, any sales office and associated customer parking;
- xi an electronic/digital ordinance survey layout plan, the digital format of which shall be approved by the Planning Authority prior to the submission of this information, showing the locations of roads, buildings, parking, open spaces, landscaped areas, circulation space, means of enclosure, floor levels and contour levels.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

***Reason:*** *To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

3. Development shall not begin on an individual phase of development (identified in compliance with condition 1) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i existing and finished ground levels and floor levels for all buildings and roads in relation to a fixed datum;
  - ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
  - iii. a tree condition survey and arboricultural constraints plan of trees on and overhanging the site.
  - iii proposed new planting in communal areas and open space, including trees, shrubs, hedging and grassed areas, including mitigation tree planting to compensate for any tree(s) approved for felling by the Planning Authority. Where trees/shrubs are to be planted adjacent to the neighbouring

railway boundary these shall be positioned at a minimum distance from the boundary which is greater than their predicted mature height. The Planning Authority shall consult with Network Rail in respect of landscaping, including planting, seeding and hard landscaping adjacent to the railway;

- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping. The landscaping in the open spaces shall be completed prior to the buildings on adjoining plots being occupied;
- vii drainage details and sustainable urban drainage systems to manage water runoff;
- viii proposed car park configuration and surfacing;
- ix proposed 3 metre side cycleways/footways to be provided to all boundaries of the phase of development and to tie in to the existing and proposed cycleways/footways identified within the approved Shawfair Masterplan; including those around the neighbouring Energy Recovery Centre at Millerhill. The new cycleways/footways shall be designed to be unsuitable for motor bike use;
- xi proposed cycle parking and scooter parking facilities; and,
- xii a plan of the site to a scale of no smaller than 1:500 showing the position of all existing and proposed underground services including water supply pipes, sewers, gas supply pipes, electricity cables and telephone wires;
- xiii a Travel Plan including the following information:
  - a. details of cycle parking provision and location within the site;
  - b. details of initiatives such as car share schemes and flexible working;
  - c. details of employee locker and shower facilities;
  - d. details of travel information to be provided within the site;
  - e. details of car parking provision and management; and,
  - f. details of proposed pedestrian and cycle infrastructure within the site and connected to the existing networks, both on a temporary basis during the construction period and permanently; and
- xiv A detailed construction method statement which shall address the temporary measures proposed to deal with surface water run-off during construction and prior to the operation of the permanent SUDS. It shall ensure that the SUDS performance is not compromised during construction. Details of heavy vehicle routing to the site shall be submitted for approval and the routing of such vehicles shall avoid villages and groupings of residential

properties, where practical. In addition noise and dust issues shall be addressed in the construction method statement, including measures to mitigate the potential adverse effects of noise and dust.

Thereafter the approved details shall be implemented in full.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

**Reason:** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with policies DEV2, DEV5, DEV6, DEV7 and DEV9 of the adopted Midlothian Local Development Plan 2017 and national planning guidance and advice.*

**Reason for 3iii:** *To control the impact of leaf fall on the neighbouring operational railway.*

4. Development shall not begin on an individual phase of development (identified in compliance with condition 1. until an application for approval of matters specified in conditions for the siting, design and external appearance of all buildings and other structures has been submitted to and approved in writing by the planning authority. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with policies DEV2, DEV5 and DEV6 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

5. (a) Development shall not begin until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:

- i the nature, extent and types of contamination and/or previous mineral workings on the site;
  - ii measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
  - iii measures to deal with contamination and/or previous mineral workings encountered during construction work; and,
  - iv the condition of the site on completion of the specified decontamination measures.
- (b) On completion of the decontamination/ remediation works referred to in Condition 5(a), a validation report shall be submitted to the Planning Authority confirming that the works have been carried out in accordance with the approved scheme.

**Reasons:** *To ensure that any contamination on the site is adequately identified and that appropriate decontamination measures are undertaken to mitigate the identified risk to site users and construction workers, built development on the site, landscaped areas, and the wider environment. (The Site Investigation information provided by Mason Evans and submitted with the application is currently being reviewed. All aspects of Condition 5(a), parts i-iv relating to the scheme require to be satisfactorily addressed before approval of the scheme is granted in accordance with condition 5)*

6. Development shall not begin until an application for approval of matters specified, including a timetable of implementation, of 'Percent for Art' have been submitted to and approved in writing by the planning authority. The 'Percent for Art' shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the use of art to reflect its setting in accordance with policies DEV6 and IMP1 of the Midlothian Local Development Plan 2017 and national planning guidance and advice.*

7. Development shall not begin until an application for approval of matters specified in conditions setting out details, including a timetable of implementation, of high speed fibre broadband has been submitted to and approved in writing by the planning authority. The details shall include delivery of high speed fibre broadband prior to the first occupation of each building. The delivery of high speed fibre broadband shall be implemented as per the approved details.

**Reason:** *To ensure the quality of the development is enhanced by the provision of appropriate digital infrastructure.*

8. Development shall not begin until an application for approval of matters specified in conditions for a scheme of sustainability/biodiversity for the site, including the provision of building bricks and boxes for bats and birds throughout the development, a programme of ecological surveys (repeat survey work for bats and badgers no more than 12 months in advance of the commencement of development on the site) and management proposals for Invasive Non Native Species has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.

**Reason:** *To ensure the development accords with the requirements of policy DEV5 of the Midlothian Local Development Plan 2017.*

9. Development shall not begin until an application for approval of matters specified in conditions for the provision and use of electric vehicle charging stations throughout the development has been submitted to and approved in writing by the planning authority. Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be approved in writing with the planning authority.
10. Development shall not begin until an application for approval of matters specified in conditions for a community heating scheme for the development in accordance with policy NRG6 of the Midlothian Local Development Plan, is submitted to and approved by the planning authority. The scheme shall include; inter alia, a community heating strategy, a community heating infrastructure map, detailed specifications of installation methodology and phasing of delivery.

**Reason:** *To ensure the development accords with the requirements of policy TRAN5 of the Midlothian Local Development Plan 2017.*

11. No building on the site shall be occupied until a community heating scheme for the site is approved in writing by the planning authority. The approved scheme shall be implemented in accordance with a phasing scheme also to be agreed in writing in advance by the Planning Authority. There shall be no variation therefrom unless with the prior written approval of the planning authority.

**Reason for conditions 10 and 11:** *To ensure the provision of a community heating system for the site to accord with the*

*requirements of policy NRG6 of adopted Midlothian Local Development Plan 2017 and in order to promote sustainable development.*

12. No development shall commence on the construction of any of the community facility buildings and associated infrastructure hereby approved unless and until the new culvert and flood relief culverts the subject of Matters Specified in Conditions approval ref.15/00089/MSC (Relating to Condition 1 of outline planning permission 02/00660/OUT) been formed in their entirety and are functioning.

***Reason:*** *The site is at risk of flooding from the nearby Carnie Burn. A new culvert and flood relief culvert the subject of Matters Specified in Conditions approval ref.15/00089/MSC (relating to condition 1 of outline planning permission 02/00660/OUT) are required to be formed and be in operation in order to mitigate the risk of flooding on the site and the consequent risk of loss of life and property.*

13. Prior to the first occupation of any of the new uses hereby approved a trespass proof fence of at least 1.8 metres in height of a design and specification to be approved in advance by the Planning Authority shall be erected along the boundary with the adjacent Borders Railway (the land that Network Rail has title to). Thereafter the fence shall be retained in situ and maintained in a condition that prohibits trespass to Network Rail's land.

***Reason:*** *In the interests of public safety and the protection of Network Rail infrastructure.*

14. The Sustainable Urban Drainage Scheme approved in terms of condition 3vii and 3iv shall not be sited within 10 metres of the boundary with the neighbouring Borders Railway line.

***Reason:*** *To protect the stability of the adjacent Borders Railway line and the safety of the rail network.*

15. Prior to the commencement of development on the site a report on a noise impact assessment of the potential noise nuisance to future occupants of the proposed development arising from the operation of the neighbouring Borders Railway line shall be submitted to and approved in writing by the Planning Authority. Where a potential for noise disturbance is identified, details of measures to attenuate noise shall be submitted to and approved in writing by the Planning Authority. Prior to the development being first brought into use any such approved noise attenuation measures shall be implemented and a written verification report by a noise consultant verifying that the approved noise mitigation measures have been implemented shall be submitted to and approved in writing in advance by the

Planning Authority. Thereafter any approved noise mitigation measures shall be retained in accordance with the approved scheme of mitigation.

**Reason:** *To ensure that future occupants/users of the proposed uses do not experience undue noise and disturbance arising from the operation of the neighbouring Borders Railway line.*

16. The development shall accord with the terms of the Master Plan and Design Guide (and the associated addendums) approved as Supplementary Planning Guidance by the grant of outline planning permission 02/00660/OUT. Any significant changes to the Masterplan shall be made by way of an application for approval of matters specified in condition which shall be submitted for the approval of the planning authority.

**Reason:** *To ensure the development complies with the development plan, national planning advice and guidance and good place making principles.*

17. Without the prior written approval of the Planning Authority no existing trees shall be felled, lopped or topped nor shall any hedges be removed within the site.
18. The schemes of landscaping required in accordance with conditions 3ii, 3iii, 3iv, 3v and 3vi shall include a drawing showing details of temporary protective fencing that is to be erected around all trees that are to be retained. The details shall include the position of the fencing and its construction.
19. The temporary protective fencing approved in terms of Condition 18 of this permission shall be erected before any work on the block of development or the erection of an individual building respectively, on the site is begun and shall be retained until the development is complete. Within the area enclosed by the fencing there shall be no excavation, no removal of soil, no placing of additional soil, no fires lit, no storage of any kind, nor any disposal of any waste.
20. The scheme of landscaping approved in accordance with Conditions 1, 3ii, 3iii, 3iv, 3v and 3vi shall be carried out and completed within six months of, or in the first planting season following the date when work commences to erect any individual building on the site unless otherwise agreed in writing by the Planning Authority.

**Reason for conditions 17 - 20:** *To ensure that the landscaping is carried out and is allowed to become successfully established.*

21. Before any buildings within the development hereby permitted is completed or occupied, whichever is the sooner, it shall be served by a road and footpath constructed in accordance with details approved in terms of this permission.

**Reason:** *To ensure that at all times occupiers have safe and convenient access to their buildings.*

22. All access roads, footways, mixer courts, and other hard surfaced areas shall be finished in accordance with details approved in terms of the Master Plan and Design Guide (and the associated addendums) and conditions 2ii, 2iii, 2v, 3v and 3vi.

**Reason:** *To ensure that the surfacing materials form a satisfactory part of the overall design of the external environment.*

23. Those walls or fences that are approved in terms of Condition 3iv and that adjoin the curtilage of any building shall be erected before the said building is completed or occupied, whichever is the earlier, unless otherwise agreed in writing by the Planning Authority.

**Reason:** *To ensure adequate privacy for occupants and screening of private areas from public view.*

24. No wall or fence shall be erected within the site unless details of its position and appearance have been approved in terms of Condition 3iv.

**Reason:** *To ensure that all walls and fences are positioned and designed in keeping with the design of the development as a whole.*

25. The terms of the Town and Country Planning (general Permitted Development) (Scotland) Order 2001, Class 40, section (1) (e) are expressly excluded within the site and no electricity substation shall be erected within the site unless details of its position and appearance have been submitted to and approved in writing by the Planning Authority.

**Reason:** *To ensure that any substation is unobtrusive and not unduly close to any occupied building.*

26. Unless otherwise approved in writing by the Planning Authority there shall be no storage nor industrial activity out with any class 4 business unit erected on the site. Any area so approved for external storage or business/industrial activity shall only be used for these purposes as an ancillary operation to the lawful use of the building within the same curtilage. All such areas approved in terms of this condition shall be screen fenced so that the operations are not visible from a public area and shall remain screened for the duration of the approved use.

**Reason:** *In the interests of visual amenity.*

27. No overhead wires, cables or telecommunication masts shall be introduced onto the site without the prior written approval of the planning authority.

**Reason:** *To ensure that the appearance of the development is not spoiled by over- head power lines, wires and telecommunication masts.*

28. The development shall adhere to the following constraints:

- i. The principal elevation and entrance to the community facility hereby approved shall face onto the south west boundary of the site.

**Reason:** *The south western edge of the site falls within the Shawfair town centre development zone. In the interests of good place making principles, buildings erected on the site should be positioned, orientated and designed to provide an active street frontage onto this important edge within the town centre.*

29. With regard to construction site operations the following noise levels shall be met: - 70 dB LAeq(12hr) (façade), with BPM at all times in accordance with BS5228 guidance. During construction Best Practicable Means shall be utilised at all times in accordance with BS5228 guidance.

30. In relation to piling operations during construction, the following noise levels shall be met:

75 dB Aeq(1hr) (façade),  
80 dB LA01(1hr) (façade)

During Construction Best Practicable Means shall be utilised at all times in accordance with BS5228 guidance.

31. The acoustic design of the buildings erected on the site in accordance with condition 4 of this planning permission in principle shall be such that vibration from train movements on the adjacent Borders Railway line do not exceed the vibration dose value in terms of BS 6472-1:2008 Guide to Evaluation of Human Exposure to Vibration in Buildings.
32. The acoustic design of the school buildings hereby approved shall be such that internal and external noise levels and internal vibration levels therein comply with the standards set down in Acoustics of Schools: a design guide, November 2015.
33. Noise levels within at least one outdoor area of each school erected on the site shall be suitable for outdoor teaching activities and accordingly shall fall below 50 dB  $L_{Aeq, 30 \text{ min}}$ .
34. The design and installation of all plant and machinery associated with the application premises shall be such that the combined noise level shall not exceed NR 30 daytime (07:00 to 23:00 hrs) and NR 25 night-time (23:00 to 07:00 hrs) as measured from within any proposed / committed neighbouring residential use or NR 25 as measured from within any school classroom/other community facility. For the purposes of this condition the assessment position shall be as identified by BS 7445 in relation to internal noise measurements.

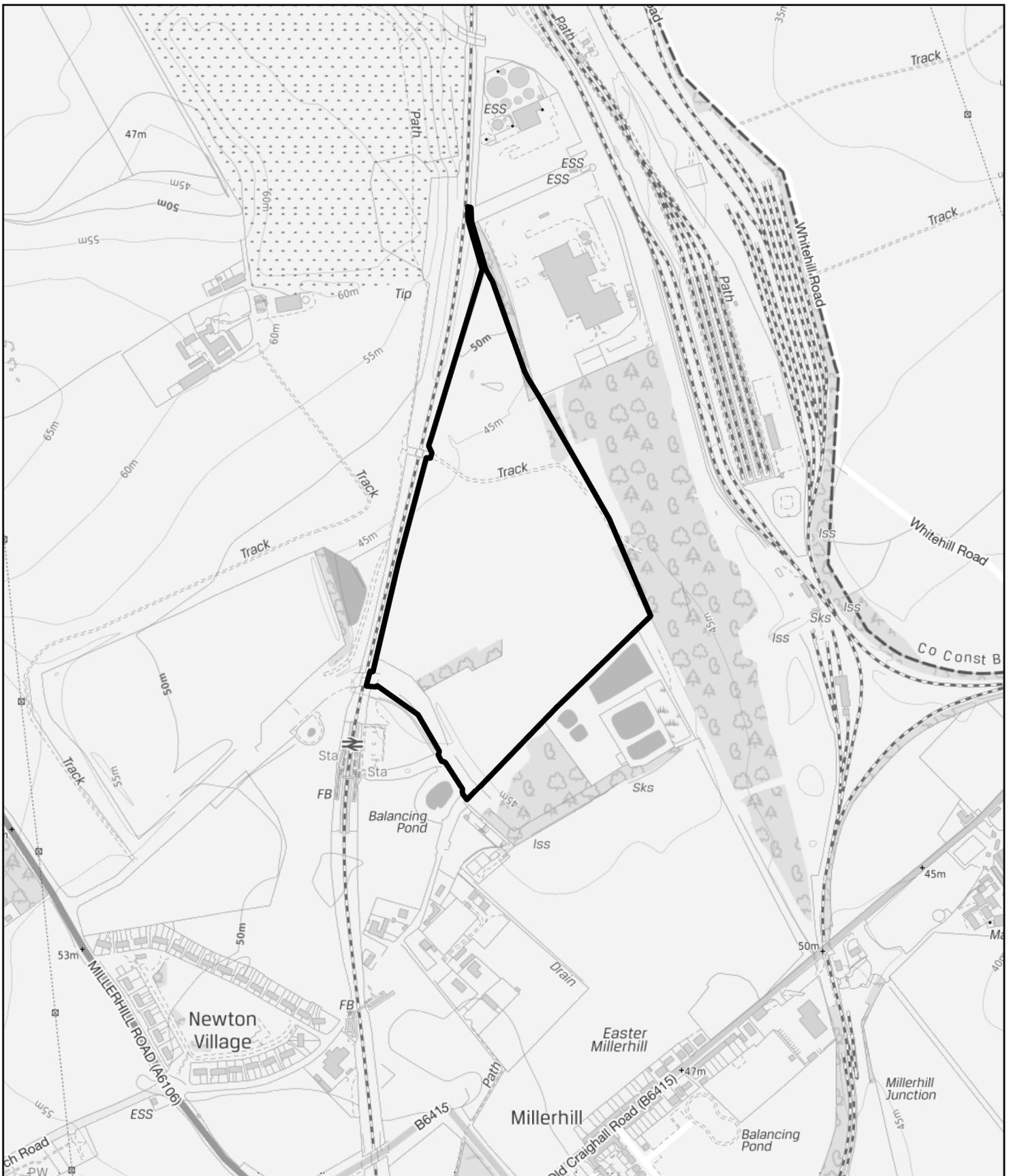
***Reason for conditions 29 to 34:*** To prevent noise or vibration levels from adversely affecting the occupants of noise sensitive properties at the site.

35. Any floodlights and security lights installed/erected on the school buildings or within their grounds; including in association with any school sports pitches/MUGAs, shall be designed and installed such that there is no direct illumination of any proposed neighbouring light sensitive properties including residences. The lamp design shall be such that: (i) the actual lamps and inner surface of the reflectors is not visible from neighbouring light sensitive receptors' properties; and, (ii) any floodlighting system is fitted with an automatic cut out to ensure that the system cannot operate after 9pm.
36. The design of the external lighting should accord with the Guidance contained within the Scottish Government Guidance to Accompany the Statutory Nuisance Provisions of the Public Health etc. (Scotland) Act 2008.

***Reason for conditions 35 and 36:*** To prevent light levels from adversely affecting the occupants of light sensitive properties constructed on the site and on neighbouring sites.

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 16 August 2019  
**Application No:** 19/00112/PPP (Available online)  
**Applicant:** Mr Neil Davidson, Midlothian Council  
**Agent:** N/A  
**Validation Date:** 28 February 2019  
**Contact Person:** Joyce Learmonth  
**Tel No:** 0131 271 3311  
**Background Papers:** 19/00112/PPP, 18/00558/PAC, 17/00650/S42,  
15/00089/MSC, 02/00660/OUT.



**Education, Economy  
& Communities**  
Midlothian Council  
Fairfield House  
8 Lothian Road  
Dalkeith  
EH22 3AA

Application for Planning Permission in Principle for erection of community facility incorporating secondary and primary school; early learning provision and family learning; library; leisure; healthcare and class 4 business facilities at Site of Former Monktonhall Colliery Newton Village, Dalkeith

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File No: 19/00112/PPP

Scale: 1:7,500  
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**SECTION 42 APPLICATION 18/00628/S42 TO AMMEND CONDITIONS 4 AND 5 (TO CLARIFY PHASING SUBMISSIONS) IMPOSED ON A GRANT OF PLANNING PERMISSION 15/00113/PPP FOR THE DEMOLITION OF EXISTING DWELLINGHOUSE, ERECTION OF HOTEL AND RESIDENTIAL DEVELOPMENT, FORMATION OF ACCESS ROADS, CAR PARKING AND ASSOCIATED WORKS AT LAND AT CALDERSTONES, BIGGAR ROAD, HILLEND, DAMHEAD.**

The application is accompanied by an environmental impact assessment report prepared in terms of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.

Report by Director of Education, Communities and Economy

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## **1 SUMMARY OF APPLICATION AND RECOMMENDED DECISION**

- 1.1 At its meeting on 25 August 2015 the Committee granted planning permission for the demolition of existing dwellinghouse, erection of hotel and residential development, formation of access roads, car parking and associated works at land at Calderstones, Biggar Road, Hillend. This section 42 application seeks to amend the wording of two of the conditions, one relating to hard and soft landscaping and the second relates to the siting and design of buildings. The application is accompanied by an environmental impact assessment report. There have been no representations and there have been consultation responses from Scottish Environment Protection Agency, Scottish Natural Heritage, Historic Environment Scotland, Transport Scotland, the Council's Policy and Road Safety Manager and Fairmilehead Community Council.**
- 1.2 The relevant development plan policies are policy 12 of the Edinburgh and South East Scotland Strategic Development Plan 2013 (SESplan) and policies DEV5, DEV6, DEV7, TRAN1, TRAN5, VIS2, VIS3, RD3, RD4, ENV1, ENV2, ENV6, ENV7, ENV10, ENV11, ENV15, IMP1, IMP2 and IMP3 of the Midlothian Local Development Plan 2017.**
- 1.3 The recommendation is to grant planning permission subject to conditions.**

## **2 LOCATION AND SITE DESCRIPTION**

- 2.1 The application site is 4.95 hectares and occupied by a private dwellinghouse set within extensive landscaped grounds which include a number of exotic trees and shrub species. It is located in the countryside approximately two kilometres west of Loanhead, on the lower part of the northern slope of the Pentland Hills and within the boundary of the Hillend Country Park, the Pentland Hills Regional Park and in a Special Landscape Area (SLA).
- 2.2 The site is bounded by; woodland with the access road to the Midlothian Ski and Snowsports Centre to the north, the A702 Trunk Road (Biggar Road) to the east and rough grassland on the lower slopes of the Pentland Hills to the south and west. The A702 Trunk Road runs through the settlement of Hillend. The A720 Edinburgh City bypass is located nearby to the north.

## **3 PROPOSAL**

- 3.1 The application, made under Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006 (hereafter referred to as the Act), is to amend two conditions on planning permission 15/00113/PPP, one relates to hard and soft landscaping (condition 4) and the second relates to the siting and design of buildings (condition 5).
- 3.2 A Section 42 application, is in itself a planning application - a particular kind of planning application for development without complying with or amending the condition/s previously imposed on an earlier grant of planning permission. A grant of planning permission under Section 42 results in an entirely new planning permission which will supersede the original permission if implemented. Therefore if planning permission is granted for this application it will supersede planning consent 15/00113/PPP if implemented.
- 3.3 Although a Section 42 application is a new planning application in law the Act states *“on such an application the planning authority shall consider only the question of the conditions subject to which planning permission should be granted”*. The principle, layout and form of development are not subject to assessment. Planning authorities should attach to the new permission all of those conditions from the previous permission, where it is intended these should still apply.
- 3.4 The underlined text below is the proposed amendment (addition) to condition 4 of planning permission 15/00113/PPP:

Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works has been submitted to and approved in writing

by the planning authority for that phase. Details of the scheme shall include:

- i existing and finished ground levels and floor levels for all buildings and roads in relation to a fixed datum;
- ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
- iii proposed new planting in communal areas and open space, including trees, shrubs, hedging and grassed areas;
- iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
- v schedule of plants to comprise species, plant sizes and proposed numbers/density;
- vi programme for completion and subsequent maintenance of all soft and hard landscaping;
- vii drainage details and sustainable urban drainage systems to manage water runoff;
- viii proposed car park configuration and surfacing;
- ix proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and,
- x proposed cycle parking facilities.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

- 3.5 The underlined text below is the proposed amendment (addition) to condition 5 of planning permission 15/00113/PPP:

Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for the siting, design and external appearance of all buildings and other structures has been submitted to and approved in writing by the planning authority for that phase. The application shall include samples of materials to be used on external surfaces of cover surfaces; means of enclosure and ancillary structures. No building shall have an under-building that exceeds 0.5 metres in height above ground level. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

## 4 BACKGROUND

- 4.1 Planning application 15/00113/PPP for planning permission in principle for the demolition of existing dwellinghouse, erection of hotel, erection of replacement house plot, formation of three house plots, formation of access roads, car parking and associated works was granted in 2015. The application was accompanied by an environmental statement submitted under the terms of the Town and Country Planning (Environmental Impact Assessment (Scotland) Regulations 2011) - hereafter referred to as the EIA regulations.
- 4.2 An EIA regulations scoping opinion request, 18/00707/SCO, was submitted with regard the proposed amendments to the conditions which are the subject of this Section 42 application. The applicant was advised that an environmental impact assessment report was required to comply with the EIA regulations (the 2017 EIA regulations superseded the 2011 regulations). *The term 'environmental statement' was changed to 'environmental impact assessment report' in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.*
- 4.3 An alternative Section 42 application (18/00528/S42) for the site to amendment conditions 3, 4, 5, 6 and 10 is being held in abeyance following confirmation from the applicant that it is their intention to either pursue the application following further discussion with the Council and Transport Scotland or withdraw the application.
- 4.4 Pre Application Notice applications have been considered by the Committee in relation to two adjacent sites; one for the Snowsports Centre (18/00970/PAC) and one for a Mountain Bike Trail Centre (19/00126/PAC). The latter is predominantly within the City of Edinburgh Council administrative area.
- 4.5 The application for planning permission in principle constitutes a 'Major Development' as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 and thereby it requires to be determined by the Planning Committee.

## 5 CONSULTATIONS

- 5.1 **Scottish Environment Protection Agency (SEPA)** does not object to the application.
- 5.2 **Scottish Natural Heritage (SNH)** does not object to the application.
- 5.3 **Historic Environment Scotland (HES)** does not object to the application. The proposals do not raise any historical environment issues of national significance.

- 5.4 **Transport Scotland** does not object to the application subject to conditions (more appropriate to application 18/00528/S42).
- 5.5 The Council's **Policy and Road Safety Manager** does not object to the application.
- 5.6 **Fairmilehead Community Council (FCC)** (in the City of Edinburgh Council administrative area) does not object to the application – but would like to see all phases of the development implemented at the same time to mitigate the impact on local residents.

## 6 REPRESENTATIONS

- 6.1 No representations have been received.

## 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, adopted in November 2017. The following policies are relevant to the proposal:

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

- 7.2 **Policy 12 (GREEN BELTS)** requires Local Development Plans to define and maintain Green Belts around Edinburgh whilst ensuring that the strategic growth requirements of the Strategic Development Plan can be accommodated. Local Development Plans should define the types of development appropriate within Green Belts.

Midlothian Local Development Plan (adopted 2017)

- 7.3 Policy **DEV5: Sustainability in New Development** sets out the requirements for development with regards to sustainability principles.
- 7.4 Policy **DEV6: Layout and Design of New Development** requires good design and a high quality of architecture, in both the overall layout of developments and their constituent parts. The layout and design of developments are to meet listed criteria.
- 7.5 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.
- 7.6 Policy **TRAN1: Sustainable Travel** aims to encourage sustainable modes of travel.

- 7.7 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
- 7.8 Policy **VIS2: Tourist Accommodation** supports the development of hotels or self-catering tourist accommodation provided the proposal is:
- A. is in scale and in keeping with the character of the local area;
  - B. is sited and designed to respect its setting and is located in an unobtrusive manner within the rural landscape (where applicable);
  - C. is well located in terms of the strategic road network and maximises public transport access; and
  - D. is in accordance with one of the sections below.

**Hotels in built-up areas** will be supported, provided residential amenity is protected.

**Hotels in business areas and at key gateway locations** with ease of access to the major junctions on the A720 City Bypass, may be supported where it can be demonstrated that:

- there are no suitable alternative sites elsewhere in the urban envelope; and
- the proposal will not undermine the objectives of the Green Belt by detracting from the landscape setting of Edinburgh and its neighbouring towns, or lead to coalescence.

**Self-catering tourist accommodation** including touring caravan/camping sites, will be permitted where:

- the proposal is not in the Green Belt unless linked to some related existing development;
- the proposal is of a character and scale in keeping with the rural setting and can be located in an unobtrusive manner; and
- the applicant can demonstrate that the proposal is for the furtherance of a viable long-term business.

- 7.9 Policy **VIS3: Midlothian Snowsports Centre Development** supports development proposals for the upgrading and enhancement of the Midlothian Snowsports Centre and ancillary facilities in order to secure its future as a centre for artificial skiing and snowboarding. Proposals with significant adverse environmental impacts will not be supported unless satisfactory mitigation measure are included in the proposal.
- 7.10 Policy **RD3: Pentland Hills Regional Park** states that proposals within the Pentland Hills Regional Park will not be permitted where it would be contrary to the policy aims of the Park.
- 7.11 Policy **RD4: Country Parks** only supports proposals in a park if they are compatible with the uses and character of the park.
- 7.12 Policy **ENV1: Protection of the Green Belt** 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 if 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.

The policy states that housing will normally only be permissible where it is required for the furtherance of an established Green Belt activity. The applicant will be required to show the need for the new dwelling is permanent; cannot be made within an existing settlement; and that the occupier will be employed full-time in the associated countryside activity. A planning condition limiting the occupancy of the house is likely to be attached in the event of approval.

- 7.13 Policy **ENV2: Midlothian Green Network** 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*.
- 7.14 Policy **ENV6: Special Landscape Areas** states that development proposals will only be permitted where they incorporate high standards of siting and design and where they will not have significant adverse effect on the special landscape qualities of the area.
- 7.15 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.
- 7.16 Policy **ENV 10: 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.
- 7.17 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.

- 7.18 Policy **ENV15: Species and Habitat Protection and Enhancement** presumes against development that would affect a species protected by European or UK law.
- 7.19 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.
- 7.20 **Policy IMP 3 Water and Drainage** requires sustainable urban drainage systems (SUDS) to be incorporated into new development.

## **8 PLANNING ISSUES**

- 8.1 The main planning issue to be considered in determining this application is whether the proposal complies with development plan policies unless material planning considerations indicate otherwise. The consultation responses received are material considerations.
- 8.2 The principle of a hotel and associated works on the site was established by the grant of planning permission 15/00113/PPP. The proposed minor amendment to two conditions is insignificant in planning terms and in effect is done to provide additional clarity (if needed) and to extend the implementation start date of the earlier permission – keeping the planning permission for a hotel ‘alive’.
- 8.3 The earlier permission was assessed against policies in the 2008 Midlothian Local Plan. Since the grant of this permission the MLDP has been adopted, however there are no material changes in policy which would affect the proposed development. Furthermore, there has been no material change in circumstance or material considerations which would indicate that the proposed minor amendment to the wording of conditions 4 and 5 should not be supported.
- 8.4 The original 2015 planning application was accompanied by an environmental statement as required by The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. An updated environmental impact assessment report as been submitted to comply with the later 2017 EIA regulations. The potential environmental consequences and associated mitigation measures of the proposed development are not impacted as a result of the proposed amended wording to conditions 4 and 5.

- 8.5 The environmental impact assessment report considers the potential environmental impacts in relation to: i) noise and air quality, ii) ecology and habitats, iii) socio economics, iv) cultural heritage and archaeology, v) transport and access, vi) landscape and visual impact, and vii) hydrology, soils and geology. The Committee considered these matters in determining application 15/00113/PPP. The updated report provides an up to date position which will assist the planning authority when assesses those details submitted to discharge the planning conditions attached to the grant of planning permission (by way of Matters Specified in Conditions applications). This position is not changed by the proposed amendments to conditions 4 and 5.
- 8.6 In addition to amending condition 4 and 5 it is appropriate to amend the wording of condition 14 to reflect legislative changes. The term 'Environmental Statement' was changed to 'Environmental Impact Assessment Report' in the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, for clarity this term has been amended in condition 14.

## 9 RECOMMENDATION

- 9.1 It is recommended that planning permission be granted for the following reason:

*The proposed development for a hotel/tourist accommodation accords with policy VIS2 of the Midlothian Local Development Plan 2017; as such there is a presumption in favour of the proposed development. This presumption in favour of the development is not outweighed by other policies in the development plan or other material considerations. The proposed amendments to conditions 4 and 5 are considered not to undermine this policy position or have a detrimental impact.*

Subject to the following conditions:

1. The illustrative site layout plan and prospective images submitted with the application are not approved.

**Reason:** *The application is for planning permission in principle only and the details delineated within the illustrative site layout plan prospective images are for illustrative purposes only.*

2. Notwithstanding that delineated on application drawings/stated in documents submitted with the application the three new 'house' plots are not approved; but instead, each of these three plots shall only contain a building occupied solely as self-catering tourist accommodation ancillary to the principal hotel use on the site; or alternatively, as staff accommodation incidental to the operation of the hotel.

**Reason:** *In the interests of safeguarding the character and amenity of the Green Belt as new private dwellings erected on the site would be contrary to South East Scotland Strategic Development Plan 2013 (SESPlan) Policy 12 and adopted Midlothian Local Plan Policy RP2 (Green Belts).*

3. Development shall not begin until an application for approval of matters specified in conditions regarding the phasing of the development has been submitted to and approved in writing by the planning authority. The phasing schedule shall include the construction of the hotel and the replacement dwelling and the three plots to accommodate three self catering units, the provision of landscaping, SUDS provision and transportation infrastructure. Development shall thereafter be carried out in accordance with the approved phasing unless agreed in writing with the planning authority.

**Reason:** *To ensure the development is implemented in a manner which mitigates the impact of the development process on existing land users and the future occupants of the development and in the interest of safeguarding the character and amenity of the area.*

4. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for a scheme of hard and soft landscaping works has been submitted to and approved in writing by the planning authority for that phase. Details of the scheme shall include:
  - i existing and finished ground levels and floor levels for all buildings and roads in relation to a fixed datum;
  - ii existing trees, landscaping features and vegetation to be retained; removed, protected during development and in the case of damage, restored;
  - iii proposed new planting in communal areas and open space, including trees, shrubs, hedging and grassed areas;
  - iv location and design of any proposed walls, fences and gates, including those surrounding bin stores or any other ancillary structures;
  - v schedule of plants to comprise species, plant sizes and proposed numbers/density;
  - vi programme for completion and subsequent maintenance of all soft and hard landscaping;
  - vii drainage details and sustainable urban drainage systems to manage water runoff;
  - viii proposed car park configuration and surfacing;
  - ix proposed footpaths and cycle paths (designed to be unsuitable for motor bike use); and,
  - x proposed cycle parking facilities.

All hard and soft landscaping shall be carried out in accordance with the scheme approved in writing by the planning authority as the programme for completion and subsequent maintenance (vi). Thereafter any trees or shrubs removed, dying, becoming seriously diseased or damaged within five years of planting shall be replaced in the following planting season by trees/shrubs of a similar species to those originally required.

**Reason:** *To ensure the quality of the development is enhanced by landscaping to reflect its setting in accordance with the Midlothian Local Plan and national planning guidance and advice.*

5. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for the siting, design and external appearance of all buildings and other structures has been submitted to and approved in writing by the planning authority for that phase. The application shall include samples of materials to be used on external surfaces of the buildings; hard ground cover surfaces; means of enclosure and ancillary structures. No building shall have an under-building that exceeds 0.5 metres in height above ground level. Development shall thereafter be carried out using the approved materials or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the quality of the development is enhanced by the use of quality materials to reflect its setting in accordance with the Midlothian Local Plan and national planning guidance and advice.*

6. Development shall not begin on an individual phase of development (identified in compliance with condition 3) until an application for approval of matters specified in conditions for the site access, roads, footpaths, cycle ways and transportation movements has been submitted to and approved in writing by the planning authority. Details of the scheme shall include:
  - i existing and finished ground levels for all roads, footways and cycle ways in relation to a fixed datum;
  - ii the proposed vehicular, cycle and pedestrian accesses into the site;
  - iii the proposed roads (including turning facilities), footpaths and cycle ways including suitable walking and cycling routes linking the development with the local public transportation network;
  - iv proposed visibility splays, traffic calming measures, lighting and signage;
  - v proposed construction traffic access and haulage routes;
  - vi proposed car parking arrangements; and

- vii a programme for completion for the construction of access, roads, footpaths and cycle paths.

Development shall thereafter be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To ensure the future users of the buildings, existing local residents and those visiting the development site during the construction process have safe and convenient access to and from the site.*

- 7. Development shall not begin until an application for approval of matters specified in conditions for a scheme to deal with any contamination of the site and/or previous mineral workings has been submitted to and approved by the planning authority. The scheme shall contain details of the proposals to deal with any contamination and/or previous mineral workings and include:
  - i. the nature, extent and types of contamination and/or previous mineral workings on the site;
  - ii. measures to treat or remove contamination and/or previous mineral workings to ensure that the site is fit for the uses hereby approved, and that there is no risk to the wider environment from contamination and/or previous mineral workings originating within the site;
  - iii. measures to deal with contamination and/or previous mineral workings encountered during construction work; and,
  - iv. the condition of the site on completion of the specified decontamination measures.

Before any part of the site is occupied for residential purposes, the measures to decontaminate the site shall be fully implemented as approved by the planning authority.

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

- 8. Development shall not begin until an application for approval of matters specified in conditions for proposed lighting within the site including of the car parking areas, service areas, roads and footpaths have been submitted to and approved in writing by the planning authority in consultation with Transport Scotland, as Trunk Roads Authority. The scheme shall be designed to minimise the spread of light in the night sky. Development shall therefore be carried out in accordance with the approved details or such alternatives as may be agreed in writing with the planning authority.

**Reason:** *To reduce light pollution to the night sky and to ensure that there will be no distraction or dazzle to drivers on the trunk road and that the safety of the traffic on the trunk road will not be diminished.*

9. Development shall not begin until an application for approval of matters specified in conditions for the proposed junction with the trunk road shall be submitted and approved by the planning authority, in consultation with Transport Scotland as Trunk Roads Authority. Prior to the hotel, replacement house or self-catering accommodation first coming into use the junction shall be constructed to a standard as described in the Department of Transport Advice Not RA 41/95 (Vehicular Access to All-Purpose Trunk Road) (as amended in Scotland) complying with Layout 5. The details shall include a two metre wide footway formed adjacent to the Trunk Road along the frontage of the development site to tie into the existing footway at either end of the development site from the junction of the A703 to the bus turning area.

**Reason:** *To ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished.*

10. Within one month of the new access off the A702 trunk road first coming into use the existing vehicular access to the Midlothian Ski and Snowboarding centre shall be closed. Development shall not begin until an application for approval of matters specified in conditions for the closure shall be submitted and approved by the Planning Authority, in consultation with Transport Scotland as Trunk Road Authority.

**Reason:** *To ensure that the use of the existing access is discontinued and the safety of traffic on the trunk road is improved.*

11. The fences erected on the site; the details of which are required by condition 4(iv), shall include a stock proof anti-climb fence provided and maintained by the developer along the boundary of the site with the trunk road. The type and position of this fence shall be approved by the planning authority in consultation with Transport Scotland, as Trunk Roads Authority. The approved fence shall be erected in its entirety prior to the new access off the trunk first coming into use

**Reason:** *To minimise the risk of pedestrians and animals gaining uncontrolled access to the trunk road with the consequential risk of accidents.*

12. Prior to any alterations to the trunk road to create the development junction, a detailed annotated drawing of a revised junction layout

which shall delineate/demonstrate the existing bus turning circle unaltered and continuing to operate in a satisfactory and safe manner, shall be submitted to and approved in writing by the Planning Authority in consultation with the bus operators using the existing bus turning area:

**Reason:** *This is to ensure that vehicles entering or exiting the access can undertake the manoeuvre safely and with minimum interference to the safety and free flow of traffic on the trunk road.*

13. Development shall not begin until an application for approval of matters specified in conditions for a programme of archaeological works (Evaluation) of no less than 5% of the total site area focussing on those areas unaffected by woodland and existing buildings, has been submitted to and approved in writing in by the planning authority. The approved programme of works shall be carried out by a professional archaeologist prior to any construction works, demolition or pre commencement ground works take place unless otherwise agreed in writing by the planning authority.

**Reason:** *To ensure this development does not result in the unnecessary loss of buried archaeological material in accordance with Policy RP28 of the adopted Midlothian Local Plan.*

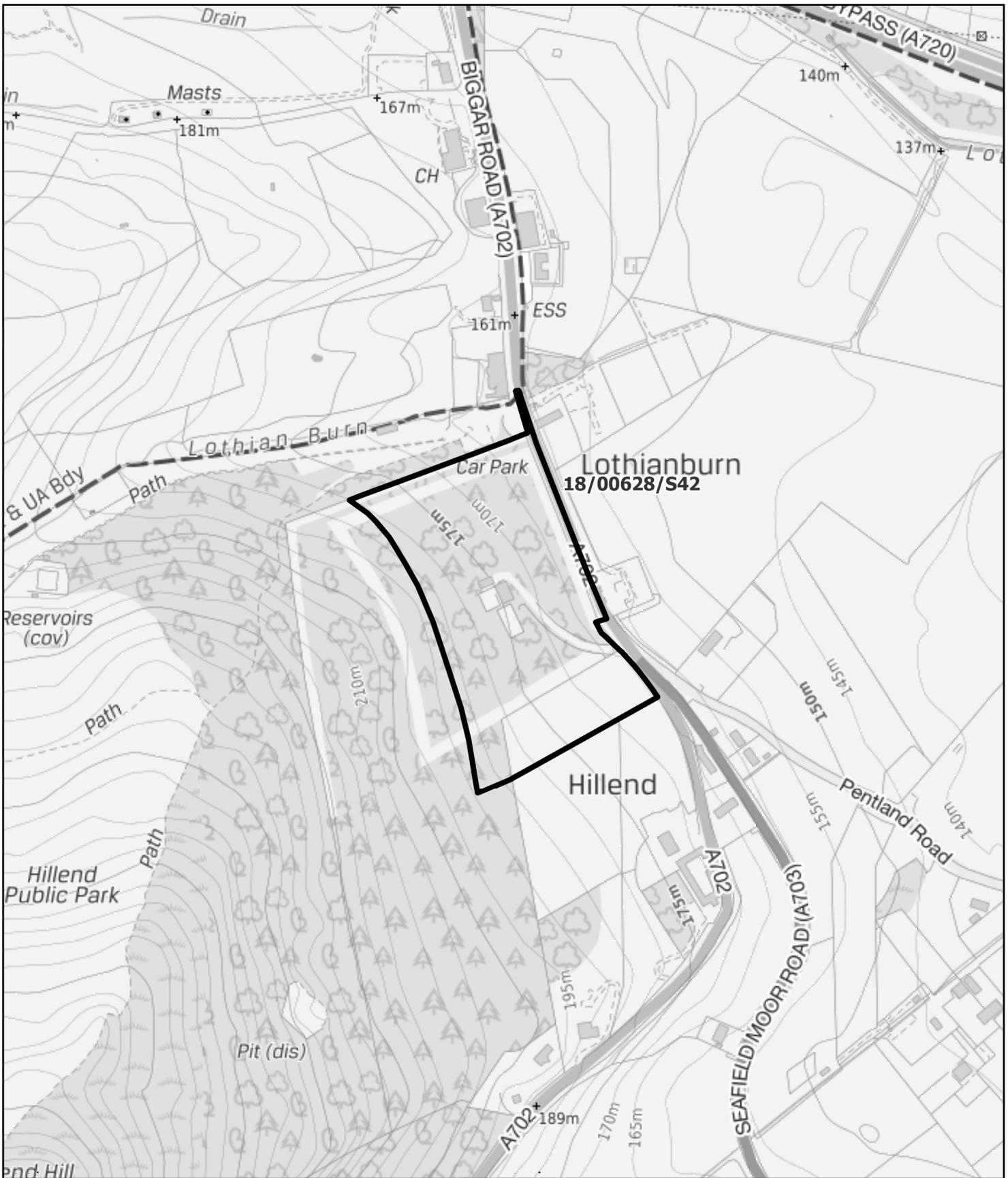
14. The recommended mitigation contained within the specific, Environmental Management Plan (EMP) detailed in Section 7.0 (Ecology & Habitats) of the Environmental Impact Assessment Report shall be carried out in full.

**Reason:** *In the interests of safeguarding bats, badgers and breeding birds.*

**Dr Mary Smith**  
**Director of Education, Communities and Economy**

**Date:** 16 August 2019

**Application No:** 18/00628/DPP  
**Applicant:** Mr and Mrs Omar Almubarak  
**Agent:** Scott Hobbs Planning  
**Validation Date:** 20 July 2018  
**Contact Person:** Joyce Learmonth  
**Tel No:** 0131 271 3311  
**Background Papers:** Applications 18/00528/S42 and 15/00113/PPP



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Section 42 application to amend conditions 4 and 5 of planning permission 15/00113/PPP (to amend the phasing of development) ) at Land At Calderstone, Biggar Road, Edinburgh (this application is accompanied by an Environmental Impact Assessment Report)

File Nos. 18/00628/S42

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